

Agenda
Rio Linda / Elverta Community Water District
Executive Committee

Visitors/Depot Center
6730 Front Street
Rio Linda, CA 95673

June 03, 2019
6:00 p.m.

Public documents relating to any open session items listed on this agenda that are distributed to the Committee members less than 72 hours before the meeting are available for public inspection on the counter of the District Office at the address listed above.

The public may address the Committee concerning any item of interest. Persons who wish to comment on either agenda or non-agenda items should fill out the Comment Card and give it to the General Manager. The Committee Chair will call for comments at the appropriate time. Comments will be subject to reasonable time limits (3 minutes).

In compliance with the Americans with Disabilities Act, if you have a disability, and you need a disability related modification or accommodation to participate in this meeting, then please contact the District office at (916) 991-1000. Requests must be made as early as possible and at least one full business day before the start of the meeting.

Call to Order

Public Comment

This is an opportunity for the public to comment on non-agenda items within the subject matter jurisdiction of the Committee. Comments are limited to 3 minutes.

Items for Discussion:

1. Discuss the need for a “special session” of the Executive Committee in September due to holiday scheduling.
2. Discuss the Bluefin Credit Card processing service Terms and Conditions and the acceptance of those in September 2016.
3. Discuss adoption of a preliminary budget for fiscal year 2019/2020.
4. Continue discussing the Capital Improvement Plan projects list update.
5. Discuss the absence of dialog and overdue stakeholders meetings by the State Division of Drinking Water (DDW) for Hexavalent Chromium MCL re-adoption; impact on Opus Bank loan terms.
6. Discuss adopting new Personnel Handbook policies negotiated in the RLECWD General Unit MOU.
7. General discussion to bring the new committee members up to date on items and scope inherited by the Executive Committee from the Planning and Finance/Admin Committees.
8. Engineer’s update on projects underway and planned.

Directors’ and General Manager Comments

Items Requested for Next Month’s Committee Agenda

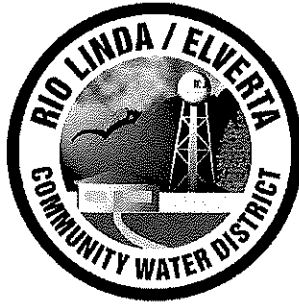
- Outsourcing the billing process; pros and cons.
- Needed updates to the budget adoption process.

Adjournment

Next Executive Committee meeting: Monday, July 1, 2019 at 6:00 p.m.

ADA COMPLIANCE STATEMENT

In compliance with the Americans with Disabilities Act, if you need special assistance or materials to participate in this meeting, please contact the District Office at 916-991-1000. Notification 48 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting and agenda materials.



Executive Committee Agenda Item: 1

Date: June 3, 2019

Subject: Discuss the need for a “special session” of the Executive Committee in September due to holiday scheduling.

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

The Executive committee should forward an item to the August 2019 Board agenda to consider scheduling a special session of the Executive Committee in September to address the first Monday (Labor Day) incompatibility.

Current Background and Justification:

The recently established first Monday of each month scheduling for the Executive Committee will be incompatible with Labor Day. Staff has already coordinated with the Recreation and Parks District to reserve the Depot on first Monday of each month. However, it would be inappropriate to hold a standing committee meeting on a holiday.

If the Executive Committee directors can look ahead at the calendars for potential available dates/times in early September (e.g. Tuesday, September 3rd), staff can coordinate with the Recreation and Parks district to determine available facility dates/times to match directors' availability dates/times.

Conclusion:

I recommend the Executive Committee forward an item to the August 19th Board agenda to consider scheduling a special session of the Executive Committee.



Executive Committee Agenda Item: 2

Date: June 3, 2019

Subject: Discuss the Bluefin Credit Card processing service Terms and Conditions and the acceptance of those in September 2016

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

The Executive committee should forward an item onto the June 17th Board agenda to consider options for credit card processing services.

Current Background and Justification:

The Board and staff have been appropriately deliberate and transparent in the transition from District paid credit/debit card convenience fees. The many months long process had substantively entailed coordination with CUSI and Bluefin (an affiliate of CUSI) our billing software and credit card payment processing service (respectively). The process has involved many hours and a heavy volume of document processing, mostly connected with CUSI and Bluefin. In other words, CUSI/Bluefin have known for a long time we were changing.

Regardless of the advance notice and deliberate processing, Bluefin waited until May 24th (7-days ahead of the June 1st transition date for customer paid convenience fees) to inform the District of the need for a new contract. The previous contract, which connotes District agreement with all Bluefin's terms and conditions, was signed by Ralph Felix, but never considered by the RLECWD Board of Directors at a public meeting. The item was a non-action item on the September 2016 agenda. Accordingly (albeit inappropriately), the contract was not reviewed by Legal Counsel.

I have coordinated with Legal Counsel, and provided her with the contract, which has not changed since September 2016. She and I agreed; under the present set of facts and circumstances, the best choice (least bad choice) is to have me sign the agreement to allow the June 1st transition date, then take the Bluefin contract to the Board with options, e.g. stay status

quo or transition to a more credit card processing service with more reasonable terms and conditions. In the meantime, I've provided Legal Counsel with the Bluefin contract, a summary of all Bluefin objectionable terms, and a more reasonable contract from PayGov.US, a credit card processing service who exclusively serves government agencies. All documents are included with your committee packets.

Conclusion:

I recommend the Executive Committee review the documents associated with this item and forward an item onto the June 17th Board agenda to allow discussion and action (if deemed appropriate) by the Board.

OTHER IMPORTANT INFORMATION:

Cards present risks of loss and non-payment that are different than those with other payment systems. In deciding to accept Cards, you should be aware that you are also accepting these risks.

Visa U.S.A., Inc. ("Visa"), MasterCard Worldwide ("MasterCard") and DFS Services LLC ("Discover Network") are payment card networks that electronically exchange Sales Drafts and Chargebacks for Card sales and Credits. Sales Drafts are electronically transferred from banks (in the case of MasterCard and Visa transactions) or network acquirers (in the case of Discover Network transactions) that acquire them from merchants such as yourself through the appropriate Card Organization, to the Issuers. These Issuers then bill their Cardholders for the transactions. The Card Organizations charge the Acquirers interchange fees and assessments for submitting transactions into their systems. A substantial portion of the Discount Rate or Transaction Fees that you pay will go toward these fees and assessments.

In order to speed up the payment process, the Issuer transfers the funds back through the Card Organization to the Acquirer at approximately the same time that the Issuer receives the electronic Sales Drafts. Even though the payments under this system are made simultaneously, all payments made through the Card Organizations are conditional and subject to reversals and adjustments.

Each Card Organization has developed Card Organization Rules that govern their Acquirers and Issuers and the procedures, responsibilities and allocation of risk for this process. Merchants are also bound by Card Organization Rules. The Card Organization Rules and applicable laws give Cardholders and Issuers certain rights to dispute transactions, long after payment has been made to the merchant, including Chargeback rights.

We do not decide what transactions are charged back and we do not control the ultimate resolution of the Chargeback. While we can attempt to reverse a Chargeback to the Issuer, we can only do so if the Issuer agrees to accept it or the Card Organization requires the Issuer to do so after a formal appeal process. Sometimes, your customer may be able to successfully charge back a Card transaction even though you have provided your goods or services and are otherwise legally entitled to payment from your customer. While you may still be able to pursue claims directly against that customer, neither we nor the Issuer will be responsible for such transactions.

You will be responsible for all Chargebacks and adjustments associated with the transactions that you submit for processing.

Please refer to the Glossary for certain capitalized terms used in the Agreement, including this Preface (if not defined above).

Capitalized terms not otherwise defined in the Agreement may be found in the Card Organization Rules.

6. We have assumed certain risks by agreeing to provide you with Card processing or check services. Accordingly, we may take certain actions to mitigate our risk, including termination of the Agreement, and/or hold monies otherwise payable to you (see Card Processing General Terms in Section 23, Term; Events of Default and Section 24, Reserve Account; Security Interest), under certain circumstances.

7. By executing this Agreement with us you are authorizing us and our Affiliates to obtain financial and credit information regarding your business and the signers and guarantors of the Agreement until all your obligations to us and our Affiliates are satisfied.

8. The Agreement contains a provision that in the event you terminate the Agreement early, you will be responsible for the payment of an early termination fee as set forth in Part III, A.3 under "Additional Fee Information."

18.5. Subject to Section 23.3, we may also increase our fees or add new fees for Services for any reason at any time, by notifying you twenty (20) days' prior to the effective date of any such change or addition.

18.8. You agree to pay any fines imposed on us by any Card Organization resulting from Chargebacks and all fees, fines and other charges imposed on us by a Card Organization with respect to your acts or omissions. You are also responsible for all fees, fines, and other charges imposed on us as a result of acts or omissions by your agents or third parties.

20.3. IN NO EVENT SHALL WE OR OUR AFFILIATES OR ANY OF OUR OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR SUBCONTRACTORS, 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. CLIENT ACKNOWLEDGES AND AGREES THAT PAYMENT OF ANY EARLY TERMINATION FEE OR LIQUIDATED DAMAGES AS PROVIDED ELSEWHERE IN THIS AGREEMENT SHALL NOT BE PROHIBITED BY THIS PARAGRAPH.

26.1. You agree to indemnify and hold us harmless from and against all losses, liabilities, damages and expenses: (a) resulting from any breach of any warranty, covenant or agreement or any misrepresentation by you under this Agreement; (b) arising out of your or your employees' or your agents' negligence or willful misconduct, in connection with Card transactions or otherwise arising from your provision of goods and services to Cardholders; (c) arising out of your use of the Services; or (d) arising out of any third party indemnifications we are obligated to make as a result of your actions (including indemnification of any Card Organization or Issuer).

Print Client's Business Legal Name: Rio Linda/Elverta Community Water District


By its signature below, Client acknowledges that it has received the complete Program Guide [version CP1611(ia)] consisting of 32 pages (including this confirmation).

Client further acknowledges reading and agreeing to all terms in the Program Guide, which shall be incorporated into Client's Agreement. Upon receipt of a signed facsimile or original of this Confirmation Page by us, Client's Application will be processed.

NO ALTERATIONS OR STRIKE-OUTS TO THE AGREEMENT WILL BE ACCEPTED.

Client's Business Principal:

Signature (Please sign below):

X 

Ralph Felix

General Manager

Title

2016-9-14

Date

21.3. You will treat this Agreement, the Card Organization Rules and any information supplied or otherwise made accessible by us or our agents as confidential, including without limitation, (i) information about the products, services, operations, procedures, customers, suppliers, sales, pricing, business plans and marketing strategies of Servicers, their respective 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 Servicers a competitive advantage over its competitors; and (iii) 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 will not disclose the same to any third parties, provided, however, that these restrictions do not apply to information: (a) rightfully obtained on a non-confidential basis from a Person and your agents and representatives, which Person was not subject to a duty of confidentiality, (b) rightfully and independently known by you on a non-confidential basis prior to its disclosure or (c) generally available to the public other than through any disclosure by or fault of you, your agents or representatives.

21.3.4. Client acknowledges that breach of the restrictions on use or disclosure of any our confidential information would result in immediate and irreparable harm to us, and money damages would be inadequate to compensate for that harm. We shall be entitled to equitable relief, in addition to all other available remedies, to redress any breach.

In the event that Client terminates this Agreement within three (3) years from the date of approval by Bluefin Payments and Wells Fargo Bank, N.A. or this Agreement is terminated by Servicers within 3 years from the date of approval due to an Event of Default, Client will be charged a \$500.00 fee for such early termination. Client understands that any unsettled transaction data received by us on or after the date of termination will not be processed. Client agrees that termination of this Agreement shall not affect our rights or your obligations relating to any applicable termination fees or Chargebacks that occurred prior to the date of termination, even if the Chargebacks are instigated after the date of termination.

Client's obligation with respect to the Monthly Minimum Processing Fee will end simultaneously with Bluefin Payment Systems' receipt of Termination Fee.

33. Choice of Law; Venue; Waiver of Jury Trial

33.1. Choice of Law. Our Agreement shall be governed by and construed in accordance with the laws of the State of New York (without regard to its choice of law provisions).

33.2. Venue. We have substantial facilities in the State of New York and many of the services provided under this Agreement are provided from these facilities. The exclusive venue for any actions or claims arising under or related to this Agreement shall be in the appropriate state or federal court located in Suffolk County, New York.

33.3. Waiver of Jury Trial. ALL PARTIES IRREVOCABLY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY CLAIM RELATING TO OR ARISING UNDER THIS AGREEMENT.

24.1. You expressly authorize us to establish a Reserve Account pursuant to the terms and conditions set forth in this Section 24. The amount of such Reserve Account shall be set by us, in our sole discretion, based upon your processing history and the potential risk of loss to us as we may determine from time to time.

24.2. The Reserve Account shall be fully funded upon three (3) days' notice to you, or in instances of fraud or suspected fraud or an Event of Default, Reserve Account funding may be immediate. Such Reserve Account may be funded by all or any combination of the following: (i) one or more debits to your Settlement Account or any other accounts held by Bank or any of its Affiliates, at any financial institution maintained in the name of Client, any of its principals, or any of its guarantors, or if any of same are authorized signers on

24.3. If your funds in the Reserve Account are not sufficient to cover the Chargebacks, adjustments, fees and other charges and amounts due from you, or if the funds in the Reserve Account have been released, you agree to promptly pay us such sums upon request.



**Merchant
Services**

**Program
Terms and
Conditions
(Program Guide)**

P R E F A C E

Thank you for selecting us for your payment processing needs. Accepting numerous payment options provides a convenience to your customers, increases your customers' ability to make purchases at your establishment, and helps speed payment to your account.

These Program Terms and Conditions ('the Program Guide') presents terms governing the acceptance of Visa® MasterCard® and Discover® Network Credit Card and Non-PIN Debit Card payments. The Program Guide also includes provisions applicable to Non-Bank Services. Non-Bank Services include all services related to: JCB® Card, PIN Debit Card, and Electronic Benefits Transfer payments and acceptance of Cards from other Non-Bank Card Organizations such as Voyager Fleet Systems, Inc. ('Voyager'), Wright Express Corporation and Wright Express Financial Services Corporation (collectively, 'WEX'). Your Merchant Processing Application will indicate the types of payments and Services you have elected to accept.

This Program Guide, your Merchant Processing Application and the schedules thereto (collectively, the "Agreement"), contains the terms and conditions under which Processor and/or Bank will provide services to you. We will not accept any alterations or strike-outs to the Agreement and, if made, any such alterations or strike-outs shall not apply. Please read this Program Guide completely as it contains important information.

You acknowledge that certain Services referenced in the Agreement may not be available to you.

IMPORTANT INFORMATION ABOUT BANK'S RESPONSIBILITIES:

Discover Network Card Transactions, American Express Card Transactions and other Non-Bank Services are not provided to you by Bank, but are provided by Processor and/or third parties.

The provisions of this Agreement regarding Discover Network Card Transactions, American Express Card Transactions and other Non-Bank Services constitute an agreement solely between you and Processor and/or third parties. Bank is not a party to this Agreement insofar as it relates to Discover Network Card Transactions, American Express Card Transactions and other Non-Bank Services, and Bank is not responsible, and shall have no liability, to you in any way with respect to Discover Network Card Transactions and Non-Bank Services.

OTHER IMPORTANT INFORMATION:

Cards present risks of loss and non-payment that are different than those with other payment systems. In deciding to accept Cards, you should be aware that you are also accepting these risks.

Visa U.S.A., Inc. ("Visa") MasterCard Worldwide ("MasterCard") and DFS Services LLC ("Discover Network") are payment card networks that electronically exchange Sales Drafts and Chargebacks for Card sales and Credits. Sales Drafts are electronically transferred from banks (in the case of MasterCard and Visa transactions) or network acquirers (in the case of Discover Network transactions) that acquire them from merchants such as yourself through the appropriate Card Organization, to the Issuers. These Issuers then bill their Cardholders for the transactions. The Card Organizations charge the Acquirers interchange fees and assessments for submitting transactions into their systems. A substantial portion of the Discount Rate or Transaction Fees that you pay will go toward these fees and assessments.

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We do not decide what transactions are charged back and we do not control the ultimate resolution of the Chargeback. While we can attempt to reverse a Chargeback to the Issuer, we can only do so if the Issuer agrees to accept it or the Card Organization requires the Issuer to do so after a formal appeal process. Sometimes, your customer may be able to successfully charge back a Card transaction even though you have provided your goods or services and are otherwise legally entitled to payment from your customer. While you may still be able to pursue claims directly against that customer, neither we nor the Issuer will be responsible for such transactions.

You will be responsible for all Chargebacks and adjustments associated with the transactions that you submit for processing.

Please refer to the Glossary for certain capitalized terms used in the Agreement, including this Preface (if not defined above).

Capitalized terms not otherwise defined in the Agreement may be found in the Card Organization Rules.

PROCESSOR INFORMATION: Name: Bluefin Payment Systems
 Address: 9200 Roberts Drive, Suite 150, Atlanta, GA 30350
 URL:

Customer Service #: 1-800-675-6573

Please read the Program Guide in its entirety. It describes the terms under which we will provide merchant processing Services to you.

From time to time you may have questions regarding the contents of your Agreement with Bank and/or Processor. The following information summarizes portions of your Agreement in order to assist you in answering some of the questions we are most commonly asked.

1. **Your Discount Rates are assessed** on transactions that qualify for certain reduced interchange rates imposed by MasterCard, Visa and Discover. Any transactions that fail to qualify for these reduced rates will be charged an additional fee (see Section 18 of the Program Guide).
2. **We may debit your bank account** (also referred to as your Settlement Account) from time to time for amounts owed to us under the Agreement.
3. **There are many reasons why a Chargeback may occur.** When they occur we will debit your settlement funds or Settlement Account. For a more detailed discussion regarding Chargebacks see Section 10 of Card Processing Operating Guide.
4. **If you dispute any charge or funding,** you must notify us within 60 days of the date of the statement where the charge or funding appears for Card Processing.
5. **The Agreement limits our liability to you.** For a detailed description of the limitation of liability see Section 20 of the Card Processing General Terms.
6. **We have assumed certain risks** by agreeing to provide you with Card processing or check services. Accordingly, we may take certain actions to mitigate our risk, including termination of the Agreement, and/or hold monies otherwise payable to you (see Card Processing General Terms in Section 23, Term; Events of Default and Section 24, Reserve Account; Security Interest), under certain circumstances.
7. **By executing this Agreement with us** you are authorizing us and our Affiliates to obtain financial and credit information regarding your business and the signers and guarantors of the Agreement until all your obligations to us and our Affiliates are satisfied.
8. **The Agreement contains a provision** that in the event you terminate the Agreement early, you will be responsible for the payment of an early termination fee as set forth in Part III, A.3 under 'Additional Fee Information'.

9. Card Organization Disclosure

Visa and MasterCard Member Bank Information: Wells Fargo Bank N.A.

The Bank's mailing address is 1200 Montego, Walnut Creek, CA 94598, and its phone number is (925) 746-4143.

Important Member Bank Responsibilities:

- a) The Bank is the only entity approved to extend acceptance of Card Organization products directly to a Merchant.
- b) The Bank must be a principal (signer) to the Merchant Agreement.
- c) The Bank is responsible for educating Merchants on pertinent Visa and MasterCard rules with which Merchants must comply; but this information may be provided to you by Processor.
- d) The Bank is responsible for and must provide settlement funds to the Merchant.
- 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 Merchant Agreement.
- d) Comply with Card Organization rules.
- e) Retain a signed copy of this Disclosure Page.
- f) You may download 'Visa Regulations' from Visa's website at: http://usa.visa.com/merchants/operations/op_regulations.html
- g) You may download 'MasterCard Regulations' from MasterCard's website at: <http://www.mastercard.com/us/merchant/support/rules.html>

Print Client's Business Legal Name: _____

By its signature below, Client acknowledges that it has received the complete Program Guide [version CP1611(la)] consisting of 32 pages (including this confirmation).

Client further acknowledges reading and agreeing to all terms in the Program Guide, which shall be incorporated into Client's Agreement. Upon receipt of a signed facsimile or original of this Confirmation Page by us, Client's Application will be processed.

NO ALTERATIONS OR STRIKE-OUTS TO THE AGREEMENT WILL BE ACCEPTED.

Client's Business Principal:

Signature (Please sign below):

X Timothy R. Shaw
Timothy R. Shaw

General Manager
 Title

5-23-2019
 Date

Please Print Name of Signer

PROCESSOR INFORMATION:

Name: Bluefin Payment Systems
 Address: 8200 Roberts Drive, Suite 150, Atlanta, GA 30350
 URL:

Customer Service #: 1-800-675-6573

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4. **If you dispute any charge or funding,** you must notify us within 60 days of the date of the statement where the charge or funding appears for Card Processing.
5. **The Agreement limits our liability to you.** For a detailed description of the limitation of liability see Section 20 of the Card Processing General Terms.
6. **We have assumed certain risks** by agreeing to provide you with Card processing or check services. Accordingly, we may take certain actions to mitigate our risk, including termination of the Agreement, and/or hold monies otherwise payable to you (see Card Processing General Terms in Section 23, Term; Events of Default and Section 24, Reserve Account; Security Interest), under certain circumstances.
7. **By executing this Agreement with us** you are authorizing us and our Affiliates to obtain financial and credit information regarding your business and the signers and guarantors of the Agreement until all your obligations to us and our Affiliates are satisfied.
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- d) Comply with Card Organization rules.
- e) Retain a signed copy of this Disclosure Page.
- f) You may download "Visa Regulations" from Visa's website at: http://usa.visa.com/merchants/operations/op_regulations.html
- g) You may download "MasterCard Regulations" from MasterCard's website at: <http://www.mastercard.com/us/merchant/support/rules.html>

Print Client's Business Legal Name: _____

By its signature below, Client acknowledges that it has received the complete Program Guide [version CP1611(1a)] consisting of 32 pages (including this confirmation).

Client further acknowledges reading and agreeing to all terms in the Program Guide, which shall be incorporated into Client's Agreement. Upon receipt of a signed facsimile or original of this Confirmation Page by us, Client's Application will be processed.

NO ALTERATIONS OR STRIKE-OUTS TO THE AGREEMENT WILL BE ACCEPTED.

Client's Business Principal:

Signature (Please sign below):

X

Title

Date

Please Print Name of Signer

TABLE OF CONTENTS

PART I: Confirmation Page

Duplicate Confirmation Page

PART II: Card Services

A. Operating Procedures

- 1. MasterCard, Visa and Discover Network Card Acceptance 7
 - 1.1. Card Descriptions..... 7
 - 1.2. Effective/Expiration Dates..... 7
 - 1.3. Valid Signature..... 7
 - 1.4. Users Other Than Cardholders 7
 - 1.5. Special Terms..... 7
 - 1.6. Delayed Delivery or Deposit Balance 8
 - 1.7. Recurring Transaction and Preauthorized Order Regulations..... 8
 - 1.8. Certain Rules and Requirements 8
 - 1.9. Card Acceptance 8
 - 1.10. Deposits of Principals 9
 - 1.11. Merchants in the Lodging Industry..... 9
 - 1.12. Customer Activated Terminals and Self-Service Terminals..... 9
 - 1.13. Displays and Advertising..... 9
 - 1.14. Cash Payments by and Cash Disbursements to Cardholders 9
 - 1.15. Discover Network Cash Over Transactions 9
 - 1.16. Telecommunication Transactions..... 9
- 2. Suspect Transactions 9
- 3. Completion of Sales Drafts and Credit Drafts 10
 - 3.1. Information Required..... 10
 - 3.2. Mail/Telephone/Internet (Ecommerce) and Other Card Not Present Sales..... 10
 - 3.3. Customer Service Telephone Numbers for Cards Other Than MasterCard, Visa and Discover Network 11
- 4. Data Security 11
 - 4.1. Payment Card Industry Data Security Standards (PCI DSS) 11
 - 4.2. Data Security Requirements 11
 - 4.3. Compliance Audits..... 11
 - 4.4. Immediate Notice Required 11
 - 4.5. Investigation..... 11
 - 4.6. Required Information for Discover Network Security Breaches..... 12
 - 4.7. Merchant Providers..... 12
 - 4.8. Noncompliance Fees..... 12
 - 4.9. Costs..... 12
- 5. Authorizations 12
 - 5.1. Card Not Present Transactions 12
 - 5.2. Authorization via Telephone (Other Than Terminal/Electronic Device Users)..... 12
 - 5.3. Authorization via Electronic Devices..... 13
 - 5.4. Third Party Authorization System..... 13
 - 5.5. Automated Dispensing Machines..... 13
 - 5.6. Pre-Authorization for T&E (Travel & Entertainment) and Restaurant Merchants..... 13
 - 5.7. Discover Network Procedure for Request for Cancellation of Authorization 13
 - 5.8. Partial Authorization and Authorization Reversal 13
- 6. Submission/Deposit of Sales Drafts and Credit Drafts 13
 - 6.1. Submission of Sales for Merchants Other Than Your Business 13
 - 6.2. Timeliness 13
 - 6.3. Mail/Branch Deposit Procedures 14
 - 6.4. Electronic Merchants: Daily Batching Requirements & Media Submission..... 14

- Settlement..... 14
- 8. Refunds/Exchanges (Credits) 14
 - 8.1. Refunds 14
 - 8.2. Exchanges 14
- 9. Retention of Records for Retrievals and Chargebacks 14
 - 9.1. Retain Legible Copies..... 14
 - 9.2. Provide Sales and Credit Drafts..... 14
- 10. Chargebacks, Retrievals and Other Debits 14
 - 10.1. Chargebacks..... 14
 - 10.2. Other Debits..... 16
 - 10.3. Summary (Deposit) Adjustments/Electronic Rejects 17
 - 10.4. Disputing Other Debits and Summary Adjustments 17
- 11. Account Maintenance 17
 - 11.1. Change of Settlement Account Number..... 17
 - 11.2. Change in Your Legal Name or Structure..... 17
 - 11.3. Change in Company DBA Name, Address or Telephone/Facsimile Number 17
 - 11.4. Other Changes in Merchant Profile..... 17
 - 11.5. Charges for Changes to Account Maintenance 17
- 12. Card Organization Monitoring..... 17
- 13. Supplies 17

B. Card General Terms

- 14. Services 18
- 15. Operating Procedures; Card Organization Rules and Compliance 18
- 16. Settlement of Card Transactions..... 18
- 17. Exclusivity..... 18
- 18. Fees; Adjustments; Collection of Amounts Due 18
- 19. Chargebacks 19
- 20. Representations; Warranties; Covenants; Limitations on Liability; Exclusion of Consequential Damages 19
- 21. Confidentiality..... 19
- 22. Assignments 20
- 23. Term; Events of Default 20
- 24. Reserve Account; Security Interest..... 21
- 25. Financial and Other Information..... 21
- 26. Indemnification 21
- 27. Special Provisions Regarding Non-Bank Cards 21
- 28. Special Provisions for PIN Debit Card..... 22
- 29. Special Provisions Regarding EBT Transactions 23
- 30. Special Provisions Regarding Wireless Services..... 24
- 31. Special Provisions Regarding TransArmor Services 25
- 32. Special Provisions Regarding Global Gateway E4 Services..... 26
- 33. Choice of Law; Venue; Waiver of Jury Trial..... 28
- 34. Other Terms 28
- 35. Glossary..... 30

PART III: Additional Important Information Page For Card Processing

- A.1. Electronic Funding Authorization..... 32
- A.2. Funding Acknowledgement 32
- A.3. Additional Fees, Fee Related Information and Early Termination..... 32
- A.4. 6050W of the Internal Revenue Code..... 32
- A.5. Addresses For Notices..... 32

PART II: CARD SERVICES

A. OPERATING PROCEDURES

This part of the Program Guide (through Section 13) describes the procedures and methods for submitting Credit Card transactions for payment, obtaining authorizations, responding to Chargebacks and Media Retrieval Requests, and other aspects of the operations of our services.

Processor is a full-service financial transaction processor dedicated, among other processing services, to facilitating the passage of your Sales Drafts back to the thousands of institutions who issue the MasterCard[®], Visa[®] and Discover[®] Network Cards carried by your customers, as well as to the independent issuers of JCB[®]. The Operating Procedures contained in this part seek to provide you with the principles for a sound Card program; however, you should consult the Card Organization Rules for complete information and to ensure full compliance with them. They are designed to help you decrease your Chargeback liability and train your employees. (In the event we provide authorization, processing or settlement of transactions involving Cards other than MasterCard, Visa, Discover Network and American Express, you should also consult those independent Issuer's proprietary rules and regulations.)

The requirements set forth in these Operating Procedures will apply unless prohibited by law. You are responsible for following any additional or conflicting requirements imposed by your state or local jurisdiction.

1. MasterCard, Visa and Discover Network Card Acceptance

1.1. Card Descriptions. At the point of sale, the Card must be carefully examined to determine whether it is a legitimate and valid Card. The name of the Card (e.g., Visa, MasterCard or Discover Network) should appear in bold letters on the Card. For all MasterCard and Visa Cards and for some Discover Network Cards, the Issuer (e.g., XYZ Bank, etc.) should also appear in bold letters on the Card. The following is a description of the authorized Visa, MasterCard and Discover Network Card designs:

Visa: Visa Cards have the Visa symbol on the right-hand side of the Card. Above the Visa symbol is the 3-dimensional hologram of the Visa Dove design. The expiration date must be followed by one space and may contain the symbol 'V'. Visa Cards contain a 16-digit account number embossed across the middle of the Cards and the first digit is always a four (4). In addition, Visa Cards have the first four digits of the account number printed directly below the embossed number. You must always check these numbers carefully to ensure that they are the same. Visa has a new Card design which differs significantly from the previous description. You are required to familiarize yourself with the new design by consulting the document entitled 'Card Acceptance Guidelines for Visa Merchants (VRM 04.02.11) and Chargeback Management Guidelines for Visa Merchants' (VRM 04.03.11). You may download the document free of charge from Visa's website at <http://www.visa.com/merchant> or order a hardcopy to be mailed to you for a nominal charge by telephoning Visa Fulfillment at 800-VISA-311. Both the old and new Visa Card designs will be circulating concurrently in the marketplace through the year 2010. Only Visa Cards fitting the old or new descriptions may be accepted.

MasterCard: MasterCard Cards are issued under the following names: MasterCard, EuroCard, Access, Union, Million and Diamond. The MasterCard symbol appears on the front or back of the Card. MasterCard and the Globe designs appear in a 3-dimensional hologram above the symbol. In addition, the words Classic, Preferred, Gold or Business may appear. MasterCard account numbers are sixteen (16) digits, and the first digit is always a five (5). The first four digits of the account must be printed directly below the embossed number. Only MasterCard Cards fitting this description may be accepted. Pursuant to an alliance with MasterCard, Diners Club Cards issued in the United States and Canada are being re-issued with a sixteen (16) digit account number the first two digits of which are now fifty-five (55) and with the MasterCard Mark and hologram on the front of the Diners Club Card. These Diners Club Cards shall be accepted and processed in the same manner as MasterCard transactions. Diners Club International Cards that are issued outside the U.S. and Canada may be re-issued with the MasterCard Mark on the back of the Card. These Diners Club Cards will have account numbers that are fourteen (14) digits, the first two digits or which are thirty-six (36). When these Diners Club Cards are used within the United States, Canada and other designated areas, they will be processed as MasterCard transactions. Beginning January 2006, MasterCard has a new Card design significantly different from the previous description. You are required to familiarize yourself with the new design by consulting a document 'MasterCard Card Identification Features.' You may download the document free of charge from MasterCard's website at www.mastercard.us/merchants. Both the old and new MasterCard Card designs will be circulating concurrently in the marketplace through the year 2010. Only MasterCard Cards fitting the old or new descriptions may be accepted.

Discover Network: Valid standard, rectangular plastic Cards bearing a Discover[®] Acceptance Mark include the following common characteristics and distinctive features:

- Cards display either a three-dimensional hologram on the front or back of the Card OR a three-dimensional holographic magnetic stripe on the back of the Card. Valid Cards do not display holograms on both front and back. Cards that include the security hologram on the Card in lieu of the holographic magnetic stripe must contain a solid color (not black) magnetic stripe on the back of the back of the Card.
- Card Numbers may be embossed or unembossed and will appear on either the front or back of a Card. Card Numbers begin with the number '6' and are composed of 16 digits that should be clear and uniform in size and spacing.
- The Cardholder name, and if applicable, business name, may be embossed or unembossed and will appear on either the front or back of the Card.

- The 'Valid Thru' date may be embossed or unembossed and will appear on either the front or back of a Card in mm/yy format that indicates the last month in which the Card is valid.
- The words 'DISCOVER' or 'DISCOVER NETWORK' appears on the front of the Card under an ultraviolet light.
- The words 'DISCOVER' or 'DISCOVER NETWORK' appear on a signature panel on the back of the Card and may vary in length. Cards may contain a panel that includes an ultraviolet image of the word 'DISCOVER.' An underprint of 'void' on the signature panel becomes visible if erasure of the signature is attempted.
- The last four digits of the Card Number may be displayed on the back of the Card and are commonly printed in reverse indent printing on the signature panel.
- On embossed Cards, a security character, displayed as an embossed stylized 'D' appears on the front of the Card.
- The 3-digit CID is printed on the back of the Card in a separate box to the right of the signature panel.

NOTE: Valid Cards may not always be rectangular in shape (e.g., Discover 2GO Cards). Certain valid unembossed Cards or Contactless Payment Devices approved by us for use in accessing Card Accounts (e.g., contactless stickers, key fobs, and Mobile Commerce Devices) and to conduct Contactless Card Transactions may not display the same features described above. Card expiration date and other features listed above are not displayed on such Contactless Payment Devices.

NOTE: For unembossed Cards used to conduct a Card Present Card Sales, Merchants must obtain an Authorization Response electronically using a POS Device. A Card Sale involving an unembossed Card may be subject to Dispute if the Merchant 'key enters' Card information into a POS Device and does not use the electronic Authorization procedures.

1.2. Effective/ Expiration Dates. At the point of sale, the Card should be carefully examined for the effective (valid from) (if present) and expiration (valid thru) dates which are located on the face of the Card. The sale date must fall on or between these dates. When an expiration date is expressed in a month/year format, MasterCard transactions are valid through and including the last day of the month and year. When the valid date is expressed in a month/year format, MasterCard transactions that occur before the first day of the month and year are invalid. Do not accept a Card prior to the effective date or after the expiration date. If the Card has expired, you cannot accept it for a Card sale unless you have verified through your Authorization Center that the Card is in good standing, otherwise, you are subject to a Chargeback and could be debited for the transaction.

When a MasterCard PayPass enabled keyfob or mobile phone is presented for payment, verifying a valid expiration date is not required.

1.3. Valid Signature. Check the back of the Card. Make sure that the signature panel has not been disfigured or tampered with in any fashion (an altered signature panel may appear discolored, glued or painted, or show erasure marks on the surface). The signature on the back of the Card must compare favorably with the signature on the Sales Draft. However, comparing the signature on the Card with the signature on the transaction receipt is not applicable when an alternate Card form (MasterCard PayPass keyfob or mobile phone) is presented. The Sales Draft must be signed by the Card presenter in the presence of your authorized representative (unless a Card Not Present Sale) and in the same format as the signature panel on the Card; e.g., Harry E. Jones should not be signed H.E. Jones. The signature panels of Visa, MasterCard and Discover Network Cards now have a 3-digit number (CVV2/CVC2/CID) printed on the panel known as the Card Validation Code.

Visa, MasterCard and Discover Network: If the signature panel on the Card is blank, in addition to requesting an Authorization, you must do all the following:

- Review positive identification bearing the Cardholder's signature (such as a passport or driver's license that has not expired) to validate the Cardholder's identity.
- Indicate the positive identification, including any serial number and expiration date, on the Credit Draft or Sales Draft; provided that you must effect PAN Truncation, and must not include the expiration date on the copy of the Sales Draft or Credit Draft that you provide to the Cardholder, or as required by applicable law, the Sales Draft or Credit Draft you retain.
- Require the Cardholder to sign the signature panel of the Card prior to completing the Transaction.
- When a MasterCard PayPass enabled keyfob or mobile phone is presented for payment, validating the customer's signature is not required.

1.4. Users Other Than Cardholders. A Cardholder may not authorize another individual to use his/her Card for purchases. Be sure the signature on the Card matches with the one on the Sales Draft. Furthermore, any Card having two signatures on the back panel is invalid and any sale made with this Card can result in a Chargeback. For Cards bearing a photograph of the Cardholder, ensure that the Cardholder appears to be the person depicted in the picture which appears on the Card. If you have any questions, call the Voice Authorization Center and request to speak to a Code 10 operator.

1.5. Special Terms. If you limit refund/exchange terms or impose other specific conditions for Card sales, the words 'No Exchange, No Refund,' etc. must be clearly printed (in 1/4" letters) on the Sales Draft near or above the Cardholder's signature. The Cardholder's copy, as well as your copy, must clearly show this information.

During a liquidation and/or closure of any of your outlets, locations and/or businesses, you must post signs clearly visible to customers stating that 'All Sales Are Final' and stamp the Sales Draft with a notice that 'All Sales Are Final.'

Generally, do not give cash, check or in-store Credit refunds for Card sales. Visa allows for the following exclusions: A cash refund to the Cardholder for a small ticket transaction or a no signature required transaction, a cash refund, Credit, or other appropriate form of Credit to the recipient of a gift purchased as a Mail/Phone Order transaction, or a cash refund or in-store Credit for a Visa prepaid card transaction if the Cardholder states that the Visa prepaid card has been discarded. **NOTE:** A disclosure does not eliminate your liability for a Chargeback. Consumer protection laws and Card Organization Rules frequently allow the Cardholder to dispute these items notwithstanding such disclosures.

1.6. Delayed Delivery or Deposit Balance. In a delayed delivery transaction where a Cardholder makes a deposit toward the full amount of the sale, you should execute two separate Sales Drafts (each completed fully as described in Section 3.1), the first for a deposit and the second for payment of the balance upon delivery of the merchandise or the performance of the services.

Visa: For Visa transactions, you must obtain an authorization if the cumulative total of both Sales Drafts exceeds the floor limit. You must obtain an authorization for each Sales Draft on each transaction date. You must assign the separate authorization numbers to each Sales Draft, respectively. You must note on such Sales Drafts the words 'delayed delivery,' 'deposit' or 'balance,' as appropriate, and the authorization dates and approval codes.

MasterCard: For MasterCard transactions, you must obtain one authorization. You must note on both Sales Drafts the words 'delayed delivery,' 'deposit' or 'balance,' as appropriate, and the authorization date and approval code.

Discover Network: For Discover Network transactions, you must label one Sales Draft 'deposit' and the other 'balance,' as appropriate. You must obtain the 'deposit' authorization before submitting the sales data for the 'deposit' or the 'balance' to us. If delivery of the merchandise or service purchased will occur more than ten (10) calendar days after the 'Deposit' Authorization, you must obtain a subsequent authorization for the 'balance.' In addition, you must complete Address Verification at the time of the 'balance' authorization, and you must obtain proof of delivery upon delivery of the services/merchandise purchased. You may not submit sales data relating to the 'balance' to us for processing until the merchandise/service purchased has been completely delivered.

1.7. Recurring Transaction and Preauthorized Order Regulations. If you process recurring transactions and charge a Cardholder's account periodically for recurring goods or services (e.g., monthly insurance premiums, yearly subscriptions, annual membership fees, etc.), the Cardholder shall complete and deliver to you a Cardholder approval for such goods or services to be charged to his account. The approval must at least specify the Cardholder's name, address, account number and expiration date, the transaction amounts, the timing or frequency of recurring charges and the duration of time for which the Cardholder's permission is granted. For Discover Network transactions, the approval must also include the total amount of recurring charges to be billed to the Cardholder's account, including taxes and tips and your Merchant Number.

If the recurring transaction is renewed, the Cardholder must complete and deliver to you a subsequent written request for the continuation of such goods or services to be charged to the Cardholder's account. You may not complete a recurring transaction after receiving a cancellation notice from the Cardholder or Issuer or after a request for authorization has been denied.

If we or you have terminated this Agreement, you may not submit authorization requests or sales data for recurring transactions that are due after the termination date of this Agreement.

You must obtain an authorization for each transaction and write 'Recurring Transaction' (or 'P.O.' for MasterCard transactions) on the Sales Draft in lieu of the Cardholder's signature. A positive authorization response for one recurring transaction Card Sale is not a guarantee that any future recurring transaction authorization request will be approved or paid.

For all recurring transactions, you should submit the 3-digit Card Validation Code number with the first authorization request, but not subsequent authorization requests. Discover Network Card Organization Rules specifically require that you follow this Card Validation Code procedure for Discover Network recurring transactions.

Also, for Discover Network recurring transactions, the Sales Draft must include a general description of the transaction, your merchant name and a toll-free customer service number that the Cardholder may call to obtain customer assistance from you or to cancel the written approval for the recurring transaction.

All recurring transactions or preauthorized orders may not include partial payments for goods or services purchased in a single transaction.

You may not impose a finance charge in connection with a Recurring Transaction or Preauthorized Order.

If you process recurring payment transactions, the Recurring Payment Indicator must be included in each authorization request, and as applicable, each Batch submission entry. Penalties can be assessed by the Card Organizations for failure to use the Recurring Payment Indicator.

1.8. Certain Rules and Requirements. The following rules are requirements strictly enforced by Visa, MasterCard and Discover Network:

- Your minimum Credit Card acceptance amount cannot exceed \$10.00. Such minimum amount must be established to all Credit Cards regardless of Card Issuer or Card brands. Unless you are a federal government entity or institution of higher learning, you may not establish a maximum amount as a condition for accepting a Card, except that for Discover transactions, you may limit the maximum amount a Discover Network Cardholder may spend if, and only if, you have not received a positive authorization response from the Issuer. Setting a minimum transaction amount limit for Debit Cards (Pin Debit or Non-PIN Debit) is prohibited.

- You cannot impose a surcharge or fee for accepting a Debit Card.
- You cannot establish any special conditions for accepting a Card.
- You cannot require the Cardholder to supply any personal information (e.g., home or business phone number; home or business address including zip code; or driver's license number) unless instructed by the Authorization Center. The exception to this is for mail/telephone/Internet order or delivery-required transactions, or as otherwise permitted by applicable law. Any information that is supplied by the Cardholder must not be in plain view when mailed.
- Any tax required to be collected must be included in the total transaction amount and not collected in cash.
- You cannot submit any transaction representing the refinance or transfer of an existing Cardholder obligation deemed uncollectible.
- You cannot accept a Visa Consumer Credit Card or Commercial Visa Product, issued by a U.S. Issuer, to collect or refinance an existing debt. **NOTE:** Visa Consumer debit and Visa Business debit Card products including prepaid card type can be accepted to collect or refinance an existing debt.
- You cannot submit a transaction or sale that has been previously charged back.
- You must create a Sales Draft or Credit Draft for each Card transaction and deliver at least one copy of the Sales Draft or Credit Draft to the Cardholder.
- You cannot submit a transaction or sale to cover a dishonored check.
- If you accept Card checks, your Card check acceptance policy must treat the acceptance of checks from all payment card brands that you accept equally (e.g., if you accept MasterCard, Visa and Discover Network, your check acceptance policy must treat checks for all three payment card brands equally). You should handle these Card checks like any other personal check drawn upon a bank in the United States.
- Failure to comply with any of the Card Organization Rules may result in fines or penalties.

U.S. Merchants may engage in any of the following:

- You may direct customers to a particular brand or type of general purpose card or a particular form of payment. U.S. merchants may also encourage customers who initially present a Visa Card to use a payment card with a different network brand, a different type of payment card or a different form of payment.
 - You may provide a discount/incentive for a consumer to pay with cash, check, Credit Card, Debit Card, etc., however, you must clearly and conspicuously disclose the discount to consumers. Also, you must offer the discount to all consumers and you cannot discriminate based upon Card brand or Card Issuer. However, you may choose not to accept either U.S. issued Debit Cards or U.S. issued Credit Cards under the terms described in Section 1.9.
 - You may offer a discount or rebate, including an immediate discount or rebate at the point of sale;
 - You may offer a free or discounted product, service or enhanced service
 - You may offer an incentive, encouragement, or benefit;
 - You may express a preference for the use of a particular brand or type of general purpose card or a particular form of payment;
 - You may promote a particular brand or type of general purpose card or a particular form or forms of payment through posted information, through the size, prominence, or sequencing of payment choices, or through other communications to a customer;
 - You may communicate to a customer the reasonably estimated or actual costs incurred by the merchant when a customer uses a particular brand or type of general purpose card or a particular form of payment or the relative costs of using different brands or types of general purpose cards or different forms of payment. **NOTE:** Visa Consumer Debit and Visa Business Debit Card products including prepaid Card type can be accepted to collect or refinance an existing debt; or
- You may engage in any other practices substantially equivalent to the above.

- You will inform the Cardholder that you are responsible for the Card transaction including your goods and services and for related customer service, dispute resolution and performance of the terms and conditions of the transaction.

1.9. Card Acceptance. If you have indicated either in the Application or by registering with us at least thirty (30) days in advance that, as between Non-PIN Debit Card transactions and Credit Card transactions, you will limit your acceptance to either (i) only accept Non-PIN Debit transactions; or (ii) only accept Credit Card transactions, then the following terms in this Section 1.9 will apply:

- 1.9.1.** You will be authorized to refuse to accept for payment either Non-PIN Debit Cards or Credit Cards that are issued within the United States. You will, however, continue to be obligated to accept all foreign issued Credit Card or Debit Cards issued by MasterCard, Visa or Discover Network so long as you accept any type of MasterCard, Visa or Discover Network branded Card.
- 1.9.2.** While many Debit Cards include markings indicating debit (such as 'Visa Checkcard, Visa Buxx, Gift Card, DEBIT, or Mastermoney), many Debit Cards may not include any such markings. It will be your responsibility to determine at the point of sale whether a Card is of a type that you have indicated that you will accept. You agree to institute appropriate systems and controls to limit your acceptance to the Card types indicated. You may purchase a table of ranges of numbers currently associated with Debit Card transactions upon execution of confidentiality/non-disclosure agreements required by the Card Organizations. You will be responsible for updating your systems to utilize such tables and to obtain updated tables.
- 1.9.3.** To the extent that you inadvertently or unintentionally accept a transaction that you are not registered to accept, such transaction will downgrade and you will be charged the Non Qualified Rate or, if you are utilizing the Enhanced Recovery Reduced Discount option,

Agenda item 2

you will be charged the Enhanced Recovery Reduced Rate on the volume of said transaction that Client was not registered to accept, in addition to the difference between the MasterCard/ Visa/Discover Network Qualified Rate agreed to in Section 9 of the Service Fee Schedule and the actual interchange rate assessed to the downgraded transaction.

1.9.4. Based upon your choice to accept only the Card types indicated in the application, you must remove from your premises any existing signage indicating that you accept all Visa, MasterCard or Discover Network Cards and use approved specific signage reflecting your policy of accepting only Non-PIN Debit or Credit Cards.

1.9.5. Even if you elect not to accept Non-PIN Debit Card transactions as provided above, you may still accept PIN Debit Card transactions if you have signed up for PIN Debit Card Services.

1.9.6. If a MasterCard Card is presented, you must use your best efforts, by reasonable and peaceful means, to retain the card while making an authorization request. In a face-to-face environment, you must give a MasterCard Cardholder the option of a signature based transaction. Unless the Cardholder uses a PIN, the Cardholder must sign the transaction receipt.

1.9.7. MasterCard revised standards related to the use of Mobile POS (MPOS) terminals.

Merchants with less than \$100,000 in annual MasterCard transaction volume may use Chiponly MPOS terminals:

- That do not support magnetic stripe capture
- That support either signature or No Cardholder Verification Method (CVM)
- That may offer optional support PIN entry

Merchants with less than \$100,000 in annual MasterCard transaction volume may use MPOS terminals or Chip-only MPOS solutions that do not support electronic signature capture to complete a transaction without obtaining a CVM.

Please Note: Merchants with more than \$100,000 in annual transactions may use MPOS terminals if the MPOS terminal complies with MasterCard's requirements for POS terminals or hybrid POS terminals (if chip cards are accepted).

1.10. Deposits of Principals. Owners, partners, officers and employees of your business establishment, and the guarantors who signed the Application, are prohibited from submitting Sales Drafts or Credit Drafts transacted on their own personal Cards, other than transactions arising from bona fide purchases of goods or services in the ordinary course of your business. Such use in violation of this Section 1.10 is deemed a cash advance, and cash advances are prohibited.

1.11. Merchants in the Lodging Industry.

1.11.1. Generally. There are additional rules and requirements that apply to merchants in the lodging industry for practices including, but not limited to, Guaranteed Reservations and charges for no shows, advance deposits, overbookings, and priority checkout. If you are a merchant in the lodging industry, you must contact us for these additional rules and requirements. Failure to do so could result in additional charges or termination of this Agreement.

1.11.2. Lodging Service Programs. In the event you are a lodging merchant and wish to participate in Visa's and/or MasterCard's lodging services programs, please contact your sales representative or relationship manager for details and the appropriate MasterCard and Visa requirements.

1.11.3. Written Confirmation of Guaranteed Reservations. You must provide the Cardholder with written confirmation of a guaranteed reservation. The confirmation must contain:

- Cardholder's name as it appears on the Card, if present.
- Card Number, truncated where required by applicable law to you or us and Card expiration date if present, unless prohibited by applicable law to you or us.
- Reservation confirmation number.
- Anticipated arrival date and length of stay.
- The cancellation policy in its entirety, inclusive of the date and time the cancellation privileges expire.
- Any other pertinent details related to the reserved accommodations.

1.11.4. Cancellation of Guaranteed Reservations. If a Cardholder requests a cancellation in accordance with Merchant's cancellation policy and specified time frames, Merchant must provide the Cardholder with a cancellation number and instructions to retain a record of it. If a Cardholder requests a written confirmation of the cancellation, Merchant must forward this confirmation within three (3) Business Days of the Cardholder's request. The cancellation confirmation must contain: Cardholder's reference that charges were placed on the Card, if applicable, or a guarantee that a 'no-show' charge will not be placed on the Card.

- Cardholder's name as it appears on the Card, if present.
- Card Number, truncated as required by applicable law to you or us.
- Card expiration date, if present, unless prohibited by applicable law to you or us.
- Reservation cancellation number.
- Date of cancellation.
- The name of the Merchant's employee that processed the cancellation.
- Any other pertinent information related to the reserved accommodations.

1.12. Customer Activated Terminals and Self-Service Terminals. Prior to conducting Customer Activated Terminal ("CAT") transactions or Self-Service Terminal transactions you must contact us for approval and further instructions, rules and requirements that apply to CAT and Self-Service Terminal transactions. Failure to do so could result in additional charges or termination of this Agreement.

1.13. Displays and Advertising. You must prominently display appropriate Visa, MasterCard, Discover Network, and, if applicable, other Card Organization decals and program Marks at each of your locations, in catalogs, on websites and on other promotional materials as required by Card Organization Rules. You may not indicate that Visa, MasterCard, Discover Network, or any other Card Organization endorses your goods or services.

Your right to use the program Marks of the Card Organizations terminates upon the earlier of (i) if and when your right to accept the Cards of the respective Card Organization terminates (e.g., if your right to accept Discover Network Cards terminates, you are no longer permitted to use Discover Network Program Marks), (ii) delivery of notice by us or the respective Card Organization to you of the termination of the right to use the Mark(s) for that Card Organization, or (iii) termination of the license to use the program Marks by the respective Card Organization to us.

1.13.1. Discover Network Sublicense to Use Discover Network Program Marks. You are prohibited from using the Discover Network Program Marks, as defined below, other than as expressly authorized in writing by us. 'Discover Network Program Marks' means the brands, emblems, trademarks and/or logos that identify Discover Network Cards, including, without limitation, Diners Club International Cards. Additionally, you shall not use the Discover Network Program Marks other than as a part of the display of decals, signage, advertising and other forms depicting the Discover Network Program Marks that are provided to you by us or otherwise approved in advance in writing by us.

You may use the Discover Network Program Marks only to promote the services covered by the Discover Network Program Marks by using them on decals, indoor and outdoor signs, advertising materials and marketing materials; provided that all such uses by you must be approved in advance by us in writing.

You shall not use the Discover Network Program Marks in such a way that customers could believe that the products or services offered by you are sponsored or guaranteed by the owners of the Discover Network Program Marks. You recognize that you have no ownership rights in the Discover Network Program Marks. You shall not assign to any Person any of the rights to use the Program Marks.

1.14. Cash Payments by and Cash Disbursements to Cardholders. You must not accept any direct payments from Cardholders for charges of merchandise or services which have been included on a Sales Draft; it is the right of the Issuer to receive such payments. You may not make any cash disbursements or cash advances to a Cardholder as part of a Card transaction unless you are a financial institution with express authorization in writing in advance from Servicers. For Discover, cash advances in authorized jurisdictions other than the United States may be conducted in an originating currency provided that cash advances may be subject to dispute and/or Acquirer fees.

1.15. Discover Network Cash Over Transactions. Cash Over transactions are not available for MasterCard or Visa transactions. You may issue Cash Over in connection with a Discover Network Card sale, provided that you comply with the provisions of this Agreement, including the following requirements:

- You must deliver to us a single authorization request for the aggregate total of the goods/ services purchase amount and the Cash Over amount of the Card sale. You may not submit separate authorization requests for the purchase amount and the Cash Over amount.
- The Sales Draft must include both the purchase amount and the Cash Over amount, and you may not use separate Sales Drafts for the purchase amount and Cash Over amount.
- No minimum purchase is required for you to offer Cash Over to a Discover Network Cardholder, provided that some portion of the total Card sale must be attributable to the purchase of goods or services.
- The maximum amount of cash that you may issue as Cash Over is \$100.00.

(Cash Over may not be available in certain markets. Contact us for further information).

1.16. Telecommunication Transactions. Telecommunication Card Sales occur when a telephone service provider is paid directly using a Card for individual local or long-distance telephone calls. (NOTE: Pre-paid telephone service cards are not and do not give rise to Telecommunication Card Sales). Prior to conducting Telecommunication transactions you must contact us for approval and further instructions, rules and requirements. Failure to do so could result in additional charges or termination of this Agreement.

Suspect Transactions

If the appearance of the Card being presented or the behavior of the person presenting the Card is suspicious in nature, you must immediately call the Voice Authorization Center and ask to speak to a Code 10 operator. Answer all their questions and follow their instructions. While not proof that a transaction is fraudulent, the following are some suggestions to assist you in preventing fraudulent transactions that could result in a Chargeback:

Ask yourself, does the Customer:

- appear nervous/agitated/hurried?
- appear to be making indiscriminate purchases (e.g., does not care how much an item costs, the size, etc.)?
- make purchases substantially greater than your usual customer (e.g., your average transaction is \$60, but this transaction is for \$360)?
- insist on taking the merchandise immediately (e.g., no matter how difficult it is to handle, is not interested in free delivery, alterations, etc.)?
- appear to be purchasing an unusual amount of expensive items or the same items?
- take an unusual amount of time to sign the Sales Draft, or look at the back of the Card as he signs?
- talk fast or carry on a conversation to distract you from checking the signature?
- take the Card from a pocket instead of a wallet?

- repeatedly come back, in a short amount of time or right before closing time, to make additional purchases?
- cause an unusual, sudden increase in the number and average sales transactions over a one- to three-day period?
- tell you he has been having some problems with his Issuer and request that you call a number (that he provides) for a 'special' handling or authorization?
- have a previous history of disputed charges?
- place orders to be shipped to an address other than the billing address, or use anonymous/free email domains?
- place orders sent to zip codes or countries where you show a history of fraudulent claims?

Does the Card:

- have characters the same size, height, style and all within alignment?
- appear to be re-embossed (the original numbers or letters may be detected on the back of the Card)?
- have a damaged hologram?
- have a Magnetic Stripe on the back on the Card?
- have an altered signature panel (e.g., appear discolored, glued or painted, or show erasure marks on the surface)?
- have 'valid from' (effective) and 'valid thru' (expiration) dates consistent with the sale date?

If you use an electronic terminal and swipe the Card, make sure the account number displayed on the terminal and/or the Sales Draft matches the number on the Card. If you cannot or do not verify the account number and accept the sale, you are subject to a Chargeback and could be debited for the amount of the transaction. **IF THE NUMBERS DO NOT MATCH, DO NOT ACCEPT THE CARD AS A FORM OF PAYMENT, EVEN THOUGH AN AUTHORIZATION CODE FOR THE MAGNETICALLY SWIPED CARD NUMBER MAY BE RECEIVED.**

Fraud-Prone Merchandise Tips:

- Gift Cards, jewelry, video, stereo, computer and camera equipment, shoes, and men's clothing are typically fraud-prone because they can easily be resold.
- Be suspicious of high dollar amounts and transactions with more than one fraud-prone item, e.g., two VCRs, three gold chains, etc.

If you suspect fraud:

- Call the Voice Authorization Center and ask to speak to a Code 10 operator.
- If the terminal does not display the Card number, call the POS Help Desk for terminal assistance.

REMEMBER: AN AUTHORIZATION CODE ONLY INDICATES THE AVAILABILITY OF A CARDHOLDER'S CREDIT AT THE TIME OF THE TRANSACTION. IT DOES NOT WARRANT THAT THE PERSON PRESENTING THE CARD IS THE RIGHTFUL CARDHOLDER. IF PROPER PROCEDURES ARE NOT FOLLOWED AT THE TIME OF THE TRANSACTION, YOU ARE SUBJECT TO A CHARGEBACK AND YOUR ACCOUNT MAY BE DEBITED FOR THE AMOUNT OF THE TRANSACTION.

3. Completion of Sales Drafts and Credit Drafts

You must prepare a Sales Draft or Credit Draft, as applicable, for each Card transaction and provide a copy of it or a transaction receipt or copy of the Draft to the Cardholder at the time the Card transaction is completed.

3.1. Information Required. All of the following information must be contained on a single page document constituting a Sales Draft:

- Cardholder's account number must appear on the Credit Draft or Sales Draft in the manner required by applicable law and Card Organization Rules. NOTE: The copy of the Sales Draft or Credit Draft you provide to a Cardholder must not include the Cardholder's Card expiration date or any more than the last four digits of the Cardholder's Card number. Some states have similar requirements that also apply to the Sales Drafts or Credit Drafts you retain. MasterCard requires that Card expiration dates be excluded from the Sales Drafts or Credit Drafts your business retains. You are solely responsible to determine the Card account number truncation requirements and Card expiration date exclusion requirements for your state/jurisdiction;
- Clear imprint of the Card. Whenever the term 'imprint' is used it refers to the process of using a manual imprinting machine to make an impression of the Card on the same side of a signed Sales Draft; it does not include the printout from a printer attached to an electronic device. If you use an electronic device (e.g., authorization/draft capture terminal, cash register, POS Device, etc.) and swipe the Card to read and capture the Card information via the Magnetic Stripe, you do not have to imprint the Card. HOWEVER, IF THE TERMINAL FAILS TO READ THE MAGNETIC STRIPE OR IF YOU ARE REQUIRED TO OBTAIN A VOICE AUTHORIZATION, THEN YOU MUST IMPRINT THE CARD. IN ADDITION, THE SALES DRAFT MUST HAVE THE CARDHOLDER'S SIGNATURE. FAILURE TO FOLLOW THESE PROCEDURES WILL PREVENT YOU FROM DEFENDING A TRANSACTION IN THE EVENT THAT IT IS CHARGED BACK UNDER A CLAIM THAT THE RIGHTFUL CARDHOLDER DID NOT AUTHORIZE THE PURCHASE. ENTERING INFORMATION INTO A TERMINAL MANUALLY WILL NOT PREVENT THIS TYPE OF CHARGEBACK. FOR MAIL, TELEPHONE, INTERNET AND OTHER CARD NOT PRESENT ORDERS SEE SECTION 3.2;
- Cardholder's signature. However, eligible merchants participating in MasterCard's Quick Payment Service Program, Visa Easy Payment Program, and Discover Network's No Signature Program, and/or certain Discover Network transactions (see note below) are not required to obtain the Cardholder's signature under certain conditions set forth by each program;

- Date of the transaction;
- Amount of the transaction (including the approved currency of the sale);
- Description of the goods and/or services involved in the transaction (if there are too many items, combine them into one description; e.g., 'clothing' instead of 'one pair of pants, one shirt'). Do not carry information onto a second Sales Draft;
- Description of your merchandise return and Credit/refund policy;
- A valid authorization code; and
- Merchant's Doing Business As ('D/B/A') name and location (city and state required) and Merchant Account Number.

When imprinting Sales Drafts, do not alter the Cardholder account number, circle or underline any information on the Sales Draft or alter a Sales Draft in any way after the transaction has been completed and signed. Stray marks and other alterations on a Sales Draft may render it electronically unscannable, unreadable or illegible. This may result in a Chargeback or Summary Adjustment to your account.

For Discover Network sales using a paper Sales Draft (as opposed to Electronic Draft Capture), the paper Sales Draft must also contain the initials of your representative or employee that conducted the transaction. For Discover Network Credits, the Credit Draft must contain the signature of your authorized representative or employee that conducted the transaction.

Discover Card Sales in an amount more than \$50.00 including sales taxes, tip, and/or Cash Over amount are not eligible for treatment as No Signature Card Sales and you may lose a dispute of such a Card Sale if the Merchant fails to obtain the Cardholder's Signature on the Sales Draft.

Eligible merchants participating in Visa Easy Payment Service ('VEPS') (Visas No Signature Required Program), Quick Payment Service and/or Small Ticket are only required to provide the Cardholder with the completed Sales Draft when requested by the Cardholder.

NOTE: For Visa, MasterCard and Discover Network transactions, if you are a merchant operating under certain merchant category codes approved by Visa, MasterCard and Discover Network, you are not required to obtain the Cardholder's signature so long as the full track data is transmitted in the authorization request and the sale amount is below the applicable program floor limit (MasterCard/Discover is \$50 or less. Visas program limit remains at \$25 or less excluding U.S. grocery stores (MCC 5411) and discount stores (MCC 5310) has been raised to \$50.

3.2. Mail / Telephone / Internet (Ecommerce) Orders and Other Card Not Present Sales. You may only engage in mail/telephone/Internet orders provided they do not exceed the percentage of your total payment Card volume reflected on your application. Failure to adhere to this requirement may result in cancellation of your Agreement. Merchants conducting Internet transactions using MasterCard or Visa Cards must have special codes (an 'Electronic Commerce Indicator') added to their authorization and settlement records. Discover Network does not use an Electronic Commerce Indicator. Failure to register as a merchant conducting Internet transactions can result in fines imposed by the Card Organizations.

Mail, Telephone, Internet and other Card Not Present transactions have a substantially higher risk of Chargeback. Since you will not have an imprinted or magnetically swiped transaction and you will not have the Cardholder's signature on the Sales Draft as you would in a face-to-face transaction, you will assume all risk associated with accepting a mail/telephone/Internet or other Card Not Present transaction. The following procedures, while they will not eliminate Chargebacks, are useful in reducing them and should be followed by you:

- Obtain the expiration date of Card.
- On the Sales Draft, clearly print the Cardholder's account number; effective and expiration dates; date of transaction; description of the goods and services; amount of the transaction (including shipping, handling, insurance, etc.); Cardholder's name, billing address and shipping address; authorization code; and merchant's name and address (city and state required); provided, that you must effect PAN Truncation, and must not include the expiration date, on the copy of the Sales Draft or Credit Draft that you provide to the Cardholder, or as required by applicable law, the Sales Draft or Credit Draft you retain.
- For mail orders, write 'MO'; for telephone orders, write 'TO' on the Cardholder's signature line.
- If feasible, obtain and keep a copy of the Cardholder's signature on file on a form authorizing you to submit telephone and mail order transactions.
- You should utilize the Address Verification Service for all Card Not Present Transactions (see note below). Address Verification is specifically required for all Discover Network Card Not Present Transactions, and if you do not receive a positive match through AVS, you may not process the Discover Network Card Not Present Transaction. If you do not have AVS, contact us immediately.
- You should obtain the 3-digit Card Validation Code number and include it with each authorization request. Discover Network Card Organization Rules specifically require that you submit the Card Validation Code with the authorization request for all Discover Network Card Not Present Transactions.
- For telephone orders, it is recommended that written verification of the sale be requested from the Cardholder (sent by mail or fax).
- You may not submit a transaction for processing until after the merchandise has been shipped or the service has been provided to the customer. (The Card Organizations will permit the immediate billing of merchandise manufactured to the customer's specifications [i.e., special/custom orders] provided the Cardholder has been advised of the billing details.)

Agenda item 2

- You should provide a copy of the Sales Draft to the Cardholder at the time of delivery. You must also obtain proof of delivery of the goods or services to the address designated by the Cardholder (i.e., by getting a signature of the Cardholder or person designated by the Cardholder through the delivery carrier). If the Cardholder visits one of your locations to receive the goods or services purchased, obtain an imprint of the card and the Cardholder's signature.
- Notify the Cardholder of delivery time frames and special handling and/or cancellation policies. Merchandise shipping dates must be within seven (7) days of the date authorization was obtained. If, after the order has been taken, additional delays will be incurred (e.g., out of stock), notify the Cardholder and reauthorize the transaction.
- You may not require a Cardholder to complete a postcard or other document that displays the Cardholder's account number in clear view when mailed.
- If you accept orders via the Internet, your web site must include the following information in a prominent manner:
 - Complete description of the goods or services offered;
 - Description of your merchandise return and Credit/refund policy;
 - Customer service contact, including email address and/or telephone number;
 - Transaction currency (U.S. dollars, unless permission is otherwise received from Services);
 - Any applicable export or legal restrictions;
 - Delivery policy;
 - Consumer data privacy policy;
 - A description of the transaction security used on your website;
 - The sale or disclosure of databases containing Cardholder account numbers, personal information, or other Card transaction information to third parties is prohibited;
 - Your identity at all points of interaction with the Cardholder;
 - Address of merchant including country;
 - Cancellation policy; and
 - Date any free trial period ends.
- You may not accept Card Account Numbers through Electronic Mail over the Internet.

NOTE: AVS (and other fraud mitigation tools such as Verified by Visa, MasterCard Secure Code, CVV2, CVC2 and CID verification) does not guarantee against Chargebacks, but used properly, it assists you in reducing the risk of fraud by confirming whether certain elements of the billing address provided by your customer match the billing address maintained by the Issuer. AVS also may help you avoid incurring additional interchange expenses. AVS is a separate process from obtaining an Authorization and will provide a separate response. A transaction may not match addresses when submitted for AVS and still receive an Authorization. It is your responsibility to monitor the AVS responses and use the information provided to avoid high-risk transactions.

3.2.1. Discover Network Protocol for Internet Transactions. Each Internet Discover Network Card transaction accepted by you and submitted to us shall comply with Discover Network standards, including, without limitation, Discover Network standards governing the formatting, transmission and encryption of data, referred to as the 'designated protocol'. You shall accept only those Internet Discover Network Card transactions that are encrypted in accordance with the designated protocol. As of the date of these Operating Procedures, the designated protocol for the encryption of data is Secure Socket Layer (SSL). We may, at our discretion, withhold Settlement until security standards can be verified. However, the designated protocol, including any specifications with respect to data encryption, may change at any time upon thirty (30) days advance written notice. You shall not accept any Internet Discover Network Card transaction unless the transaction is sent by means of a browser which supports the designated protocol.

3.3. Customer Service Telephone Numbers for Card types which are funded by individual non-bank Card Organizations include:

American Express/ ESA or Direct	1-800-528-5200
JCB, International	1-800-366-4522
Voyager	1-800-987-6591
WEX	1-800-492-0669 (24 hours)

4. Data Security

THE FOLLOWING IS IMPORTANT INFORMATION REGARDING THE PROTECTION OF CARDHOLDER DATA. PLEASE REVIEW CAREFULLY AS FAILURE TO COMPLY CAN RESULT IN SUBSTANTIAL FINES AND LIABILITIES FOR UNAUTHORIZED DISCLOSURE AND TERMINATION OF THIS AGREEMENT.

4.1. Payment Card Industry Data Security Standards (PCI DSS). Visa, MasterCard, Discover Network and JCB aligned data security requirements to create a global standard for the protection of Cardholder data. The resulting Payment Card Industry Data Security Standards (PCI DSS) defines the requirements with which all entities that store, process, or transmit payment card data must comply. PCI DSS is the name used to identify those common data security requirements. The Cardholder Information Security Program (CISP) is Visa USA's data security program, the Site Data Protection (SDP) program is MasterCard's data security program, Discover Network Information Security and Compliance (DISC) is Discover Network's data security program, each based on the PCI DSS and industry aligned validation requirements. PCI DSS compliance validation is focused on Merchant Equipment (as defined below) where Cardholder data is processed, stored or transmitted, including:

- All external connections into your network (i.e., employee remote access, third party access for processing, and maintenance);

- All connections to and from the authorization and settlement environment (i.e., connections for employee access or for devices such as firewalls, and routers); and
- Any data repository outside of the authorization and settlement environment.

For the purposes of this Section 4, 'Merchant Equipment' means any and all equipment you use in connection with Card authorization, clearing, completing, settling, transmitting or other related processing, including, without limitation, all telecommunication lines and wireless connections and software, systems, point-of-sale terminals, card readers, merchandise and card scanners, printers, PIN pad devices and other hardware, whether owned by you, Merchant Providers or other Persons used by you.

The Card Organizations or we may impose fines or penalties, or restrict you from accepting Cards if it is determined that you are not compliant with the applicable data security requirements. We may in our sole discretion, suspend or terminate Services under this Agreement for any actual or suspected data security compromise. You agree that you will not request any Authorizations, submit any Sales Drafts or Credit Drafts until you have read and understood the PCI DSS, CISP, SDP and DISC for which you acknowledge we have provided you sufficient information to obtain, and you will be deemed to have done so upon our receipt of your request or submission of any Authorizations, Sales Drafts or Credit Drafts.

You must comply with the data security requirements described in this Section 4.1, including, without limitation, PCI DSS, SDP, CISP, DSOP and DISC, and any additional Card Organization requirements applicable to payment applications and PIN transactions.

Detailed information about PCI DSS can be found at the PCI DSS Councils website: www.pcisecuritystandards.org.

Detailed information about Visa's CISP program can be found at Visa's CISP website: www.visa.com/cisp.

Detailed information about MasterCard's SDP program can be found at the MasterCard SDP website: www.mastercard.com/sdp.

Detailed information about DISC can be found at Discover Network's DISC website: <http://www.discovernetwork.com/merchants/data-security/disc.html>.

4.2. Data Security Requirements. You must comply with the data security requirements shown below:

- You must install and maintain a secure network firewall to protect data across public networks.
- You must protect stored data and data sent across networks, using methods indicated in the PCI DSS.
- You must use and regularly update anti-virus software and keep security patches up-to-date.
- You must restrict access to data by business 'need to know,' assign a unique ID to each person with computer access to data and track access to data by unique ID.
- You must not use vendor-supplied defaults for system passwords and other security parameters.
- You must regularly test security systems and processes.
- You must maintain a policy that addresses information security for employees and contractors.
- You must restrict physical access to Cardholder information.
- You may not transmit Cardholder account numbers to Cardholders for Internet transactions.
- You cannot store or retain Card Validation Codes (three-digit values printed in the signature panel of most Cards after final transaction authorization).
- You cannot store or retain Magnetic Stripe data, PIN data, chip data or AVS data. Only Cardholder account number, Cardholder Name and Cardholder expiration date can be retained subsequent to transaction authorization.
- You must destroy or purge all Media containing obsolete transaction data with Cardholder information.
- You must keep all systems and Media containing Card account, Cardholder, or transaction information (whether physical or electronic) in a secure manner so as to prevent access by, or disclosure to any unauthorized party.
- For Internet transactions, copies of the transaction records may be delivered to Cardholders in either electronic or paper format.
- You must use only services and Merchant Equipment that have been certified as PCI-DSS compliant by the Card Organizations.

4.3. Compliance Audits. You may be subject to ongoing validation of your compliance with PCI DSS standards. Furthermore, we retain the right to conduct an audit at your expense, performed by us or a Person designated by us to verify your compliance, or that of your agents or Merchant Providers, with security procedures and these Operating Procedures.

4.4. Immediate Notice Required. In the event that transaction data is known or suspected of having been accessed or retrieved by any unauthorized Person, you must contact us immediately, and in no event more than 24 hours after becoming aware of such activity.

4.5. Investigation. You must, at your own expense (i) perform or cause to be performed an independent investigation, including a forensics analysis performed by a certified forensic vendor acceptable to us and the Card Organizations in accordance with Card Organization standards, of any data security breach of Card or transaction data, (ii) provide a copy of the certified forensic vendor's final report regarding the incident to us and the Card Organizations, (iii) perform or cause to be performed any remedial actions recommended by any such investigation, and (iv) cooperate with us in the investigation and resolution of any security breach. Notwithstanding the foregoing, if required by a Card Organization, we will engage a forensic vendor approved by a Card Organization at your expense. You must

cooperate with the forensic vendor so that it may immediately conduct an examination of Merchant Equipment, and your and Merchant Provider's procedures and records and issue a written report of its findings.

4.6. Required Information for Discover Network Security Breaches. For security breaches involving Discover Network transactions and/or track data, you must provide us and/or Discover Network with the following information: (i) the date of breach; (ii) details concerning the data compromised (e.g., account numbers and expiration dates, Cardholder names and addresses, etc.); (iii) the method of such breach; (iv) your security personnel contacts; (v) the name of any person (including law enforcement) assisting you with your investigation of such breach; and (vi) any other information which we reasonably request from you concerning such breach, including forensics reports. You shall provide such information as soon as practicable, and the items listed in (i)-(v) shall be provided to us in any event within 48 hours of your initial notification to us of the breach.

4.7. Merchant Providers. The data security standards set forth in this Section 4 also apply to Merchant Providers. Before you engage any Merchant Provider, you must provide to us in writing (a) the Merchant Provider's legal name, (b) contact information, and (c) intended function. You acknowledge and agree that you will not use, or provide Cardholder data access to, any Merchant Provider until you receive our approval and, if required, confirmation of our registration of that Merchant Provider with applicable Card Organizations. You must ensure that you 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 all applicable Card Organization Rules, including without limitation, those requiring security of Cardholder data. You may allow Merchant Providers access to Cardholder data only for purposes authorized under and in conformance with the Card Organization Rules. You are responsible for all our costs and expenses associated with our review, approval, certification (and recertification as may be required by us or the Card Organization Rules) and registration of any Merchant Providers.

Your use of the Services, equipment, software, systems, materials, supplies or resources of third parties regarding your Card transactions processing, including, without limitation, Merchant Providers and any third party lessors or licensors, will not affect your obligations under this Agreement to us which will apply to the same extent as if you had not used them. We have no liability or responsibility to you or others regarding these third parties, even if we referred them to you. These third parties are your agents, and you are solely responsible for (i) determining whether they can meet your needs and standards, (ii) their actions, inactions and compliance with the terms of this Agreement and the Card Organization Rules and (iii) any and all fees, costs, expenses and other obligations owed to them by you or owed by them to us or to Card Organizations.

4.8. Noncompliance Fees. If we have not received receipt of your validation of compliance with your PCI DSS standards within the first 120 days of the date of the Agreement, you will be charged a monthly non-receipt of PCI Validation fee as set forth in the Application or as otherwise communicated to you, for the period beginning upon expiration of the 120 day period, until such time as you are compliant or this Agreement is terminated, whichever comes first. This monthly non-receipt of PCI Validation fee is in addition to any and all other fees for which you are responsible related to your failure to be compliant as required hereunder.

4.9. Costs. If you or a Merchant Provider (or other Person used by you) are 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, or caused Cardholder data to be put at risk (together, "Compromised Data Events") and regardless of your belief that you have complied with the Card Organization Rules or any other security precautions and are not responsible for the Compromised Data Event, you must promptly pay us for all related expenses, claims, assessments, fines, losses, costs, and penalties and Issuer reimbursements imposed by the Card Organizations against us (together, "Data Compromise Losses"). In addition to the foregoing, you must also pay us promptly for all expenses and claims made by Issuers against us alleging your responsibility for the Compromised Data Event, apart from any claim procedures administered by the Card Organizations.

5. Authorizations

Each authorization request you submit to us must fully comply with the applicable provisions of this Agreement. Submission of an authorization request that does not fully comply may result in assessment of additional fees to you, a declined authorization response or a Chargeback to you.

You must obtain an Authorization Approval Code from us (or as authorized pursuant to Section 5.4) for all transactions. A positive authorization response for MasterCard remains valid for seven (7) days for electronic processed transactions. For true paper merchants for MasterCard and Visa transactions the Authorization remains valid for fourteen (14) days. A positive Authorization response for Visa will remain valid for thirty (30) calendar days from the date of the Issuer provides the Authorization response for Card Sales in the car rental industry, airline and passenger railway industries, the lodging industry, and other travel MCCs including passenger transport and ten (10) days from the date of the Authorization response for Card Sales by Merchants in all other industries and MCCs. A positive Authorization response for Discover Network transactions remains valid for ten (10) days. Failure to obtain an Authorization Approval Code for a sales transaction may result in a Chargeback and/or the termination of your Agreement. Authorization Approval Codes can be obtained through your POS Terminal or a Voice Response Unit ("VRU"). Any fees related to authorizations will be charged for a request for an Authorization Approval Code, whether or not the transaction is approved.

Do not attempt to obtain an Authorization Approval Code provided by someone other than us except as described in Section 5.4. If a Cardholder or another service provider provides you with either an authorization number or with a telephone number for obtaining authorizations, the Authorization Approval Code you receive may not be valid. Even if the transaction is initially processed and funded, it may be charged back at a later date. Also, if you receive a purported Authorization Approval Code from someone other than us, we will not have the supporting records and will be unable to verify that you received the authorization if that is later questioned in a Chargeback.

An Authorization Approval Code only indicates the availability of credit on an account at the time the authorization is requested. It does not warrant that the person presenting the Card is the rightful Cardholder, nor is it a promise or guarantee that you will not be subject to a Chargeback.

If you obtain Address Verification, you must review the AVS response separately from the authorization response and make your own decision about whether to accept the transaction. A transaction can receive an Authorization Approval Code from the Issuer even if AVS is unavailable or reflects that the address provided to you does not match the billing address on file at the Issuer. If the authorized Cardholder disputes such a transaction, you will be responsible for the resulting Chargeback.

If you receive a Referral response to an attempted authorization, you may not submit the transaction without calling for and receiving a voice authorization. After receiving a Referral response you may not attempt another authorization on the same Card through your POS Terminal.

If you fail to obtain an Authorization Approval Code or if you submit a Card transaction after receiving a decline (even if a subsequent authorization attempt results in an Authorization Approval Code), your transaction may result in a Chargeback and may be assessed fines or fees by the Card Organizations for which you will be responsible. These currently range from \$25 to \$150 per transaction. To avoid these costs and related Chargebacks, always obtain an Authorization Approval Code directly from your terminal before submitting a transaction for settlement.

For Cards other than MasterCard, Visa and Discover Network or for check acceptance, you must follow the procedures for authorization and acceptance for each.

You may not attempt to obtain multiple authorizations for a single transaction. If a sale is declined, do not take alternative measures with the same Card to obtain an approval of the sale from other authorization sources. Instead, request another form of payment. If you accept and process a transaction that was declined, or attempt multi-transactions and/or multi-authorizations, you are subject to a Chargeback, Card Organization fines and/or cancellation of your Agreement.

For Visa, MasterCard and Discover transactions, automated fuel dispensers must ensure that completion messages are submitted for such Card transactions within 60 minutes of the Authorization.

For Discover transactions, Merchants operating in the petroleum industry that conduct Card Sales at Automated Fuel Dispensers (AFDs), may submit an Authorization Request for \$1.00 to verify the validity of the Card presented. Under such circumstances, you must submit an Authorization Advice Message for the actual amount of the Card Sale within sixty (60) minutes of completion of fuel delivery regardless of whether you previously received a Partial Authorization Response or a positive Authorization Response for any other amount. If you do not complete the Card Sale following receipt of an approved Authorization Response for any amount, a request to cancel the Authorization Request must be submitted within sixty (60) minutes of the completion of fuel delivery.

5.1. Card Not Present Transactions. You must obtain the 3-digit Card Validation Code (CVV2, CVC2, CID) and submit this Code with all authorization requests with respect to transactions where the Card is not present (e.g., telephone, mail or internet sales). However, for recurring transaction authorizations you should submit the Card Validation Code with the first authorization request only, and not with subsequent recurring transaction authorization requests. (See Section 1.7). NOTE: For each Card Not Present Discover Network transaction, you must also verify the name and billing address of the Discover Network Cardholder using the Address Verification System (AVS), and if you do not receive a positive match, do not process the Discover Network Card Not Present transaction.

5.2. Authorization via Telephone (Other Than Terminal/ Electronic Device Users).

- Call your designated voice authorization toll free number and enter the authorization information into the VRU using a touch tone phone or hold for an authorization representative.
- If advised to pick up a Card, use reasonable and peaceful means to do so, and do not take any action that will alarm or embarrass the Card presenter. You will bear all responsibility for claims, liabilities, costs and expenses as a result of any action by you, your employees, vendors or agents, that attempt to retain a Card without the Issuer's direct request or failure to use reasonable, lawful means in retaining or attempting to retain the Card. Forward the Card to: Attn: Rewards Department, P.O. Box 5019, Hagerstown, MD 21740. You may be paid a reward for the return of the Card.
- On occasion, the Authorization Center will ask you to obtain identification from the Cardholder before issuing an approval code. If you are instructed to do so, clearly write the appropriate identification source and numbers in the space provided on the Sales Draft unless otherwise prohibited by law.
- If the sale is declined, please remember that our operators are only relaying a message from the Issuer. The fact that a sale has been declined should not be interpreted as a reflection of the Cardholder's creditworthiness. The Cardholder should be instructed to call the Issuer.

Agenda item 2

5.3. Authorization via Electronic Devices.

- If you use an electronic terminal to obtain an Authorization Approval Code, all sales should be authorized through this equipment. Authorizations through other methods will result in additional charges to you.
- If your terminal malfunctions, refer to your Quick Reference Guide, if necessary, or call the POS Help Desk. The problem will either be corrected promptly or may require terminal programming or replacement. During the period in which your terminal is not functioning, remember to check it periodically since most terminal problems are temporary in nature and are quickly corrected.
- If a terminal is moved or if wires are disconnected, causing malfunction, call the POS Help Desk immediately and follow their instructions. You may be responsible for any service charges incurred for reactivation of the terminal.
- Until the terminal becomes operable, you must call your designated voice authorization toll free number and enter authorization information into the VRU using a touchtone phone. During this time, each transaction must be imprinted using a manual Imprinter machine. Failure to obtain an Authorization Approval Code and to imprint these transactions could result in a Chargeback to your account.

5.4. Third Party Authorization System. If you have contracted with another authorization network to obtain Credit Card authorization, i.e., your terminal can Split Dial, liability resulting from discrepancies with that network must be resolved between you and that network. We will not research Chargebacks resulting from Authorization Approval Codes obtained from another authorization service organization. Such Chargebacks will be passed through to you for resolution. If an authorization provided by a third party authorization system is challenged in a Chargeback, you must obtain proof (e.g., third party authorization logs) from the authorization source and submit it to us within the time frame specified on the Chargeback documentation.

IF YOU CONTRACTED TO USE ONE OF OUR AUTHORIZATION SERVICES, DO NOT USE ANOTHER THIRD PARTY SYSTEM WITHOUT NOTIFYING CUSTOMER SERVICE. OTHERWISE, WE WILL BE UNABLE TO SUCCESSFULLY RESEARCH AND DEFEND ANY AUTHORIZATION RELATED CHARGEBACKS ON YOUR BEHALF. THIS DELAY WILL SIGNIFICANTLY DECREASE YOUR TIME TO RESEARCH AND PROVIDE PROOF OF AUTHORIZATION, THUS REDUCING YOUR OPPORTUNITY TO REVERSE A CHARGEBACK.

If you utilize another authorization network, you will be responsible for the downgrade of any transactions to a higher cost interchange that result from a mismatch of information to our systems and those of third party authorization networks (see Section 18.1).

If you use a third party authorization network, you must also comply with Section 4.7.

Call the following for other Card types:

American Express/ ESA or Direct	1-800-528-5200
JCB, International	1-800-522-9345
Voyager	1-800-987-6589
WEX	1-800-842-0071

Available 24 hours/day; 7 days/week.

All approved sales authorized in this manner must be entered manually as 'post authorization' transactions into the terminal, once the terminal becomes operational. All Credit transactions must be entered into the terminal for data capture. You may be subject to a Chargeback if you receive a Referral and subsequently receive an approval. To reduce the risk of such a Chargeback, the Card should be imprinted using a manual Imprinter machine. (For specific procedures on Electronic Data Capture, refer to the Terminal Operating Instructions/Users Guide.) If the terminal malfunctions for more than twenty-four (24) hours, contact Customer Service for further instructions on processing your transactions.

5.5. Automated Dispensing Machines. Records must be produced for all transactions whose origin and data capture are automated dispensing machines or Limited Amount Terminals. Records should include the Cardholder account number, merchant's name, terminal location, transaction date and amount.

5.6. Pre-Authorization for T&E (Travel & Entertainment) and Restaurant Merchants. If you are a business engaged in providing travel and/or entertainment services (e.g., car rentals, hotels, motels, etc.) or a restaurant business, and engage in the practice of 'pre-authorization' you must comply with the following general procedures:

- A hotel, motel, or car rental merchant may obtain an estimated Visa, MasterCard or Discover Network authorization at the time of check-in.
- Restaurants must not add an estimated tip amount to the authorization request beyond the value of the goods provided, or services rendered, plus any applicable tax.
- You must notify the Cardholder of the dollar amount you intend to 'Pre-Authorize.'
- If the customer decides to use another form of payment (e.g., cash, check, etc.) you must promptly call the Voice Authorization Response Unit to delete the authorization hold. Provide the Cardholder's account number, original dollar amount and date of the transaction, and the authorization code. If a new transaction takes place, a new imprinted and signed Sales Draft for the exact amount and a new authorization code for that amount must be obtained.
- **VEHICLE RENTAL PROVIDERS MAY NOT INCLUDE POTENTIAL VEHICLE DAMAGE OR INSURANCE DEDUCTIBLES IN ANY PREAUTHORIZATIONS.**
- If you receive a decline on a transaction, you must wait twenty-four (24) hours before attempting to reauthorize. If you reauthorize prior to this time frame and receive an approval, you may be subject to a Chargeback and a fine imposed by the Card Organizations.

- Hotels, motels, and car rental merchants are allowed up to a 15% variance above the amount authorized. If the final amount charged to the Cardholder exceeds the original estimate by more than 15% above the preauthorization, you must authorize any additional amounts, and all incremental authorization codes must be written in the authorization area along with the date of authorization and the amount authorized.
- Pre-Authorization for certain establishments, are allowed up to a 20% (instead of 15%) variance above the amount authorized. If the final amount exceeds the amount 'pre-authorized' by more than 20%, you must authorize the additional amount. Estimating the Authorization amount to include a tip is prohibited. The authorization request should include only the amount associated with the bill presented to the consumer.
- You should obtain an authorization for the initial estimated charges and then monitor the charges to ensure that the actual charges made do not exceed the estimated charges. If the actual charges exceed the amount of the initial estimated authorization (and any subsequent estimated authorizations), then you must secure a positive authorization for the additional amount. **NOTE:** Subsequent authorizations should only be for the additional amount of total charges and not include amounts already authorized.
- The estimated amount of any pre-authorization for lodging accommodations must be based on (i) the intended length of stay; (ii) the room rate; (iii) applicable taxes and service charges; and (iv) other miscellaneous charges as dictated by experience.
- If an authorization request is declined, no charges occurring after that date will be accepted for that Cardholder.
- You do not need to obtain a final authorization if the total sum of charges (the final amount) does not exceed 120% of the previously authorized charges. You must record the dates, authorized amounts, and their respective Authorization Approval Codes on the Sales Draft(s).

5.7. Discover Network Procedure for Request for Cancellation of Authorization. If a Discover Network Card sale is cancelled or the amount of the transaction changes following your receipt of authorization for the sale, you must call your Authorization Center directly and request a cancellation of the authorization. An authorization may be cancelled at any time within fifteen (15) days of your receipt of the authorization, but must be cancelled before the sales data relating to the transaction is submitted to us, after which the authorization cannot be changed. For an authorization cancellation, you must provide us with the following information, in this order:

- The Discover Network Merchant Number used in the authorization;
- The Card number;
- The original amount of the authorization being cancelled;
- The new amount of the total transaction (if any);
- The original authorization code for the authorization being cancelled;
- The expiration date of the Card; and
- A brief reason for the authorization cancellation.

5.8. Partial Authorization and Authorization Reversal. Partial authorization provides an alternative to a declined transaction by permitting an Issuer to return an authorization approval for a partial amount, an amount less than the transaction amount requested by the merchant when the available card balance is not sufficient to approve the transaction in full. The Cardholder is able to use up the remaining funds on the card and select another form of payment (i.e., another payment card, cash, check) for the remaining balance of the transaction. For MasterCard transactions, partial authorization is optional for batch authorized e-commerce transactions, mail order, telephone order transactions and recurring payment transactions. For Discover transactions, partial Authorization support is optional for Card Not Present transactions. If you support partial authorizations, a partial authorization indicator must be included in each authorization request. It is a requirement for all U.S. and U.S. Territory merchants that provide cash-back at Point of Sale to support Visa Partial Authorization.

An authorization reversal must be submitted if the authorization is no longer needed, a partial amount of the total authorized is submitted for the settled transaction, or the Cardholder elects not to complete the purchase. The transaction sent for settlement must be no more than the amount approved in the partial authorization response. In the event that you wish to support the partial authorization functionality, you must contact Processor for additional rules and requirements.

6. Submission/Deposit of Sales Drafts and Credit Drafts

6.1. Submission of Sales for Merchants Other Than Your Business. You may present for payment only valid charges that arise from a transaction between a bona fide Cardholder and your establishment. If you deposit or attempt to deposit transactions that arise from sales between Cardholders and a different business than the one approved by us in our Agreement with you, then the transaction may be charged back, we may suspend or debit funds associated with all such transactions, and we may immediately terminate your account and the Agreement.

6.1.1. Factoring. Factoring is considered merchant fraud and strictly prohibited. Factoring is the submission of authorization requests and/or Sales Drafts by a merchant for Card transactions transacted by another business. If you submit Sales Drafts on behalf of another person, you will suffer any losses associated with the disputes of any such Sales Draft and/or transaction. Also if any fraud is involved, you could face criminal prosecution.

6.2. Timeliness. In order to qualify for the lowest interchange Discount Rate, all Sales and Credit Drafts must be properly completed and submitted daily. If you have not received payment for submitted Sales Drafts after one (1) week from your normal payment date, contact Customer Service. Late Submission of Sales or Credit Drafts may result in increased interchange rates or fees or in a Chargeback to you.

6.3. Mail/Branch Deposit Procedures. Complete the appropriate summary form designated for your use. Imprint the completed summary with your Merchant Identification Card, if applicable, and sign it. Please do not staple or clip Sales Drafts together or to summary forms. This will distort the Cardholder's account number and may result in a Summary Adjustment or Chargeback to you. Mail your deposits daily to us, or, if your Agreement allows deposit at a local bank branch, you must make daily deposits.

Do not send us the merchant copies (which are for your records); submit only the Bank hard copies of the transactions. If merchant copies are submitted, they will be returned to you unprocessed.

6.4. Electronic Merchants: Daily Batching Requirements & Media Submission. Batches must be transmitted to us by the time indicated in Section A.2. of Part III, of this Agreement) in order to be processed on the date of transmission. Additionally, if you deposit via magnetic tape, electronic transmissions, or Electronic Data Capture terminal, and have contracted to send the actual Sales Drafts and Credit Drafts to us for imaging and retrieval, the Media must be batched daily by register/terminal following the procedures below. Failure to do so may result in a processing fee and/or a Chargeback due to our inability to retrieve the Media as requested by the Issuer.

- A register/terminal Batch header form must be filled out for each Batch of Media.
- The Batch header must be imprinted with your Merchant Identification Card, and all areas completed properly (i.e., Batch number, date, amount, number of items, etc.).
- The Batch/deposit total must match to the settled/reconciled amount displayed on the terminal upon closing the Batch.
- Any discrepancies between the actual Media and electronic display must be reconciled and corrected before storing the Media (for merchants who contract to hold their Media) or before sending us the copies of the deposit. Otherwise, transactions may appear to be a new Submission and may be manually keyed (causing duplicate billing to Cardholders and resulting in Chargebacks) or we may not be able to retrieve an item when requested by the Issuer.
- It is your responsibility to ensure that the actual Media is batched correctly and, depending on the terms of your Agreement, either stored at your location or sent to Processor. (In some cases, the actual Media is sent daily to your head office, and forwarded to Processor for imaging.)
- You must confirm that your equipment has transmitted its Batches to us at least once daily. Even if your equipment is designed or programmed to close and submit Batches without your intervention, it is ultimately your responsibility to confirm that the Batches have been transmitted to us for processing.

7. Settlement

Except as otherwise set forth in this Program Guide, Your funds for MasterCard/Visa and Discover Network transactions will ordinarily be processed and transferred to your financial institution within two (2) Business Days from the time a Batch is received by Processor if your financial institution is the Bank. If your financial institution is not the Bank, your MasterCard/Visa/Discover transactions will ordinarily be processed via the Federal Reserve within two (2) Business Days from the time a Batch is received by Processor. The Federal Reserve will transfer such amounts to your financial institution.

If you have been classified by Discover Network as having a Discover Direct Strategic Relationship with Discover Network, we will not acquire your Discover Network transactions and they will be subject to your agreement with Discover Network.

You acknowledge and agree that if we have not agreed to or do not acquire transactions for any Card type (i) we have no liability or responsibility whatsoever for the settlement of or disputes regarding those transactions and (ii) you will pursue directly with the related Card Organization all claims and disputes regarding those transactions. You agree to pay us for per item processing, authorization and other fees in the Application for any non-acquired transaction services you receive from us.

8. Refunds/Exchanges (Credits)

8.1. Refunds.

- You must promptly complete and submit a Credit Draft for the total amount of the Credit, which must include the following information:
 - The account number and expiration date;
 - The Cardholder's name;
 - Your name, city, state and Merchant Account Number;
 - A description of the goods or services;
 - The transaction date of the Credit;
 - The total amount of the Credit; and
 - For Discover Network transactions, the approved currency used and the signature of your authorized representative or employee.
- You cannot process a Credit transaction that does not correspond to a previous transaction on the original Sales Draft.
- Full refunds must be for the exact dollar amount of the original transaction including tax, handling charges, etc. (You must identify the shipping and handling charges incurred.) The refund amount may not be for more than the original Card sale amount.
- All dollar amounts and other handwritten information must be clearly written. (Stray marks on the Credit Draft will render it unscannable/illegible.)
- Do not circle or underline any information on the Credit Draft.
- Imprint the Credit Draft with the same Card used by the Cardholder to make the original purchase when applicable. You should not credit an account that differs from the account used for the original transaction.

- Never give cash or check Credit refunds for Card sales.
- Have the Cardholder sign the Credit Draft, give the Cardholder the appropriate copy, and deposit the Credit Draft immediately. Failure to process a Credit within five (5) calendar days may result in a Chargeback.
- Authorization is not required for Credits.
- You cannot intentionally submit a sale and an offsetting Credit at a later date solely for the purpose of debiting and crediting your own or a customer's account.
- You are responsible for paying all refunds submitted to us on your merchant account. We assume no responsibility for verifying any Credits or refunds.
- Do not process a Credit transaction once a Chargeback is received. Credits issued after a Chargeback has been received may not be recoverable and the merchant would be financially responsible for the credit as well as the Chargeback.
- YOU ARE RESPONSIBLE TO SECURE YOUR TERMINALS AND TO INSTITUTE APPROPRIATE CONTROLS TO PREVENT EMPLOYEES OR OTHERS FROM SUBMITTING CREDITS THAT DO NOT REFLECT BONA FIDE RETURNS OR REIMBURSEMENTS OF PRIOR TRANSACTIONS.

8.2. Exchanges.

- No additional paperwork is necessary for an even exchange. Just follow your standard company policy.
- For an uneven exchange, complete a Credit Draft (follow the procedures outlined in Section 8.1) for the total amount of only the merchandise returned. The Cardholder's account will be credited for that amount. Then, complete a new Sales Draft for the total amount of any new merchandise purchased.

9. Retention of Records for Retrievals and Chargebacks

9.1. Retain Legible Copies.

For MasterCard and Visa: You must securely retain legible copies of all Sales Drafts and Credit Drafts or any other transaction records for a period of eighteen (18) months from the date of each transaction and a period of five (5) years for the retention of healthcare Sales Drafts and Credit Drafts. The Sales Drafts you retain must comply with all requirements (see Section 3.1).

For Discover Network: You must securely retain legible copies of all Sales Drafts and Credit Drafts or any other transaction records for the longer of (i) 365 days or (ii) the resolution of any pending or threatened disputes, claims, disagreements or litigation involving the Card transaction. You must also keep images or other copies of Sales Drafts for no less than three (3) years from the date of the Discover Network transaction.

9.2. Provide Sales and Credit Drafts. You must provide all Sales Drafts and Credit Drafts or other transaction records requested by us within the shortest time limits established by Card Organization Rules. You are responsible for any deficiencies in Card transaction data transmitted or otherwise delivered to us.

10. Chargebacks, Retrievals and Other Debits

10.1. Chargebacks.

10.1.1. Generally. Both the Cardholder and the Issuer have the right to question or dispute a transaction. If such questions or disputes are not resolved, a Chargeback may occur. As a result, we will debit your Settlement Account or settlement funds for the amount of each Chargeback. It is strongly recommended that, whenever possible, you contact the Cardholder directly to resolve a disputed transaction or Chargeback, unless the dispute involves a Discover Network Cardholder, in which case Discover Network rules and regulations expressly prohibit you from contacting the Discover Network Cardholder regarding the dispute. You are responsible for all Chargebacks, our Chargeback fees, and related costs arising from your transactions.

10.1.2. Transaction Documentation Requests. In some cases, before a Chargeback is initiated, the Issuer will request a copy of the Sales Draft, via a request for transaction documentation. We will forward the request to you. You must respond to the request within the time frame and manner set forth in the request. We will then forward your response to the Issuer. If you fail to timely respond, we will so notify the Issuer and a Chargeback may result. Upon receipt of a transaction documentation request, immediately retrieve the requested Sales Draft(s) using the following guidelines:

- Make a legible copy, centered on 8-1/2 x 11-inch paper (only one (1) Sales Draft per page).
- Write the 'case number' from the request for transaction documentation on each copy/page.
- If applicable, make copies of a hotel folio, car rental agreement, mail/phone/internet order form, or other form of receipt.
- If a Credit transaction has been processed, a copy of the Credit Draft is also required.
- Letters are not acceptable substitutes for Sales Drafts.
- Fax or mail legible copies of the Sales Draft(s) and Credit Drafts, if applicable, to the fax number or mail address provided on the request form.
- If you fax your response, please set your fax machine to print your fax number and name on the documents that you send. We can use this information to help determine where the documentation received originated from should additional research be required.
- Additionally, please set the scan resolution on your fax machine to the highest setting. The higher resolution setting improves the clarity of characters and graphics on the documentation transmitted and helps reduce the number of illegible fulfillments and/or Chargebacks.

If we do not receive a clear, legible and complete copy of the transaction documentation within the timeframe specified on the request, you may be subject to a Chargeback for 'non-receipt' for which there is no recourse.

Agenda item 2

A handling fee may be charged by the Issuer and will be debited from your Settlement Account or settlement funds if, a transaction documentation request results from a difference in the following information on the Sales Draft and the transmitted record: Merchant name or an incorrect city, state, foreign country and/or transaction date.

10.1.3. Chargeback Process. Regardless of whether you respond to a transaction documentation request, a Chargeback may be debited to your Settlement Account for numerous reasons (see below). If the Issuer submits a Chargeback, we will send you a Chargeback notification, which may also include a request for transaction documentation. Due to the short time requirements imposed by MasterCard, Visa, and Discover Network, it is extremely important that you respond to a Chargeback notification and transaction documentation request within the time frame set forth in the notification. Do not process a Credit transaction once a Chargeback is received; the Issuer will credit the Cardholder's account. Credits issued after a Chargeback has been received may not be recoverable and you may be financially responsible for the Credit as well as the Chargeback. If the information you provide is both timely and, in our sole discretion, sufficient to warrant a representation of the transaction and/or reversal of the Chargeback, we will do so on your behalf. However, representation and/or reversal is/are ultimately contingent upon the Issuer and/or Cardholder accepting the transaction under applicable Card Organization guidelines. Representation or reversal is not a guarantee that the Chargeback has been resolved in your favor.

For Visa Chargebacks: If we reverse the Chargeback and represent the transaction to the Issuer, the Issuer, at its sole discretion, may elect to submit the matter for arbitration before Visa. Visa currently charges a \$250 filing fee and a \$250 review fee. You will be responsible for all such fees and charges whether or not a decision is made in your favor, and any other applicable fees and charges imposed by Visa, as they may change from time to time. Such fees and charges will be debited from your Settlement Account or settlement funds, in addition to the Chargeback.

For MasterCard Chargebacks: If we reverse the Chargeback and represent the transaction to the Issuer, the Issuer, at its sole discretion, may elect to resubmit the Chargeback. In such event, at the discretion of Processor, we will debit your Settlement Account or settlement funds for the Chargeback. However, if you feel strongly that it is an invalid Chargeback, we may, on your behalf and at your request, submit the matter for arbitration before MasterCard. MasterCard currently charges a \$250 filing fee and a \$250 review fee. You will be responsible for all such fees and charges whether or not a decision is made in your favor and any other applicable fees and charges imposed by MasterCard as they may change from time to time. Such fees and charges will be debited from your Settlement Account or settlement funds, in addition to the Chargeback.

For Discover Network Chargebacks: If Discover Network rejects our representation request and you feel strongly that the Chargeback is invalid, we may, at the discretion of Processor and on your behalf and at your request, submit the matter for dispute arbitration before Discover Network. Discover Network charges fees for representation requests and an arbitration fee as published in their fee schedule.

If the Chargeback is not disputed within the applicable time limits set forth by MasterCard, Visa and Discover Network rules and regulations, reversal rights are forfeited. Our only alternative, for Visa and MasterCard non-fraud Chargeback reason codes, is to attempt a 'good faith collection' from the Issuer on your behalf. This process can take up to six (6) months and must meet the Issuer's criteria (e.g., at or above a set dollar amount). Good faith collection attempts are not a guarantee that any funds will be collected on your behalf. Issuers normally charge good faith collection fees, which are deducted from the transaction amount if accepted in addition to any processing fees that are charged by us.

NOTE: Discover Network does not offer good faith collection for Acquirers.

MasterCard and Visa Card Organization Rules require that a merchant make a good faith attempt and be willing and able to resolve any disputes directly with the Cardholder. Discover Network rules and regulations, however, prohibit you and/or us from contacting the Cardholder directly regarding dispute(s) or any other matter, except as required for acceptance of Discover Network transactions, and require you and/or us to submit any responses to dispute notices directly to Discover Network.

Due to Card Organization Rules, you may not re-bill a Cardholder after a Chargeback is received for that transaction, even with Cardholder authorization.

We strongly recommend that you include a detailed rebuttal letter along with all pertinent documents when responding to a transaction request or a Chargeback notification (e.g., rental agreement, imprinted portion of the invoice or Sales Draft; the portion signed by the Cardholder; and the area where the authorization codes, with amounts and dates, are located).

Due to the short time frames and the supporting documentation necessary to successfully (and permanently) reverse a Chargeback in your favor, we strongly recommend the following:

- Avoid Chargebacks by adhering to the guidelines and procedures outlined in these Operating Procedures.
- If you do receive a Chargeback, investigate, and if you dispute the Chargeback, submit the appropriate documentation within the required time frame.
- Whenever possible, contact the Cardholder directly to resolve the dispute, unless the dispute relates to a Discover Network Cardholder, in which case direct contact with the Discover Network Cardholder regarding the dispute is prohibited by Discover Network Card Organization Rules.
- If you have any questions, call Customer Service.

10.1.4. Chargeback Reasons. The following section outlines the most common types of Chargebacks. This list is not exhaustive. For ease of understanding, we have combined like Chargebacks into six groupings. We have included recommendations on how to reduce the risk of Chargebacks within each group. These are recommendations only, and do not guarantee that you will be able to prevent Chargebacks.

1. Authorization Issues: Proper Authorization procedures were not followed and valid Authorization was not obtained.

The following scenarios could cause an Authorization Related Chargeback to occur:

- Authorization not obtained.
- Authorization was declined.
- Transaction processed with an expired card and Authorization was not obtained.
- Transaction was processed with an invalid account number and Authorization was not obtained.
- Card Recovery Bulletin (CRB) or Exception File was not checked (transactions below floor limit).

To reduce your risk of receiving an Authorization Related Chargeback:

- Obtain valid Authorization on the day of the transaction.
 - Card Present Transactions-Authorization must be obtained on the transaction date for the amount settled.
 - Card Not Present Transactions-Authorization must be obtained on the transaction date for the amount settled. However, if merchandise is being shipped, Authorization must be obtained within seven calendar days of the transaction ship date.
- If a declined response is received, then request another form of payment from the Cardholder.
- If a Referral response is received, then follow proper voice procedures to obtain a valid Authorization and obtain an imprint of the card.
- 'Pick-up' response indicates that the Issuer is requesting for the card to be retained and returned back to them. The Card should not be accepted for payment. Additionally, you can choose to retain the Credit Card and return it to the Acquirer.
- Merchants should not exceed any predetermined thresholds for specific terminal types as specified by each Card Organization.

2. Cancellations and Returns: Credit was not processed properly or the Cardholder has cancelled and/or returned items.

The following scenarios could cause a Cancellation and Return Related Chargeback to occur:

- Cardholder received damaged or defective merchandise.
- Cardholder continued to be billed for cancelled recurring transaction.
- Credit transaction was not processed.

To reduce your risk of receiving a Cancellation and Return Related Chargeback:

- Issue Credit to the Cardholder for the same account as the purchase in a timely manner.
 - Do not issue Credit to the Cardholder in the form of cash, check or in-store/merchandise Credit as we may not be able to recoup your funds in the event the transaction is charged back.
- Ensure customers are fully aware of the conditions for recurring transactions. Cancel recurring billings as soon as notification is received from the Cardholder or as a Chargeback, and Issue the appropriate Credit as needed to the Cardholder in a timely manner.
- Pre-notify the Cardholder of billings within 10 days (Domestic) and 15 (International) prior to billing, allowing the Cardholder time to cancel the transaction.
- Provide proper disclosure of your refund policy for returned/cancelled merchandise, or services to the Cardholder at the time of transaction.
 - Card present, Cardholder signed the Sales Draft containing disclosure.
- If applicable, the words 'NO EXCHANGE, NO REFUND,' etc. must be clearly printed in 1/4-inch lettering on the Sales Draft near or above the Cardholder signature.
 - Ecommerce, provide disclosure on website on same page as check out requiring Cardholder to click to accept prior to completion.
 - Card Not Present, provide cancellation policy at the time of the transaction.
 - Provide cancellation numbers to Cardholder's when lodging services are cancelled.
- Ensure delivery of the merchandise or services ordered to the Cardholder.

3. Fraud: Transactions that the Cardholder claims are unauthorized; the account number is no longer in use or is fictitious, or the merchant was identified as 'high risk.'

The following scenarios could cause a Fraud Related Chargeback to occur:

- Multiple transactions were completed with a single card without the Cardholder's permission.
- Counterfeit card was utilized and proper acceptance procedures were not followed.
- Authorization was obtained; however, full track data was not transmitted.
- Cardholder states that they did not authorize or participate in the transaction.

NOTE: Visa Fraud Chargebacks: Chargeback representation rights do not exist if you failed to fulfill a retrieval request and/or provide a sales slip that contains all required data elements. To preserve Chargeback representation rights, respond to all retrieval requests with a clear legible copy of the transaction document that contains all required data elements within the required timeframe that is specified by the retrieval request.

To reduce your risk of receiving a Fraud Related Chargeback:

Card Present Transactions:

- Pre-notify the Cardholder of billings within ten (10) days
- Obtain an Authorization for all transactions.

Agenda item 2

- If you are utilizing an electronic device to capture card information, swipe, dip or wave all Card transactions through your electronic authorization device to capture Cardholder information. When applicable ensure the displayed Cardholder number matches the number on the Card.
- If you are unable to electronically capture the Card or if a Referral response is received, imprint the Card using a valid imprinting device that will capture the embossed Card and merchant information. Do not alter the imprint on the draft in any way. Manually entering the information into the terminal does not protect you from this type of Chargeback. All pertinent information relating to the transaction must be written on the manually imprinted draft (transaction date, dollar amount, authorization code and merchandise description) along with the Cardholder signature.

NOTE: Do not imprint on the back of a signed Sales Draft. The imprint must be on the transaction document that contains all transaction elements to prove the Card was present at the time of the transaction.

- Obtain the Cardholder signature for all transactions; ensure the signature on the Sales Draft matches the signature on the back of the Card.
- Process all transaction one time and do not Batch out transactions multiple times.
- Educate staff on procedures to eliminate point of sale (POS) fraud.

Card Not Present Transactions:

- Participation in recommended fraud mitigation tools:
 - Verified by Visa Program
 - MasterCard SecureCode
 - Address Verification Services
 - CVV2, CVC2 and CID Verification

NOTE: While transactions utilizing these tools may still be disputed, the service may assist you with your decision to accept the Card for the transaction.

- Ensure you ship to the AVS confirmed address (bill to and ship to should match).
- Obtain Authorization for all transactions.
- Ensure merchant descriptor matches the name of the business and is displayed correctly on the Cardholder statement.
- Ensure descriptor includes correct business address and a valid customer service number.

4. Cardholder Disputes: Merchandise or services not received by the Cardholder, Merchandise defective or not as described.

The following scenarios could cause a Cardholder Dispute Chargeback to occur:

- Services were not provided or merchandise was not received by the Cardholder.
- The Cardholder was charged prior to merchandise being shipped or merchandise was not received by agreed upon delivery date or location.
- Cardholder received merchandise that was defective, damaged, or unsuited for the purpose sold, or did not match the description on the transaction documentation/verbal description presented at the time of purchase.
- Cardholder paid with an alternate means and their Card was also billed for the same transaction.
- Cardholder cancelled service or merchandise and their Card was billed.
- Cardholder billed for a transaction that was not part of the original transaction document.
- The Cardholder claims to have been sold counterfeit goods.
- The Cardholder claims the terms of sale were misrepresented by the merchant.

To reduce your risk of receiving a Cardholder Dispute Related Chargeback:

- Provide Services or Merchandise as agreed upon and described to the Cardholder; clearly indicate the expected delivery date on the sales receipt or invoice.
- Contact the Cardholder in writing if the merchandise or service cannot be provided or is delayed, and offer the Cardholder the option to cancel if your internal policies allow.
- In the event that the Cardholder received defective merchandise or the merchandise received was not as described; resolve the issue with the Cardholder at first contact.
- If the merchandise is being picked up by the Cardholder, have them sign for the merchandise after inspection that it was received in good condition.
- Do not charge the Cardholder until the merchandise has been shipped, ship according to the agreed upon terms and obtain signed Proof of Delivery from the Cardholder.
- If unable to provide services or merchandise, issue a Credit to Cardholder in a timely manner.
- Accept only one form of payment per transaction and ensure the Cardholder is only billed once per transaction.
- Do not bill Cardholder for loss, theft or damages unless authorized by the Cardholder.
- Ensure that a description of the service or merchandise provided is clearly defined.

5. Processing Errors: Error was made when transaction was processed or it was billed incorrectly.

The following scenarios could cause a Processing Error Chargeback to occur:

- Transaction was not deposited within the Card Organization specified timeframe.
- Cardholder was issue a Credit Draft; however, the transaction was processed as a sale.
- Transaction was to be processed in a currency other than the currency used to settle the transaction.
- The account number or transaction amount utilized in the transaction was incorrectly entered.

- A single transaction was processed more than once to the Cardholders account.
- Cardholder initially presented Card as payment for the transaction; however Cardholder decided to use an alternate form of payment.
- Limited amount or self-service terminal transaction was processed for an amount which is over the pre-determined limit.

To reduce your risk of receiving a Processing Error Related Chargeback:

- Process all transactions within the Card Organization specified timeframes.
- Ensure all transactions are processed accurately and only one time.

NOTE: In the event that a transaction was processed more than once; immediately issue voids, transaction reversals or Credits.

- Ensure that credit transaction receipts are processed as Credits and sale transaction receipts are processed as sales.
- Ensure all transactions received a valid Authorization Approval Code prior to processing the transaction and obtain a legible magnetic swipe or imprinted Sales Draft that is signed.
- Do not alter transaction documentation or make any adjustments unless the Cardholder has been contacted and agrees to any modifications of the transaction amount.
- Ensure limited amount, self-service and automated fuel dispenser terminals are set properly to conform to the pre-determined limits.

6. Non Receipt of Information: Failure to respond to a Retrieval Request or Cardholder does not recognize.

The following scenarios could cause Non Receipt of Information Chargeback to occur:

- The transaction documentation was not provided to fulfill the retrieval request.
- The retrieval request was fulfilled with an illegible Sales Draft or was an invalid fulfillment (incorrect sales draft or sales draft did not contain required information which may include signature).
- The Cardholder does not recognize or is unfamiliar with the transaction due to the merchant name and/or location not matching the name and/or location where the transaction took place.

To reduce your risk of receiving a Non Receipt of Information Related Chargeback:

- Provide a clear and legible copy of the Sales Draft that contains all required data elements within the required timeframe that is specified on the retrieval request.
- Ensure that the most recognizable merchant name, location and/or customer service phone number is provided on all transactions.
- Retain copies of all transaction documentation for the required timeframe that is specified by each Card Organization.
- Develop efficient methods to retrieve transaction documentation to maximize ability to fulfill requests.

10.2. Other Debits. We may also debit your Settlement Account or your settlement funds in the event we are required to pay Card Organization fees, charges, fines, penalties or other assessments as a consequence of your sales activities. Such debits shall not be subject to any limitations of time specified elsewhere in the Agreement, including, without limitation the following, which we may add to or delete from this list as changes occur in the Card Organization Rules or our Operating Procedures pursuant to Section 15:

- Card Organization fees, charges, fines, penalties, registration fees, or other assessments including any fees levied against us or any amount for which you are obligated to indemnify us.
- Currency conversion was incorrectly calculated. **NOTE:** For Discover Network transactions, you are not permitted to convert from your local Discover Network approved currency into another currency, nor may you quote the price of a transaction in U.S. Dollars if completed in another approved currency.
- Discount Rate not previously charged.
- Reversal of deposit posted to your account in error.
- Debit for Summary Adjustment not previously posted.
- Reversal of Credit for deposit previously posted.
- Debit for Chargeback never posted to your account.
- Debit for EDC Batch error fee.
- Card Organization Merchant Chargeback/fraud monitoring fees - excessive Chargeback handling fees.
- Failure of transaction to meet Member Controller Authorization Service ('MCAS') - Cardholder account number on exception file.
- Original transaction currency (foreign) not provided.
- Travel Voucher exceeds maximum value.
- Debit and/or fee for investigation and/or Chargeback costs related to this Agreement, or for costs related to our collection activities in an amount no less than \$100.00.
- Costs arising from replacement or damage to equipment rented.
- Payment of current or past due amounts for any equipment purchase, rental or lease.
- Incorrect merchant descriptor (name and/or city, state) submitted.
- Incorrect transaction date submitted.
- Shipping and handling fees.
- Costs or expenses associated with responding to any subpoena, garnishment, levy or other legal process associated with your account in an amount no less than \$150.00.

10.3. Summary (Deposit) Adjustments/Electronic Rejects. Occasionally, it is necessary to adjust the dollar amount of your summaries/Submissions (deposits) and credit or debit your Settlement Account or settlement funds accordingly. The following is a list of the most frequent reasons for Summary (Deposit) Adjustments/Electronic Rejects:

- Your summary reflected an arithmetic error.
- Submitted sales not included in your Agreement.
- The dollar amount is unreadable/illegible.
- The Cardholder's account number is unreadable/illegible.
- Duplicate Sales Draft submitted.
- Card number is incorrect/incomplete.
- Summary indicated credits, but no credits were submitted.

10.4. Disputing Other Debits and Summary Adjustments. In order to quickly resolve disputed debits and Summary Adjustments, it is extremely important that the items listed in this section be faxed or sent to the address listed on the notification.

If the Summary Adjustment is for an unreadable or incorrect Cardholder account number, resubmit the corrected Sales Draft with your next deposit. Also, if the transaction is over thirty (30) calendar days old, you must reauthorize and obtain a valid Authorization Approval Code.

A clear and legible copy of the Sales Draft containing the following should be obtained from your files:

- Date of sale/Credit;
- Cardholders account number, name and signature;
- Total amount of the sale and description of goods and services; and
- Date and Authorization Approval Code.

Include a dated cover letter detailing the reasons for requesting a review of the debit or Summary Adjustment and documentation to support your dispute. (You should retain a copy of the correspondence and all documentation for your files.) If the inquiry is related to prior correspondence, be sure to include the control number we previously used.

Immediately fax or mail the Sales Draft or Credit Drafts to the fax number or address provided on your notification letter.

If you have any questions, please call the Customer Service number provided on the last page of this Program Guide. If a Customer Service Representative informs you that additional documentation is required in order to fully review the item, please immediately submit your rebuttal and transaction documentation to the fax number or address listed on the debit notification.

11. Account Maintenance

11.1. Change of Settlement Account Number. If you change the Settlement Account in which you receive the proceeds of your transactions, you must call Customer Service or your Relationship Manager immediately. If you accept payment types other than Visa, MasterCard and Discover Network, you are also responsible for contacting the Card Organizations or companies governing those Cards to notify them of this change.

11.2. Change in Your Legal Name or Structure. You must call Customer Service or your Relationship Manager and request a new Agreement.

11.3. Change in Company DBA Name, Address or Telephone / Facsimile Number. To change your company or location DBA name, address (or e-mail address), or telephone/facsimile number, you must send the request in writing to the address on your statement.

11.4. Other Change(s) in Merchant Profile. You must immediately notify us of any change to the information on file with us in your merchant profile, including: (i) any new lines or types of business; (ii) change in ownership; (iii) the opening, closing or liquidation of business or any location; (iv) change in Card processing method (i.e., paper Sales Drafts to POS Device); (v) voluntary or involuntary party to a bankruptcy case; (vi) entry into a loan or other agreement with a Person that seeks to affect this Agreement; and/or (vii) change from a business that exclusively conducts Card-present retail sales to one that accepts Card sales by mail, telephone or Internet transactions. We retain the right to terminate this Agreement if you fail to notify us of any change to the information in your merchant profile.

11.5. Charges for Changes to Account Maintenance. You may be charged for any changes referenced in this Section or any other changes requested by you or otherwise necessary related to account maintenance.

12. Card Organization Monitoring

MasterCard, Visa and Discover Network have established guidelines, merchant monitoring programs and reports to track merchant activity such as, but not limited to excessive Credit, reported fraud and Chargebacks, and increased deposit activity. In the event you exceed the guidelines or engage in practices that could circumvent such monitoring programs or submit suspicious transactions as identified by a Card Organization or any related program or reports, you may be subject to: (i) operating procedure requirement modifications; (ii) Chargebacks and/or increased fees; (iii) settlement delay or withholding; (iv) termination of your Agreement; or (v) audit and imposition of fines.

13. Supplies

Placing Orders.

- To order additional supplies, call Customer Service when you have two months' inventory left. We will ship you an adequate amount of supplies. The amount of supplies (based on usage) on hand should not exceed a three- to six-month supply.

- In an EMERGENCY, please contact Customer Service using the number provided on the last page of this Program Guide. If supplies are sent via an express delivery service, the delivery charges will be debited to your account.
- You are responsible for unauthorized use of sales/Credit and summary Media. We recommend that you store all supplies in a safe location.
- You may be charged for supplies and applicable shipping and handling charges.

B. CARD GENERAL TERMS

In addition to the preceding Operating Procedures, our Agreement with you includes the following General Terms. If you fail to follow any of the provisions of the Operating Procedures or General Terms, you may incur certain liabilities and we may terminate our Agreement.

14. Services

Subject to Card Organization Rules, Services may be performed by us, our Affiliates, our agents, or other third parties we may designate from time to time in connection with this Agreement.

15. Operating Procedures, Card Organization Rules and Compliance

You agree to follow all requirements of this Agreement in connection with each Card transaction and to comply with all applicable Card Organization Rules, including without limitation, the data security requirements described in Section 4 above. From time to time, we may amend the Operating Procedures, by providing you with at least 20 days' prior written notice, and those provisions will be deemed incorporated into this Agreement. However, for changes in the Card Organization Rules or for security reasons, certain changes in Card procedures may become effective on shorter notice. If there are any inconsistencies between the General Terms and the Operating Procedures, the General Terms will govern. You are responsible for staying apprised of all applicable changes to the Card Organization Rules and maintaining compliance with the Card Organization Rules. Card Organization Rules may be available on web sites such as <http://usa.visa.com/merchants/operations/operregulations.html> and <http://www.mastercard.com/us/merchant/support/rules.html>. These links may change from time to time.

16. Settlement of Card Transactions

16.1. We will only be required to settle Card transactions for Card types specified in your Application. Promptly after presentment of Sales Drafts pursuant to the Operating Procedures, we will initiate a transfer of the applicable settlement funds to you.

16.2. Unless otherwise agreed to in writing to the contrary, all discount fees are deducted daily. All settlements for Visa, MasterCard and Discover NetworkCard transactions will be net of Credits, Summary Adjustments, applicable discount fees when due, Chargebacks and any other amounts then due from you. We may also set off from any payments otherwise due, any amounts owed to any of our respective Affiliates, whether or not arising out of or related to this Agreement.

16.3. All credits to your Settlement Account or other payments to you are provisional and are subject to, among other things, our right to deduct our fees, our final audit, Chargebacks (including our related losses), and fees, fines and any other charge imposed on us by the Card Organizations as a result of your acts or omissions. You agree that we may debit or credit your Settlement Account for any deficiencies, overages, fees, pending Chargebacks and any other amounts owed to us or any of our respective Affiliates, or we may deduct such amounts from settlement funds or other amounts due to you from us, or our respective Affiliates. Alternatively, we may elect to invoice you for any such amounts, net due 30 days after the invoice date or on such earlier date as may be specified.

16.4. We will not be liable for any delays in receipt of funds or errors in debit and credit entries caused by you or any Person.

16.5. In addition to any other remedies available to us under this Agreement, you agree that should any Event of Default (see Section 23.4) occur, we 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 to become due to you pursuant to the terms of this Agreement, until we have had reasonable opportunity to investigate such event.

16.6. You acknowledge and agree that transfers to and from the Settlement Account shall be based on the account number and routing number supplied by you. We are not responsible for detecting errors in any Settlement Account information you provide, including the account numbers and routing numbers, even if any of those numbers do not correspond to the actual account or financial institution identified by name.

16.7. This Agreement is a contract whereby we are extending financial accommodations to you within the meaning of Section 365(c) of the U.S. bankruptcy code. Your right to receive any amounts due or to become due from us is expressly subject and subordinate to Chargeback, setoff, lien, security interest and our 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.

17. Exclusivity

During the term of this Agreement, you shall use us as your exclusive provider of all Services.

18. Fees, Adjustments, Collection of Amounts Due

18.1. In consideration of the Services provided by us, you shall be charged, and hereby agree to pay us any and all fees set forth in this Agreement (for the purposes of clarity, this includes the Application and any additional pricing supplements or subsequent communications), all of which shall be calculated and payable pursuant to the terms of this Agreement and any additional pricing supplements or subsequent communications.

If a transaction fails to qualify for your anticipated interchange levels or you inadvertently or intentionally accept a transaction other than the type anticipated for your account (including a different Card type), then, as applicable to your pricing method, you will be charged a higher interchange, Discount Rate or Non-Qualified Interchange Fee, as well as any applicable surcharge for that transaction, all as further described in Section A.3 of Part III of

this Agreement and in the Application. With respect to inadvertent or intentional acceptance of a transaction other than the type anticipated for your account (including a different Card type), you will also be subject to payment to us of our then-current transaction fee(s) with respect to such Card and/or transaction and be liable, obligated and responsible under this Agreement for any such transaction to the same extent as you would be if it was of a Card type elected and approved.

For more information on Visa's and MasterCard's interchange rates, please go to www.visa.com and www.mastercard.com.

18.2. All authorization fees will be charged for each transaction that you attempt to authorize. All capture fees will be charged for each transaction that you transmit to us for settlement. If you are being billed a combined fee for both the authorization and capture of a transaction, the authorization and capture must be submitted as a single transaction, otherwise the authorization and the capture will each be charged separately. You are responsible for utilizing software or services that will correctly submit these transactions to achieve the combined billing.

18.3. The fees for Services set forth in this Agreement are based upon assumptions associated with the anticipated annual volume and average transaction size for all Services as set forth in this Agreement and your method of doing business. If the actual volume or average transaction size are not as expected or if you significantly alter your method of doing business, we may adjust your discount fee and transaction fees without prior notice.

18.4. The fees for Services set forth in this Agreement 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 us by other Persons related to the Services. All such adjustments shall be your 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 our notice to you.

18.5. Subject to Section 23.3, we may also increase our fees or add new fees for Services for any reason at any time, by notifying you twenty (20) days' prior to the effective date of any such change or addition.

18.6. If you receive settlement funds by wire transfer, we may charge a wire transfer fee per wire.

18.7. To the extent the Automated Clearing House ("ACH") settlement process is used to effect debits or credits to your Settlement Account, you agree to be bound by the terms of the operating rules of the National Automated Clearing House Association, as in effect from time to time. You hereby authorize us to initiate credit and debit entries and adjustments to your account through the ACH network and/or through direct instructions to the financial institution where your Settlement Account is maintained for amounts due under this Agreement and under any agreements with us or our respective Affiliates for any products or services, as well as for any credit entries in error. You hereby authorize the financial institution where your Settlement Account is maintained to effect all such debits and credits to your account. This authority will remain in full force and effect until we have given written notice to the financial institution where your Settlement Account is maintained that all monies due under this Agreement and under any other agreements with us or our respective Affiliates for any products or services have been paid in full.

18.8. You agree to pay any fines imposed on us by any Card Organization resulting from Chargebacks and all fees, fines and other charges imposed on us by a Card Organization with respect to your acts or omissions. You are also responsible for all fees, fines, and other charges imposed on us as a result of acts or omissions by your agents or third parties.

18.9. If your Chargeback percentage for any line of business exceeds the estimated industry Chargeback percentage, you shall, in addition to the Chargeback fees and any applicable Chargeback handling fees or fines, pay us an excessive Chargeback fee for all Chargebacks occurring in such month in such line(s) of business. Each estimated industry Chargeback percentage is subject to change from time to time by us in order to reflect changes in the industry Chargeback percentages reported by Visa, MasterCard or Discover Network. Your Chargeback Percentage will be calculated as the larger of (a) the total Visa, MasterCard and Discover Network Chargeback items in any line of business in any calendar month divided by the number of Visa, MasterCard and Discover Network transactions in that line of business submitted that month, or (b) the total dollar amount of Visa, MasterCard and Discover Network Chargebacks in any line of business received in any calendar month divided by the total dollar amount of your Visa, MasterCard and Discover Network transactions in that line of business submitted in that month.

18.10. You must promptly and carefully review statements or reports provided or made available to you (physically, electronically or otherwise) reflecting Card transaction activity, including, activity in the Settlement Account and Reserve Account, whether provided by us or others. If you believe any adjustments should be made with respect to your Settlement Account, you must notify us in writing within sixty (60) days after any debit or credit is or should have been effected or such shorter period as provided in the terms and conditions that govern such account. If you notify us after such time period, we shall not have any obligation to investigate or effect any such adjustments. Any voluntary efforts by us to assist you in investigating such matters shall not create any obligation to continue such investigation or any future investigation.

18.11. If you do not pay us all fees and any other amounts due under this Agreement within thirty (30) days of the date of our merchant statement or other statement setting forth the amount due, then we may, in our sole discretion, charge you interest, for such time that the amount and all accrued interest remain outstanding at the lesser of (i) 12% APR, or (ii) the maximum rate permitted by applicable law.

Agenda item 2

19. Chargebacks

19.1. You shall be responsible for reimbursing us for all transactions you submit that are charged back. See the Operating Procedures for additional information regarding Chargebacks and Chargeback procedures.

19.2. You shall reimburse us for any Chargebacks, return items, or other losses resulting from your failure to produce a Card transaction record requested by us within the applicable time limits.

20. Representations, Warranties, Covenants, Limitations on Liability, Exclusion of Consequential Damages

20.1. Without limiting any other warranties hereunder, you represent, warrant to and covenant with, us, and with the submission of each Sales Draft reaffirm, the following representations, warranties and/or covenants:

20.1.1. each Card transaction is genuine and arises from a bona fide transaction permissible under the Card Organization Rules by the Cardholder directly with you, 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;

20.1.2. each Card transaction represents an obligation of the related Cardholder for the amount of the Card transaction;

20.1.3. the amount charged for each Card transaction is not subject to any dispute, setoff or counterclaim;

20.1.4. each Card transaction amount is only for respective merchandise or services (including taxes, but without any surcharge) sold, leased or rented by you pursuant to your business as indicated on the application 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 your accepting and submitting that Card transaction for processing;

20.1.5. with respect to each Card transaction, you have 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;

20.1.6. each Card transaction is made in accordance with these General Terms, Card Organization Rules and the Operating Procedures;

20.1.7. each Sales Draft is free of any alternation not authorized by the related Cardholder;

20.1.8. you have completed one Card transaction per sale; or one Card transaction per shipment of goods for which the Cardholder has agreed to partial shipments;

20.1.9. you are validly existing, in good standing and free to enter into this Agreement;

20.1.10. each statement made on the Application or other information provided to us in support of this Agreement is true and correct;

20.1.11. you are not doing business under a name or style not previously disclosed to us;

20.1.12. you have not changed the nature of your 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 us;

20.1.13. you will use the Services only for your own proper business purposes and will not resell, directly or indirectly, any part of the Services to any Person; (NOTE: Factoring is prohibited.)

20.1.14. you have not filed a bankruptcy petition not previously disclosed to us;

20.1.15. you own and control the Settlement Account, and no third party security interest or lien of any type exists regarding the Settlement Account or any Card transaction.

20.1.16. you 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 Reserve Account, Settlement Account or transaction proceeds to any Person without our consent;

20.2. THIS AGREEMENT IS A SERVICE AGREEMENT. WE DISCLAIM ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, MADE TO YOU OR ANY OTHER PERSON, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR OTHERWISE OF ANY SERVICES OR ANY GOODS PROVIDED INCIDENTAL TO THE SERVICES PROVIDED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY SERVICES OR ANY GOODS PROVIDED BY A THIRD PARTY.

20.3. IN NO EVENT SHALL WE OR OUR AFFILIATES OR ANY OF OUR OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR SUBCONTRACTORS, 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. CLIENT ACKNOWLEDGES AND AGREES THAT PAYMENT OF ANY EARLY TERMINATION FEE OR LIQUIDATED DAMAGES AS PROVIDED ELSEWHERE IN THIS AGREEMENT SHALL NOT BE PROHIBITED BY THIS PARAGRAPH.

20.4. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY (INCLUDING BUT NOT LIMITED TO SECTIONS 26 or 20.5), OUR CUMULATIVE LIABILITY 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), REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY, SHALL NOT EXCEED, (I) \$50,000; OR (II) THE AMOUNT OF FEES RECEIVED BY US PURSUANT TO THIS AGREEMENT FOR SERVICES PERFORMED IN THE IMMEDIATELY PRECEDING 12 MONTHS, WHICHEVER IS LESS.

20.5. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY (INCLUDING BUT NOT LIMITED TO SECTION 26), OUR LIABILITY FOR ANY DELAY IN FUNDING TRANSACTIONS TO YOU FOR ANY REASON, OTHER THAN FOR ANY REASON DESCRIBED IN SECTIONS 16.4 AND 16.6, WILL BE LIMITED TO INTEREST COMPUTED FROM THE DATE THAT YOU SUBMIT THE TRANSACTION TO THE DATE THAT WE FUND THE TRANSACTION AT THE RATE OF THE FEDERAL FUNDS AS SET BY THE FEDERAL RESERVE BANK OF NEW YORK, NEW YORK, FROM TIME TO TIME, LESS ONE PERCENT (1%).

20.6. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, BANK IS NOT RESPONSIBLE, AND SHALL HAVE NO LIABILITY, TO YOU IN ANY WAY WITH RESPECT TO NON-BANK SERVICES.

21. Confidentiality

21.1. Unless you obtain consents from us and each applicable Card Organization, Issuer and Cardholder, you must not use, disclose, store, sell or disseminate any Cardholder information obtained in connection with a Card transaction (including the names, addresses and Card account numbers of Cardholders) except for purposes of authorizing, completing and settling Card transactions and resolving any Chargebacks, Retrieval Requests or similar issues involving Card transactions, other than pursuant to a court or governmental agency request, subpoena or order. You shall use proper controls for and limit access to, and render unreadable prior to discarding, all records containing Cardholder account numbers and Card imprints. You may not retain or store Magnetic Stripe data or Card Validation Codes after a transaction has been authorized. If you store any electronically captured signature of a Cardholder, you may not reproduce such signature except upon our specific request.

21.2. You acknowledge that you 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 Client's business. Upon a bankruptcy, insolvency or failure of Client'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.

21.3. You will treat this Agreement, the Card Organization Rules and any information supplied or otherwise made accessible by us or our agents as confidential, including without limitation, (i) information about the products, services, operations, procedures, customers, suppliers, sales, pricing, business plans and marketing strategies of Servicers, their respective 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 Servicers a competitive advantage over its competitors; and (iii) 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 will not disclose the same to any third parties, provided, however, that these restrictions do not apply to information: (a) rightfully obtained on a non-confidential basis from a Person and your agents and representatives, which Person was not subject to a duty of confidentiality, (b) rightfully and independently known by you on a non-confidential basis prior to its disclosure or (c) generally available to the public other than through any disclosure by or fault of you, your agents or representatives.

21.3.1. Our confidential information shall be used by you only to exercise your rights and to perform your obligations hereunder. Client shall receive our confidential information in confidence and not disclose the confidential information to any third party, except as may be agreed upon in writing by us. Client shall safeguard all of our 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 us or upon termination of this Agreement, Client shall return to us or destroy all of our confidential information in its possession or control.

21.3.2. 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 the Agreement or subsequently came into the public domain through no fault of Client; (ii) was received from a third party free of any obligation of confidence of Client to the third party and which third party, to Client's knowledge, was not under an obligation to keep the information confidential; (iii) was already in Client's possession prior to receipt from us; (iv) is required to be disclosed by law, regulation or court order after giving us as much advance notice as practical of the possibility of disclosure; or (v) is subsequently and independently developed by Client's employees, consultants or agents without use of or reference to our confidential information.

21.3.3. Except as specifically provided for herein, this Section does not confer any right, license, interest or title in, to or under our confidential information to Client. Except as specifically provided for herein, no license is hereby granted to Client under any patent, trademark, copyright, trade secret or other proprietary rights of ours.

21.3.4. Client acknowledges that breach of the restrictions on use or disclosure of any our confidential information would result in immediate and irreparable harm to us, and money damages would be inadequate to compensate for that harm. We shall be entitled to equitable relief, in addition to all other available remedies, to redress any breach.

21.4. With respect to any information received by us from Client via its use of the Services, we will keep such information confidential in accordance with applicable law; provided, that we may disclose such information (i) to third parties as we deem appropriate to provide the Services, or reasonably necessary to support the providing of Services, (ii) our auditors and attorneys (internal and external) and regulators, (iii) as required or permitted by law, regulation or court order, (iv) to our respective Affiliates as we deem appropriate. We may also use data collected as part of performing payment processing or other transaction-related services for you for the purpose of providing additional products and services to you, other merchants, or third parties. As permitted by law this includes collecting, using, and anonymizing cardholder information, dates, amounts, and other data from your transactions ("Transaction Data") to provide you with analytic products and services as well as collecting and using Transaction Data anonymized and aggregated with other merchants' transaction data to provide you, other merchants, and third parties with analytic products and services.

21.5. You shall not assign to any Person, the rights to use the Marks of Servicers, our agents or the Card Organizations.

21.6. All rights, 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 us prior to, during the term of, or after the Agreement, or employed by us 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, our exclusive property.

21.7. Client agrees that we may obtain relevant information from any applicable telecommunications provider utilized by Client, as necessary to investigate any allegation of fraud, suspected fraud or other actual or alleged wrongful act by Client in connection with the Services.

22. Assignments

22.1. Any transfer or assignment of this Agreement by you, without our prior written consent, by operation of law or otherwise, is voidable by us. Any transfer of voting control of you or your parent shall be considered an assignment or transfer of this Agreement. Furthermore, you shall indemnify and hold us harmless from all liabilities, Chargebacks, expenses, costs, fees and fines arising from such transferees or assignee's Submission of Card transactions to us for processing. For purposes of this Section 22, any transfer of voting control shall be considered an assignment or transfer of this Agreement.

22.2. The payment Services provided by us require access to a single bank account in which we may initiate both credits and debits. You may not enter into any agreement that would require, in any circumstance or event, the transfer of any payments or proceeds from Card transactions covered by this Agreement to the custody or control of any Person. You may not assign any rights, including the right of payment under this Agreement, to any other person. In the event that you make an assignment (or provide a security interest) of receivables covered by this Agreement, then we may, at our option, elect to (a) refuse to acknowledge such assignment unless accompanied by an Authorization to both initiate debits or credits to the bank account of the assignee, (b) terminate this Agreement immediately, or (c) charge for any transfers that we are called upon to make manually to fulfill such an assignment at the rate of \$100 per transfer.

22.3. Another Visa and MasterCard member may be substituted for Bank under whose sponsorship this Agreement is performed with respect to Visa and MasterCard transactions. Upon substitution, such other Visa and MasterCard member shall be responsible for all obligations required of Bank for Visa and MasterCard transactions, including without limitation, full responsibility for its Card program and such other obligations as may be expressly required by applicable Card Organization Rules.

Subject to Card Organization Rules, we may assign or transfer this Agreement and our rights and obligations hereunder and/or may delegate our duties hereunder, in whole or in part, to any Person, whether in connection with a change in sponsorship, as set forth in the preceding paragraph, or otherwise, without notice to you or your consent.

22.4. Except as set forth elsewhere in this Section and as provided in the following sentence, this Agreement shall be binding upon 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, or other person charged with taking custody of a party's assets or business, shall have any right to continue, assume or assign this Agreement.

23. Terms, Events of Default

23.1. This Agreement shall become effective upon the date this Agreement is approved by our Credit Department. You acknowledge that our Credit Department maintains a list of business types that are unqualified for our Services. We reserve the right to immediately terminate your account if it has been inadvertently boarded notwithstanding such Credit policies.

23.2. The initial term of this Agreement shall commence and shall continue in force for three years after it becomes effective. Thereafter, it shall continue until we or you terminate this Agreement upon written notice to the other, or as otherwise authorized by this Agreement.

23.3. Notwithstanding the above or any other provisions of this Agreement, we may terminate this Agreement at any time and for any reason by providing 30 days' advance notice to you. We may terminate this Agreement immediately or with shorter notice upon an Event

of Default as provided under Section 23.4 of this Agreement. In the event we provide notice to you of any new fees or increases in existing fees for Services, pursuant to Section 18.5, you may terminate this Agreement without further cause or penalty by notifying us that you are terminating this Agreement prior to the effective date of such new fees or increases. However, maintaining your merchant account, or your continued use of the Services after the effective date of any such fee changes shall be deemed your acceptance of such fee changes for the Services, throughout the term of this Agreement.

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

23.4.1. a material adverse change in your business, financial condition, or business prospects; or

23.4.2. any assignment or transfer of voting control of you or your parent; or

23.4.3. a sale of all or a substantial portion of your assets; or

23.4.4. irregular Card sales by you, excessive Chargebacks, noncompliance with any applicable data security standards, as determined by Servicers, or any Card Organization, or any other Person, or an actual or suspected data security breach, or any other circumstances which, in our sole discretion, may increase our exposure for your Chargebacks or otherwise present a financial or security risk to us; or

23.4.5. any of your representations, warranties or covenants in this Agreement are breached in any respect; or

23.4.6. you default in any material respect in the performance or observance of any term, condition or agreement contained in this Agreement, including, without limitation, the establishment or maintenance of funds in a Reserve Account, as detailed in Section 24; or

23.4.7. you default in any material respect in the performance or observance of any term, covenant or condition contained in any agreement with any of our respective Affiliates; or

23.4.8. you default in the payment when due, of any material indebtedness for borrowed money; or

23.4.9. you file a petition or have a petition filed by another party under the U.S. bankruptcy code or any other laws relating to bankruptcy, insolvency or similar arrangement for adjustment of debts; consent to or fail to contest in a timely and appropriate manner any petition filed against you in an involuntary case under such 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 you or of a substantial part of your property; or make a general assignment for the benefit of creditors; or take any action for the purpose of authorizing any of the foregoing; or

23.4.10. your independent certified accountants shall refuse to deliver an unqualified opinion with respect to your annual financial statements and your consolidated subsidiaries; or

23.4.11. a violation by you of any applicable law or Card Organization Rule or our reasonable belief that termination of this Agreement or suspension of Services is necessary to comply with any law including without limitation the rules and regulations promulgated by the Office of Foreign Assets Control of the U.S. Department of the Treasury or your breach, as determined by Servicers, of Section 34.2 ("Compliance with Laws"),

then, upon the occurrence of (1) an Event of Default specified in subsections 23.4.4, 23.4.9 or 23.4.11, we may consider this Agreement to be terminated immediately, without notice, and all amounts payable hereunder shall be immediately due and payable in full without demand or other notice of any kind, all of which are expressly waived by you, and (2) any other Event of Default, this Agreement may be terminated by us giving not less than 10 days' notice to you, and upon such notice all amounts payable hereunder shall be due and payable on demand.

23.5. 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. Such provisions shall survive the expiration or termination of this Agreement. All obligations by you to pay or reimburse us for any obligations associated with transactions you have submitted to us will survive termination of this Agreement until finally and irrevocably paid in full and settled.

23.6. If any Event of Default occurs, regardless of whether such Event of Default has been cured, we may, in our sole discretion, exercise all of our rights and remedies under applicable law, and this Agreement including, without limitation, exercising our rights under Section 24.

23.7. In the event you file 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 you continue to use our Services, it is your responsibility to open new accounts to distinguish pre and post filing obligations. You acknowledge that as long as you utilize the accounts you established prior to such filing, we will not be able to systematically segregate your post-filing transactions or prevent set-off of the pre-existing obligations. In that event, you will be responsible for submitting an accounting supporting any adjustments that you may claim.

23.8. The Card Organizations often maintain merchant lists such as the Member Alert To Control High-risk (Merchants) ("MATC/H") who have had their merchant agreements or Card Acceptance rights terminated for cause. If this Agreement is terminated for cause, you acknowledge that we may be required to report your business name and the names and other information regarding its principals to the Card Organizations for inclusion on such list(s). You expressly agree and consent to such reporting if you are terminated as a result of the occurrence of an Event of Default or for any reason specified as cause by Visa, MasterCard or Discover Network. Furthermore, you agree to waive and hold us harmless from and against any and all claims which you may have as a result of such reporting.

Agenda item 2

23.9. After termination of this Agreement for any reason whatsoever, you shall continue to bear total responsibility for all Chargebacks, fees, Card Organization fines imposed on us as a result of your acts or omissions, Credits and adjustments resulting from Card transactions processed pursuant to this Agreement and all other amounts then due or which thereafter may become due under this Agreement.

24. Reserve Account Security Interest

24.1. You expressly authorize us to establish a Reserve Account pursuant to the terms and conditions set forth in this Section 24. The amount of such Reserve Account shall be set by us, in our sole discretion, based upon your processing history and the potential risk of loss to us as we may determine from time to time.

24.2. The Reserve Account shall be fully funded upon three (3) days' notice to you, or in instances of fraud or suspected fraud or an Event of Default, Reserve Account funding may be immediate. Such Reserve Account may be funded by all or any combination of the following: (i) one or more debits to your Settlement Account or any other accounts held by Bank or any of its Affiliates, at any financial institution maintained in the name of Client, any of its principals, or any of its guarantors, or if any of same are authorized signers on such account; (ii) any payments otherwise due to you; (iii) your delivery to us of a letter of credit; or (iv) if we so agree, your pledge to us of a freely transferable and negotiable certificate of deposit. Any such letter of credit or certificate of deposit shall be issued or established by a financial institution acceptable to us and shall be in a form satisfactory to us. In the event of termination of this Agreement by any party, an immediate Reserve Account may be established without notice in the manner provided above. Any Reserve Account will be held by us for the greater of ten (10) months after termination of this Agreement or for such longer period of time as is consistent with our liability for your Card transactions and Chargebacks in accordance with Card Organization Rules. We will hold funds pursuant to this Section 24 in master account(s) with your funds allocated to separate sub accounts. Unless specifically required by law, you shall not be entitled to interest on any funds held by us in a Reserve Account.

24.3. If your funds in the Reserve Account are not sufficient to cover the Chargebacks, adjustments, fees and other charges and amounts due from you, or if the funds in the Reserve Account have been released, you agree to promptly pay us such sums upon request.

24.4.1. To secure your obligations to us and our respective Affiliates under this Agreement and any other agreement for the provision of equipment, products or services (including any obligations for which payments on account of such obligations are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy act, state or federal law, common law or equitable cause), you grant to us a first priority lien and security interest in and to (i) the Reserve Account and (ii) any of your funds pertaining to the Card transactions contemplated by this Agreement now or hereafter in our possession, whether now or hereafter due or to become due to you from us. Any such funds, money or amounts now or hereafter in our possession may be commingled with other funds of ours, or, in the case of any funds held pursuant to the foregoing paragraphs, with any other funds of other customers of ours. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, we are hereby authorized by you at any time and from time to time, without notice or demand to you 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 against and on account of your obligations to us and our respective Affiliates under this Agreement and any other agreement with us or our respective Affiliates for any related equipment or related services (including any check services), whether such obligations are liquidated, unliquidated, fixed, contingent, matured or unmatured. You agree to duly execute and deliver to us such instruments and documents as we may reasonably request to perfect and confirm the lien, security interest, right of set off, recoupment and subordination set forth in this Agreement.

24.4.2. For sake of clarification and notwithstanding anything in the Agreement to the contrary, in the event Servicers deduct, holdback, suspend, off set or set off any settlement monies or amounts otherwise due you pursuant to the terms of this Agreement (collectively "Set Off Funds"), you acknowledge that such Set Off Funds will be held in a commingled Reserve Account(s) of Servicers.

24.4.3. In replacement of or in addition to the first priority lien and security interest in the Reserve Account, you grant to Servicers a first priority lien and security interest in and to one or more certificates of deposit, the certificates of deposit shall be unencumbered and shall be subject to an Acknowledgement of Pledge of Certificate of Deposit and Control Agreement (the "Certificate of Deposit Control Agreement") by, between and among Customers, Servicers and the financial institution that has established and issued the certificate of deposit. The form of the Certificate of Deposit Control Agreement and the financial institution that will establish and issue the certificate of deposit shall be satisfactory and acceptable to Servicers.

25. Financial and Other Information

25.1. Upon request, you will provide us and our Affiliates, quarterly financial statements within 45 days after the end of each fiscal quarter and annual audited financial statements within 90 days after the end of each fiscal year. Such financial statements shall be prepared in accordance with generally accepted accounting principles. You will also provide such other financial statements and other information concerning your business and your compliance with the terms and provisions of this Agreement as we may reasonably request. You authorize us and our Affiliates to obtain from third parties financial and credit information relating to you in connection with our determination whether to accept this Agreement and our continuing evaluation of your financial and credit status. We may also access and use information which you have provided to Bank for any other reason. Upon request, you shall

provide, and/or cause to be provided, to us and our Affiliates, or our representatives or regulators (as well as those of the Card Organizations) reasonable access to your or your Merchant Providers' facilities and records for the purpose of performing any inspection and/or copying of books and/or records deemed appropriate. In such event, you shall pay the costs incurred by us or our Affiliates for such inspection, including, but not limited to, costs incurred for airfare and hotel accommodations.

25.2. You will provide us with written notice of any judgment, writ, warrant of attachment, execution or levy against any substantial part (25% or more in value) of your total assets not later than three (3) days after you become aware of same.

26. Indemnification

26.1. You agree to indemnify and hold us harmless from and against all losses, liabilities, damages and expenses: (a) resulting from any breach of any warranty, covenant or agreement or any misrepresentation by you under this Agreement; (b) arising out of your or your employees' or your agents' negligence or willful misconduct, in connection with Card transactions or otherwise arising from your provision of goods and services to Cardholders; (c) arising out of your use of the Services; or (d) arising out of any third party indemnifications we are obligated to make as a result of your actions (including indemnification of any Card Organization or Issuer).

26.2. Subject to the limitations set forth in Section 20.4, we agree to indemnify and hold you harmless from and against all losses, liabilities, damages and expenses resulting from any breach of any warranty, covenant or agreement or any misrepresentation by us under this Agreement or arising out of our or our employees' gross negligence or willful misconduct in connection with this Agreement; provided that this indemnity obligation shall not apply to Bank with respect to Non-Bank Services.

27. Special Provisions Regarding Non-Bank Cards

27.1. Non-Bank Card transactions are provided to you by Processor and not by Bank and include transactions made using Discover Network, American Express, JCB, Voyager and WEX Card types. The Services provided, transactions processed and other matters contemplated under this Section 27 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 27 directly conflict with another provision of this Agreement, in which case the terms of this Section 27 will control; provided, however, that (i) Bank is not a party to this Agreement insofar as it relates to Non-Bank Card services, and Bank is not liable to you in any way with respect to such Services and (ii) you agree to pay Processor any per item processing, authorization and other fees described in the Application for any non-acquired transaction services you receive from Processor. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not to the Bank. You authorize us to share information from your Application with American Express, JCB (and Discover Network on its behalf), Discover Network or any other Non-Bank Card Organization.

27.2. You understand that for American Express transactions, authorizations are obtained from and are funded by American Express. American Express will provide you with its own agreement that governs those transactions. You understand and agree that we are not responsible and assume absolutely no liability with regard to any such transactions, including but not limited to the funding and settlement of American Express transactions, and that American Express will charge additional fees for the services they provide.

27.3. If you accept JCB Cards, you agree to be bound by all JCB and/or Discover Network provisions of this Agreement. You also acknowledge and agree that JCB transactions will be processed under and subject to Discover Network Card Organization Rules.

27.4. If you accept Voyager and/or WEX Cards, you agree to be bound by the WEX and/or Voyager rules. You also agree to be bound by all other provisions of this Agreement which are applicable to WEX and/or Voyager.

27.5. If you execute a separate WEX Merchant Agreement (WEX Non Full Service Program), you understand that we will provide such agreement to WEX, but that neither we nor WEX shall have any obligation whatsoever to you with respect to processing WEX Cards unless and until WEX executes your WEX Merchant Agreement. If WEX executes your WEX Merchant Agreement and you accept WEX Cards, you understand that WEX transactions are processed, authorized and funded by WEX. You understand that WEX is solely responsible for all agreements that govern WEX transactions and that we are not responsible and assume absolutely no liability with regard to any such agreements or WEX transactions, including but not limited to the funding and settlement of WEX transactions. You understand that WEX will charge additional fees for the services that it provides.

27.6. If you elect to participate in the WEX Full Service Program, the following terms and conditions shall apply:

- You shall provide, at your own expense, all equipment necessary to permit the electronic acceptance of the WEX Cards, including the operation and maintenance of the equipment, telecommunication link, and provision of all networking services;
- All authorization request data for WEX Card sales must include WEX Cardholder account number, vehicle number, Card expiration date, driver identification number; and the amount of the transaction, date and time of the transaction, quantity of goods sold, unit price, and product code (the "Authorization Request Data"). All manual WEX Card sales (i.e., sales facilitated by a card imprinter) must include an Authorization number or other approval code from WEX along with the aforementioned Authorization Request Data. The type of goods sold, quantity of goods sold, unit price/price per gallon (if applicable), taxes, and any coupons presented within the product detail of a transaction must be accurate. Product detail presented must also equal the total amount of the sale when calculated (i.e., Product qty x unit price must equal product amount. Sum of all product amounts including taxes minus any coupons must equal total transaction amount.);

Agenda item 2

- c) You shall not submit a WEX Card sale for processing when a WEX Card is not presented at the time of the WEX Card sale;
- d) You shall complete a WEX Card sale only upon the receipt of an Authorization approval message and not accept a WEX Card when an expired Card/decline message is received;
- e) You shall not submit a WEX Card sale for processing until the goods have been delivered or services performed;
- f) You shall not accept a WEX Card where the WEX Card appears to be invalid or expired or there is reasonable belief that the WEX Card is counterfeit or stolen;
- g) You shall provide a copy of the receipt for a WEX Card sales, upon the request of the Cardholder, to the extent permitted by applicable law, which shall not include the full account number or driver identification number;
- h) You shall require the Cardholder to sign a receipt when a WEX Card sale is not completed by an island Card reader;
- i) You shall take all commercially reasonable efforts to protect manual WEX Card sales data from fraud or misuse;
- j) You shall not divide the price of goods and services purchased in a single WEX Card sale among two or more sales receipts or permit a WEX Card sale when only partial payment is made by use of the WEX Card and the balance is made with another bank Card;
- k) Client acknowledges that fuel tax removal at the point of sale is not permitted. For all payment system product codes that are taxable, transaction dollar amount and price per gallon (PPG) must contain the sum of the fuel cost and PPG inclusive of all applicable Federal, State, County, Local and other fuel taxes.
- l) You shall securely maintain a record of all WEX Card sales, including the Authorization Request Data, for a period of one year and produce such records upon the reasonable request of WEX;
- m) You shall notify Processor of any errors contained within a settlement report within forty-five (45) days of receipt of such report. Processor will not accept reprocessing requests for WEX transactions older than 90 days;
- n) You shall allow WEX to audit records, upon reasonable advance notice, related to the WEX Full Service; and
- o) You shall retransmit WEX Card sales data when reasonably requested to do so.
- p) Client acknowledges and agrees that its sole remedies with respect to the WEX Full Acquiring services shall be against Processor for the WEX Full Acquiring Services and not WEX, except to the extent that WEX knows of any fraud related to the WEX Cards and fails to provide notice of such fraud or WEX commits fraud in respect to the WEX Full Acquiring Services.

22.7. If you accept Voyager Cards:

- In addition to the information stated in Section 1 (MasterCard, Visa and Discover Network) of the Operating Procedures, you should check Fleet Cards for any printed restrictions at the point of sale.
- In addition to the information provided under Section 1.5 (Special Terms) of the Operating Procedures, you shall establish a fair policy for the exchange and return of merchandise. You shall promptly submit credits to us for any returns that are to be credited to a Voyager Cardholder's account. Unless required by law, you shall not give any cash refunds to any Voyager Card holder in connection with a sale.
- In addition to the information required under Section 3.1 (Information Required) of the Operating Procedures, the following information must be contained on the single page document constituting the Sales Draft for Voyager transactions:
All authorization request data for Voyager Card sales must include Voyager Cardholder account number, Card expiration date, driver identification number; and the amount of the transaction, date and time of the transaction, quantity of goods sold, unit price, and product code (the "Authorization Request Data"). All manual Voyager Card sales (i.e., sales facilitated by a card imprinter) must include an Authorization number or other approval code from Voyager along with the aforementioned Authorization Request Data. The type of goods sold, quantity of goods sold, unit price/price per gallon (if applicable), taxes, and any coupons presented within the product detail of a transaction must be accurate. Product detail presented must also equal the total amount of the sale when calculated (i.e., Product qty x unit price must equal product amount. Sum of all product amounts including taxes minus any coupons must equal total transaction amount.)
- Client acknowledges that fuel tax removal at the point of sale is not permitted. For all payment system product codes that are taxable, transaction dollar amount and price per gallon (PPG) must contain the sum of the fuel cost and PPG inclusive of all applicable Federal, State, County, Local and other fuel taxes
- If an increase in the number of Voyager transaction authorization calls from you not due to our or Voyager system outages in excess of 15% for a given month as compared to the previous month occurs, we may, in our discretion, deduct telephone charges, not to exceed \$.25 (25 cents) per call, for the increased calls, from your settlement of your Voyager transactions.
- In addition to the information provided under Section 7 (Settlement) of the Operating Procedures, settlement of Voyager transactions will generally occur by the fourth banking day after we process the applicable card transactions. We shall reimburse you for the dollar amount of sales submitted for a given day by you, reduced by the amount of Chargebacks, tax exemptions, discounts, credits, and the fees set forth in the Application. Notify processor of any errors contained with the Settlement Reports within thirty (30) calendar days of receipt of such report. Neither we nor Voyager shall be required to reimburse you for sales submitted more than sixty (60) calendar days from the date of purchase.

- For daily transmission of sales data, you shall securely maintain true and complete records in connection with the information required to be provided under this paragraph for a period of not less than thirty-six (36) months from the date of the generation of the data. You may store records on electronic media, if secure. You are responsible for the expense of retaining sales data records and Sales Drafts.
- In addition to the scenario identified in Section 10.1.4 of this Program Guide that could cause an authorization related Chargeback to occur, with respect to Voyager transactions, Chargebacks shall be made in accordance with any other Voyager rules. Notwithstanding termination or expiration of this paragraph or the Agreement, you shall remain liable for all outstanding Chargebacks on Voyager transactions.
- In addition to the information provided under Section 20 (Representations; Warranties; Covenants; Limitations of Liability; Exclusion of Consequential Damages) of the General Terms, in no event shall our cumulative liability to you for losses, claims, suits, controversies, breaches or damages for any cause whatsoever in connection with Voyager transactions exceed the lesser of \$10,000.00 or the Voyager transaction fees paid by you to us for the two months prior to the action giving rise to the claim.
- Notwithstanding anything in this Agreement to the contrary, our obligation to provide services to you relating to any Fleet Card will terminate automatically without penalty to us or the related Card Organization upon the earlier of (i) the termination or expiration of our agreement with such Card Organization, (ii) at least twenty (20) days prior written notice by us to you; (iii) your failure to comply with material terms relating to such Fleet Card transactions, or (iv) written notice, if a Card Organization discontinues its Card.

22.8. Special Provisions for PIN Debit Card

The special provisions outlined in this Section 28 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. The Services provided, transactions processed and other matters contemplated under this Section 28 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 28 directly conflict with another provision of this Agreement, in which case the terms of this Section 28 will control.

28.1. PIN Debit Card Acceptance. Most, but not all, ATM Cards (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 PIN Debit network that you are authorized to accept. PIN 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 PIN Debit network, you must comply with the following general requirements for all participating PIN Debit networks, in addition to the specific requirements of that PIN Debit network:

- You must honor all valid PIN Debit Cards when presented that bear authorized PIN Debit network Marks.
 - You must treat transactions by Cardholders from all Issuers in the same manner.
 - You may not establish a minimum or maximum transaction amount for PIN Debit Card acceptance.
 - You may not require additional information, besides the PIN, for the completion of the transaction unless the circumstances appear suspicious. A signature is not required for PIN Debit Card transactions.
 - You shall not disclose transaction related information to any party other than your agent, a PIN Debit network, or Issuer and then only for the purpose of settlement or error resolution.
 - You may not process a Credit Card transaction in order to provide a refund on a PIN Debit Card transaction.
- 28.2. 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.
 - You may not complete a PIN Debit Card transaction that has not been authorized. If you cannot obtain an Authorization at the time of sale, you should request another form of payment from the Cardholder or process the transaction as a Store and Forward or Resubmission, in which case you assume 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.
 - You 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. You cannot accept the PIN from the Cardholder verbally or in written form.
 - The PIN Debit network used to process your transaction will depend upon, among other things, our own business considerations, the availability of the PIN Debit network at the time of the transaction and whether a particular PIN Debit Card is enabled for a particular PIN Debit network. The PIN Debit network utilized to route your transaction may or may not be the lowest cost network available. We may, in our sole discretion (i) utilize any PIN Debit network available to us for a given transaction (including a PIN Debit network affiliated with Processor) and (ii) add and/or remove PIN Debit networks available to you based on a variety of factors including availability, features, functionality and our own business considerations.
 - You must issue a receipt to the Cardholder upon successful completion of a transaction and effect PAN Truncation on it.

Agenda item 2

- You may not manually enter the account number. The account number must be read electronically from the Magnetic Stripe. If the Magnetic Stripe is unreadable, you 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.
- **YOU ARE RESPONSIBLE TO SECURE YOUR 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.**

28.3. Cash Back From Purchase. You have the option of offering cash back to your customers when they make a PIN Debit Card purchase. You may set a minimum and maximum amount of cash back that you will allow. If you are not now offering this service, your terminal may require additional programming to begin offering cash back.

28.4. Settlement. Within one Business Day of the original transaction, you must balance each location to our system for each Business Day that each location is open.

28.5. Adjustments. An adjustment is a transaction that is initiated to correct a PIN Debit Card transaction that has been processed in error. You will be responsible for all applicable adjustment fees that may be charged by a PIN Debit Card network. Some PIN Debit networks may have established minimum amounts for adjustments.

There are several reasons for adjustments being inflated:

- The Cardholder was charged an incorrect amount, either too little or too much.
- The Cardholder was charged more than once for the same transaction.
- A processing error may have occurred that caused the Cardholder to be charged even though the 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 operating rules of the applicable PIN Debit network, The Electronic Funds Transfer Act, Regulation E, and other applicable law.

29. Special Provisions Regarding EBT Transactions

If you elect to accept EBT Cards and engage in EBT transactions, the terms and conditions of this Section 29 shall apply.

EBT transactions are provided to you by Processor and not by Bank. The Services provided, transactions processed and other matters contemplated under this Section 29 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 29 directly conflict with another section of this Agreement, in which case the terms of this Section 29 will control; provided, however, that Bank is not a party to this Agreement insofar as it relates to EBT transactions, and Bank is not liable to you in any way with respect to such Services. For the purposes of this section, the words 'we', 'our' and 'us' refer only to the Processor and not to the Bank.

We offer electronic interfaces to EBT networks for the processing, settlement and switching of EBT transactions initiated through the use of a state-issued EBT card ('EBT Card') at your POS Terminal(s) for the provision of United States Department of Agriculture, Food and Nutrition Service ('FNS'), Supplemental Nutrition Assistance Program ('SNAP') and Women, Infants and Children Benefits ('WIC Benefits') and/or government delivered Cash Benefits (Cash Benefits, together with FNS, SNAP and WIC Benefits, collectively are referred to as the 'EBT benefits') to EBT benefit recipients ('EBT customers'), subject to the terms below.

29.1. Acceptance of EBT Benefits. You agree to accept EBT Cards and provide EBT benefits to EBT customers through the use of a POS Terminal, PIN pad and printer or other equipment that meet standards set forth in the EBT Rules ('Authorized Terminal') applicable to such EBT benefits during your normal business hours, in a manner consistent with your normal business practices and in accordance with the EBT Rules.

The 'EBT Rules' means (i) all procedures that we establish and provide to you from time-to-time regarding your acceptance of EBT Cards and provision of EBT benefits to EBT customers; (ii) the Quest Rules, as amended from time-to-time, issued by the National Automated Clearing House Association and as approved by the Financial Management Service of the U.S. Treasury Department, as necessary (and any rules that succeed or replace the Quest Rules); and (iii) other such laws, rules, regulations and procedures that are applicable to the acceptance of EBT Cards and the provision of EBT benefits by you under this Section 29, including without limitation, laws pertaining to delivery of services to EBT customers and EBT customer confidentiality, the federal Civil Rights Act of 1964, Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, Clean Air Act, Clean Water Act, Energy Policy and Conservation Act, Immigration Reform and Control Act of 1986, regulations issued by the Department of Agriculture pertaining to Food Stamp Program, and, any additional procedures specified by the state regarding lost EBT Cards, forgotten PINs, discrepancies in benefits authorized and similar matters by providing EBT customers with information such as telephone numbers and addresses of the state or other appropriate agencies. The 'Food Stamp Program' is the government benefits program operated under the authority of the Food Stamp Act of 1964.

You will provide EBT benefits to EBT customers, in accordance with the procedures set forth in the EBT Rules, in the amount authorized through your Authorized Terminal upon presentation by an EBT customer of an EBT Card and such EBT customer's entry of a valid PIN. If the Authorized Terminal fails to print EBT benefit issuance information as approved and validated as a legitimate transaction, you will comply with the procedures set forth in the EBT Rules for authorization of EBT benefits in such instance. You are solely responsible for your provision of EBT benefits other than in accordance with authorizations timely received from EBT service provider. You will not resubmit any EBT Card transaction except

as specifically permitted by the EBT Rules and procedures applicable to such EBT Card transaction. You must provide a receipt for each EBT transaction to the applicable EBT customer.

You will not accept any EBT Card for any purpose other than providing EBT Benefits, including without limitation accepting an EBT Card as security for repayment of any EBT customer obligation to you. In the event of any violation of this provision, you will be obligated to reimburse the state or us for any EBT benefits unlawfully received by either you or an EBT customer to the extent permitted by law. Cash should never be dispensed for FNS, SNAP and WIC Benefits.

You authorize us to initiate EBT Card transactions and to receive settlement for such transactions on your behalf.

29.2. Manual EBT Vouchers. In accordance with the procedures set forth in this Section 29 and the EBT Rules, you will manually accept EBT Cards during periods of time when your Authorized Terminal is not working or the EBT system is not available; you will manually provide EBT benefits in the amount authorized through the applicable EBT service provider to the EBT customers at no cost to the EBT customers upon presentation by an EBT customer of his/her EBT Card. All manual voucher authorizations must be cleared on your POS terminal for payment of voucher to be made to you. In addition to any procedures set forth in the EBT Rules, the following limitations will apply to manual issuance of EBT Benefits by Merchant:

- i. An authorization number for the amount of the purchase must be received by you from the applicable EBT service provider while the respective EBT customer is present and before you provide such EBT customer with any FNS, SNAP and WIC Benefits, or Cash Benefits, as applicable. You must not attempt to voice authorize a manual EBT transaction if the EBT customer is not present to sign the voucher. The EBT customer must sign the voucher. A copy of the voucher should be given to the EBT customer at the time of authorization and you should retain one copy for your records.
- ii. Specified EBT customer, clerk and sales information, including the telephone authorization number, must be entered properly and legibly on the manual sales draft.
- iii. All manual voucher authorizations must be cleared on your Authorized Terminal before payment of voucher will be made to you. Vouchers must be cleared within 10 Business Days after the date of applicable voice authorization. Vouchers cannot be cleared by any manner except by your Authorized Terminal therefore you should never mail vouchers requesting payment. If a voucher expires before it has been cleared by your Authorized Terminal for payment, no further action can be taken to obtain payment for the voucher.
- iv. In the event that, due to EBT host failure, EBT benefit availability for an EBT customer cannot be determined at the time you request authorization, the maximum authorized manual transaction and benefit encumbrance will be \$40.00 or such other state specific floor limit as set forth in the most current version of the applicable EBT Rules.
- v. Except as specifically provided in the applicable EBT Rules, you will not be reimbursed and will be solely responsible for a manual transaction when you fail to obtain an authorization number from the applicable EBT service provider as set forth in this Section 29 or otherwise fail to process the manual transaction in accordance with the EBT Rules.
- vi. If you have not received an authorization number in accordance with paragraph 29.1 above, you may not 're-submit' a manual sales draft for payment for the same transaction.

29.3. Acceptance of Cash Benefits. If you agree to accept EBT Cards and to provide Cash Benefits, you agree to maintain adequate cash on hand to issue EBT service provider authorized Cash Benefits and will issue such Cash Benefits to EBT customers in the same manner and to the same extent cash is provided to your other customers. You may not require, and may not in your advertising suggest, that any EBT customers must purchase goods or services from you as a condition to receiving Cash Benefits, unless such condition applies to other customers as well. You may not designate and direct EBT customers to special checkout lanes restricted to use by EBT customers unless you also designate and direct other customers to special checkout lanes for Debit Cards or Credit Cards and/or other payment methods such as checks other than cash.

29.4. Interoperability. If you accept EBT Cards and provide EBT benefits (FNS, SNAP and WIC Benefits and/or Cash Benefits), you must do so for EBT customers from all states.

29.5. Required Licenses. If you provide FNS, SNAP and WIC Benefits under this Agreement, you represent and warrant to us that you are a FNS authorized merchant and are not currently disqualified or withdrawn from redeeming food stamp coupons or otherwise disqualified or withdrawn by FNS. You agree to secure and maintain at your own expense all necessary licenses, permits, franchises, or other authorities required to lawfully effect the issuance and distribution of EBT benefits under this Agreement, including without limitation, any applicable franchise tax certificate and non-governmental contractor's certificate, and covenant that you will not accept EBT Cards or provide EBT benefits at any time during which you are not in compliance with the requirements of any EBT Rules.

29.6. Term and Termination. If you are disqualified or withdrawn from the Food Stamp Program, your authority to issue benefits will be terminated concurrently therewith. Such disqualification or withdrawal will be deemed a breach of this Agreement with respect to your authority to issue Cash Benefits and, in the event of such disqualification, we have the right to immediately terminate the provision of service under this Section 29 or the Agreement in its entirety. With respect to the issuance of Cash Benefits only, your authority to issue Cash Benefits may be suspended or terminated immediately at the sole discretion of us, the state or its EBT service provider, effective upon delivery of a notice of suspension or termination specifying the reasons for such suspension or termination if there will be (i) any suspension, injunction, cessation, or termination of the EBT service provider's authority to provide EBT services to the state; (ii) failure by you, upon not less than thirty (30) days'

prior written notice, to cure any breach by you of these terms and conditions, including without limitation, your failure to support the issuance of EBT benefits during your normal business hours consistent with your normal business practices, your failure to comply with EBT benefit issuance procedures, your impermissible acceptance of an EBT Card, or your disqualification or withdrawal from the Food Stamp Program; or (iii) based on a state's or its EBT service provider's investigation of the relevant facts, evidence that you or any of your agents or employees are committing, participating in, or have knowledge of fraud or theft in connection with the dispensing of EBT benefits. If you fail to cure any breach as set forth above, you may appeal such suspension or termination to the applicable state for determination in its sole discretion.

In the event that your authority to accept benefits is suspended or terminated by a state or its EBT service provider, and you successfully appeal such suspension or termination to the state or its EBT service provider, we shall be under no obligation to reinstate the services previously provided under this Section 29 or the Agreement, as applicable.

The provision of services under this Section 29 shall terminate automatically if our agreement or our service provider's agreement with any applicable state's EBT service provider terminates for any reason.

You will give prompt notice to us if you plan to stop accepting EBT Cards and providing EBT benefits or if you are unable to comply with the terms of this Section 29.

29.7. Confidentiality of EBT System Information. All information related to EBT customers and/or the issuance of EBT benefits shall be considered confidential information.

Individually identifiable information relating to an EBT customer or applicant for EBT benefits will be held confidential and will not be disclosed by you or your directors, officers, employees or agents, without prior written approval of the applicable state.

You will: (a) implement appropriate measures designed to: (1) ensure the security and confidentiality of all non-public personal information or materials regarding customers ("NPPI"); (2) protect against any anticipated threats or hazards to the security or integrity of NPPI; (3) protect against unauthorized access to or use of NPPI that could result in substantial harm or inconvenience to any customer and (4) ensure the proper disposal of NPPI; and (b) take appropriate actions to address incidents of unauthorized access to NPPI, including notification to us as soon as possible.

The use of information obtained by you in the performance of your duties under this Section 29 will be limited to purposes directly connected with such duties.

29.8. EBT Service Marks. You will adequately display any applicable state's service Marks or other licensed marks, including the Quest Marks, and other materials supplied by us (collectively the "Protected Marks") in accordance with the standards set by the applicable state. You will use the Protected Marks only to indicate that EBT benefits are issued at your location(s) and will not indicate that we, any state or its EBT service provider endorse your goods or services. Your right to use such Protected Marks pursuant to this Agreement will continue only so long as this Section 29 remains in effect or until you are notified by us, any state or its EBT service provider to cease their use or display. You will not use the Marks of any EBT service provider without prior written approval from such EBT service provider.

29.9. Miscellaneous.

29.9.1. Errors. You will fully cooperate with us and any other participants in the EBT system in the resolution of errors and disputes regarding EBT transactions processed pursuant to this Section 29. You will promptly notify us of any such errors or disputes.

29.9.2. Issuance Records.

- i. You agree to make available such informational materials as may be required by the state, its EBT service provider or any applicable regulations pertaining to the issuance of Benefits.
- ii. You will retain all EBT-related records (including but not limited to manual sales drafts or vouchers) in the manner required by the EBT Rules or otherwise reasonably requested by us for three (3) years following the date of the applicable EBT transaction, or for such additional period as may be required by the EBT Rules. Records involving matters in litigation will be kept by you for a period of not less than three (3) years following the termination of the applicable litigation. Copies of any documents in media other than paper (e.g., microfilm, etc.) related to this Section 29 may be substituted for the originals to the extent permitted under applicable EBT Rules and provided that legible paper copies can be reproduced within a reasonable time after such records are requested.
- iii. You will make all EBT-related records available for audit upon request to representatives of the state or its EBT service provider, or other authorized state or federal government agency during normal business hours.
- iv. To assure compliance with this Agreement, including without limitation this Section 29, the state, its EBT service provider, or other authorized state or federal government agency, will at all times, upon advance notice except in the case of suspected fraud or other similar activity, have the right to enter, during normal business hours, your premises to inspect or evaluate any work performed under this Agreement, or to obtain any other information required to be provided by you or otherwise related to this Agreement.

29.9.3. Training. You will train and permit your employees to receive training regarding the issuance of EBT benefits.

29.9.4. Amendments. Notwithstanding anything to the contrary in this Agreement, if any of these terms and conditions are found to conflict with the EBT Rules or federal or state policy, these terms and conditions are subject to reasonable amendment by us, a state or its EBT service provider to address such conflict upon twenty (20) days' written notice to you provided that you may, upon written notice, terminate your obligation under this Section 29 upon receipt of notice of such amendment.

29.9.5. State Action. Nothing contained herein shall preclude a state from commencing appropriate administrative or legal action against you or for making any referral for such action to any appropriate federal, state, or local agency.

29.9.6. Reference to State. Any references to state herein will mean the state in which you accept EBT benefits pursuant to this Section 29. If you accept EBT benefit in more than one state pursuant this Section 29, then the reference will mean each such state severally, not jointly.

29.9.7. Third Party Beneficiaries. These terms and conditions, do not create, and will not be construed as creating, any rights enforceable by any person not having any rights directly under this Agreement, except that the state and its Issuer, as defined in the Quest Rules, will be deemed third party beneficiaries of the representations, warranties, covenants and agreements made by you under the Agreement, including without limitation this Section 29.

30. Special Provisions Regarding Wireless Service

If you elect to purchase the Wireless Services from us as indicated on the Application, then the following terms and conditions of this Section 30, referred to as the "Wireless Services Terms," shall apply. THE WIRELESS SERVICES ARE BEING SOLD TO YOU FOR USE IN BUSINESS AND ARE NOT BEING SOLD TO YOU FOR HOUSEHOLD OR PERSONAL USE. Sale of Wireless Services is made by Processor and not the Bank. The Services provided, transactions processed and other matters contemplated under this Section 30 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 30 directly conflict with another section of this Agreement, in which case the terms of this Section 30 will control; provided, however, that Bank is not a party to this Agreement insofar as it relates to Wireless Services, and Bank is not liable to you in any way with respect to such services. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not to the Bank.

Through one or more third party vendors ("Wireless Vendor(s)") selected by us in our sole discretion, we have acquired the right to resell certain wireless data communication services that use radio base stations and switching offered by certain cellular telephone and data networks throughout the country (the "Wireless Networks") in order to allow you to capture and transmit to Processor and Bank certain wireless Card Authorization transactions or to transmit other communications to our system ("Wireless Services").

If you elect to purchase voice and/or data services directly from a third party provider for use with the Wireless Equipment as permitted by Processor, you acknowledge and agree that this Agreement does not address or govern those voice and/or data services or your relationship with that third party provider, and Services are in no way responsible for providing, maintaining, servicing or supporting such third party voice and/or data services.

30.1. Purchase of Wireless Services. The prices that you will pay for the Wireless Services are set forth on the Application. In connection with your purchase of Wireless Services, you will receive access to a certain Wireless Network(s).

- Licenses. You agree to obtain any and all licenses, permits or other authorizations required by the Federal Communications Commission ("FCC") or any other regulatory authority, if any, for the lawful operation of Wireless Equipment used by you in connection with your receipt of Wireless Services. You will promptly provide us with all such information as we may reasonably request with respect to matters relating to the rules and regulations of the FCC.
- Wireless Equipment. You agree that in order to access the Wireless Services, you must use wireless POS Terminals and accessories approved for use with the Wireless Services by Processor from time to time in its sole discretion (the "Wireless Equipment"). If Wireless Equipment is purchased by you from us as indicated on the Application, then the terms of this Agreement, including without limitation Section 33 of this Agreement, apply to your use of such Wireless Equipment.
- Improvements / General Administration. We and the Wireless Vendor(s) reserve the right to make changes, from time to time, in the configuration of the Wireless Services, Wireless Networks, Wireless Equipment, Wireless Software, rules of operation, accessibility periods, identification procedures, type and location of equipment, allocation and quantity of resources utilized, programming languages, administrative and operational algorithms and designation of the control center serving you at the particular address. In addition, we reserve the right to schedule, from time to time, interruptions of service for maintenance activities.
- Suspension of Wireless Services. We or a Wireless Network may suspend the Wireless Services to: (a) prevent damages to, or degradation of, our or a Wireless Networks network integrity that may be caused by a third party; (b) comply with any law, regulation, court order or other governmental request which requires immediate action; or (c) otherwise protect us or a Wireless Network from potential legal liability. To the extent commercially reasonable, we shall give notice to you before suspending the Wireless Services to you. If not commercially practicable to give prior notice, we will give notice to you as soon as commercially practicable thereafter. Availability of the Wireless Services may vary due to events beyond the control of us or our Wireless Vendors. In the event of a suspension of the Wireless Services, we or the applicable Wireless Vendor will promptly restore the Wireless Services after the event giving rise to the suspension has been resolved.

30.2. Software Licenses. Processor hereby grants to you a non-exclusive, non-transferable, revocable limited sublicense to use any wireless software (including any documentation relating to or describing the wireless software) downloaded by you or your designee from Processor's systems onto the Wireless Equipment in connection with your purchase and use of the Wireless Services in accordance with the terms of this Agreement, including this Section 30 and Section 33 ("Wireless Software"). Anything in this Agreement to the contrary

notwithstanding, we or certain third parties retain all ownership and copyright interest in and to all Wireless Software, related documentation, technology, know-how and processes embodied in or provided in connection with the Wireless Software, and you shall have only a nonexclusive, non-transferable license to use the Wireless Software in your operation of the Wireless Equipment for the purposes set forth in this Agreement. Nothing in this Agreement confers any title or ownership of any such Wireless Software to you or shall be construed as a sale of any rights in any such Wireless Software to you. You agree to accept, agree to and be bound by all applicable terms and conditions of use and other license terms applicable to such Wireless Software. You shall not reverse engineer, disassemble or decompile the Wireless Software. You shall not give any Person access to the Wireless Software without our prior written consent. Your obligations under this Section 30.2 shall survive the termination of this Agreement. You acknowledge that the only right you obtain to the Wireless Software is the right to use the Wireless Software in accordance with the terms in this Section.

30.3. Limitation on Liability. We shall have no liability for any warranties by any party with respect to uninterrupted Wireless Services, as set forth in Section 30.10, or for any Person's unauthorized access to Client's data transmitted through either the Wireless Equipment or Wireless Services (including the Wireless Software), or Wireless Networks, regardless of the form of action (whether in contract, tort (including negligence), strict liability or otherwise). The foregoing notwithstanding, for any other liability arising out of or in any way connected with these Wireless Services terms, including liability resulting solely from loss or damage caused by partial or total failure, delay or nonperformance of the Wireless Services or relating to or arising from your use of or inability to use the Wireless Services, Processor's, Bank's, and Wireless Vendor(s) liability shall be limited to your direct damages, if any, and, in any event, shall not exceed the lesser of the amount paid by you for the particular Wireless Services during any period of failure, delay, or nonperformance of the Wireless Services or \$50,000.00. In no event shall Servicers, Wireless Vendor(s) or our respective Affiliates be liable for any indirect incidental, special, consequential or punitive damages. The remedies available to you under these Wireless Services Terms will be your sole and exclusive remedies.

30.4. Indemnification. In addition to any other indemnifications as set forth in this Agreement, you will indemnify and hold Servicers, Wireless Vendor(s) and our respective officers, directors, employees, and Affiliates harmless from and against any and all losses, claims, liabilities, damages, costs or expenses arising from or related to: (a) the purchase, delivery, acceptance, rejection, ownership, possession, use condition, liens against, or return of the Wireless Equipment or the Wireless Equipment (including the Wireless Software), as applicable; (b) your negligent acts or omissions; (c) any breach by you of any of your obligations under this Section 30; or (d) any Person's unauthorized access to Client's data and/or unauthorized financial activity occurring on your Merchant Account Number hereunder, except to the extent any losses, liabilities, damages or expenses result from our gross negligence or willful misconduct.

30.5. Confidentiality. All information or materials which could reasonably be considered confidential or competitively sensitive that you access from or relate to either Wireless Vendor(s) or Servicers related to the subject matter of these Wireless Services Terms will be considered confidential information. You will safeguard our confidential information with at least the same degree of care and security that you use for your confidential information, but not less than reasonable care.

30.6. Termination. In addition to any other provision in this Agreement, the Wireless Services being provided under this Section 30 may terminate:

- a) Immediately upon termination of the agreement between us (or our Affiliates) and Wireless Vendor(s), provided that we will notify you promptly upon our notice or knowledge of termination of such agreement, provided further that if Wireless Vendor(s) loses its authority to operate less than all of the Wireless Services or if the suspension of any authority or non-renewal of any license relates to less than all of the Wireless Services, then these Wireless Services Terms will terminate only as to the portion of the Wireless Services affected by such loss of authority, suspension or non-renewal; or
- b) Immediately if either we or our Affiliates or Wireless Vendor(s) are prevented from providing the Wireless Services by any law, regulation, requirement, ruling or notice issued in any form whatsoever by judicial or governmental authority (including without limitation the FCC).

30.7. Effect of Termination. Upon termination of these Wireless Services Terms for any reason, you will immediately pay to us all fees due and owing to us hereunder. If these Wireless Services terms terminate due to a termination of the agreement between us or our Affiliates and Wireless Vendor(s), then we may, in our sole discretion, continue to provide the Wireless Services through Wireless Vendor(s) to you for a period of time to be determined as long as you continue to make timely payment of fees due under these Wireless Services Terms.

30.8. Third Party Beneficiaries. Wireless Vendor(s) are third party beneficiaries of these Wireless Services Terms and may enforce its provisions as if a party hereto.

30.9. Other Applicable Provisions. You also agree to be bound by all other terms and conditions of this Agreement.

30.10. Disclaimer. Wireless Services use radio transmissions, so Wireless Services can't be provided unless your Wireless Equipment is in the range of one of the available Wireless Networks' transmission sites and there is sufficient network capacity available at that moment. There are places, particularly in remote areas, with no service at all. Weather, topography, buildings, your Wireless Equipment, and other conditions we don't control may also cause failed transmissions or other problems. PROCESSOR, BANK, AND WIRELESS

VENDOR(S) DISCLAIM ALL REPRESENTATIONS AND WARRANTIES RELATING TO WIRELESS SERVICES. WE CANNOT PROMISE UNINTERRUPTED OR ERROR-FREE WIRELESS SERVICE AND DO NOT AUTHORIZE ANYONE TO MAKE ANY WARRANTIES ON OUR BEHALF.

31. Special Provisions Regarding TransArmor Services

If you elect to utilize the TransArmor Service, the following additional terms and conditions of this Section 31 shall apply.

The TransArmor Service is provided to you by Processor and not Bank. Bank is not a party to this Agreement insofar as it applies to the TransArmor Service, and Bank is not liable to you in any way with respect to such services. For the purposes of this section, the words 'we,' 'our' and 'us' refer only to the Processor and not the Bank.

The TransArmor Service provided, transactions processed and other matters contemplated under this Section 31 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 31 directly conflict with another provision of this Agreement, in which case the terms of this Section 31 will control.

31.1. Definitions. Capitalized terms used in this Section 31 shall have the meaning given as defined in this Section or as defined in the Glossary or elsewhere in this Agreement.

Multi-PayToken means the option to support businesses that need to submit a financial transaction in a card-not-present situation. These tokens are unique to each merchant that uses them and are stored in place of the primary account number (PAN). With these tokens, merchants can initiate new or recurring payments within their own environment instead of using the original card number.

Multi-Pay Token allows a Token Registration process - a non-financial transaction to request a token to be placed in their payment page or 'e-wallet' for future or recurring payments. It is common for eCommerce merchants to ask their customers to register by providing profile information such as name, address, and phone number to the merchant website before or upon checkout.

Registered PAN means the processing of creating a Client specific Token for a PAN.

Token/Tokenization means a form of data substitution replacing sensitive payment card values with non-sensitive token, or random-number, values. Post-authorization transactions are handled via Processors SafeProxy tokenization technology, which returns a token with the transaction's authorization to the merchant. Tokens are shared universally with other merchants and cannot be used to initiate a financial transaction.

Token Request means your ability to obtain a Multi-Pay Token for credit card information only without an immediate authorization required which permits you to store a Multi-Pay Token for future transactions involving its customer.

TransArmor Service means those services described below and may be either TransArmor VeriFone Edition Service or TransArmor Base Service as described below.

31.2. Grant of License. Processor grants to you a non-transferable, non-assignable, non-exclusive, revocable sub-license during the term of this Section 31 to use the TransArmor Service and the TransArmor Service Marks (as identified in the TransArmor Rules and Procedures) in the United States in accordance with this Section 31, including without limitation the TransArmor Rules and Procedures. Any rights with respect to the TransArmor Service not expressly granted by Processor in this Section 31 are deemed withheld.

31.3. Services. The TransArmor Service applies only to Card transactions sent from you to us for authorization and settlement pursuant to the Agreement, and specifically excludes electronic check transactions. Processor will provide an encryption key to you to be used to encrypt (make unreadable) Card data during transport of the authorization request from your point of sale to Processor's systems. During the period when the transaction is being transmitted to Processor for authorization processing, all historical transaction data, including Card number and full magnetic stripe data (track data and expiration date), will be encrypted. Processor will then generate or retrieve a unique, randomly generated token assigned to the Card number that will be returned to you in the authorization response (the 'Token'). You must select one of the two options for the TransArmor Service as indicated on the Merchant Processing Application:

- TransArmor VeriFone ("VF") Edition. This service option is limited to those Clients which have an eligible VeriFone point of sale ("POS") device and desire the software or hardware based encryption and Tokenization to be activated through the VeriFone device.
- TransArmor Base Service. This service option provides software based encryption and Tokenization that is available to Clients to integrate into their POS or the point of sale device.

31.4. Responsibilities of Client. You are responsible to comply with the following regarding your use of the TransArmor Service:

- a) You are required to comply with the Card Organization Rules, including taking all steps required to comply with the Payment Card Industry Data Security Standards (PCI DSS). You must ensure that all third parties and software use by you in connection with your payment processing are compliant with PCI DSS. Use of the TransArmor Service will not, on its own, cause you to be compliant or eliminate your obligations to comply with PCI DSS or any other Card Organization Rule. You must demonstrate and maintain your current PCI DSS compliance certification. Compliance must be validated either by a Qualified Security Assessor (QSA) with corresponding Report on Compliance (ROC) or by successful completion of the applicable PCI DSS Self-Assessment Questionnaire (SAQ) or Report on Compliance (ROC), as applicable, and if applicable to your business, passing quarterly network scans performed by an Approved Scan Vendor, all in accordance with Card Organization Rules and PCI DSS.

- b) Use of the TransArmor Service is not a guarantee against an unauthorized breach of your point of sale systems or any facility where you process and/or store transaction data (collectively, "Merchant Systems").
- c) You must deploy the TransArmor Service (including implementing any upgrades to such service within a commercially reasonable period of time after receipt of such upgrades) throughout your Merchant Systems including replacing existing Card numbers on your Merchant Systems with Tokens. Full Card numbers must never be retained, whether in electronic form or hardcopy.
- d) You must use the Token in lieu of the Card number for ALL activities subsequent to receipt of the authorization response associated with the transaction, including without limitation, settlement processing, retrieval processing, chargeback and adjustment processing and transaction reviews.
- e) Any POS device, gateway and/or VAR you use in connection with the TransArmor Service must be certified by FDMS for use with the TransArmor Service.
- f) If you send or receive batch files containing completed Card transaction information to/from Processor, you must use the service provided by Processor to enable such files to contain only Tokens or truncated information.
- g) You must use truncated report viewing and data extract creation within reporting tools provided by Processor.
- h) You are required to follow rules or procedures we may provide to you from time to time related to your use of the TransArmor Service ("TransArmor Rules and Procedures"). We will provide you with advance written notice of any such rules or procedures or changes to such rules or procedures.
- i) You have no right, title or interest in or to the TransArmor Service, any related software, materials or documentation, or any derivative works thereof, and nothing in this Agreement assigns or transfers any such right, title or interest to you. You shall not take any action inconsistent with the stated title and ownership in this Section 31. You will not file any action, in any forum that challenges the ownership of the TransArmor Service, any related software, materials or documentation. Failure to comply with this provision will constitute a material breach of this Agreement. We have the right to immediately terminate this Section 31 and your access to and use of the TransArmor Service in the event of a challenge by you. No additional rights are granted by implication, estoppel or otherwise.
- j) You will not: (i) distribute, lease, license, sublicense or otherwise disseminate the TransArmor Service or any portion of it to any third party; (ii) modify, enhance, translate, supplement, create derivative works from, reverse engineer, decompile or otherwise reduce to human-readable form the TransArmor Service or any portion of it; or (iii) sell, license or otherwise distribute the TransArmor Service or any portion of it; (iv) make any copies, or permit any copying, of the TransArmor Service or any portion of it; or (v) use any portion of the TransArmor Service as a standalone program or in any way independently from the TransArmor Service. If any portion of the TransArmor Service contains any copyright notice or any other legend denoting the proprietary interest of Processor or any third party, you will not remove, alter, modify, relocate or erase such notice or legend on such item.
- k) You will only use the TransArmor Service for your internal business purposes in a manner consistent with this Agreement.
- l) You will use only unaltered version(s) of the TransArmor Service and will not use, operate or combine the TransArmor Service or any related software, materials or documentation, or any derivative works thereof with other products, materials or services in a manner inconsistent with the uses contemplated in this Section 31.
- m) You will promptly notify us of a breach of any terms of this Section 31.

31.5. Modification and Termination. Unless prohibited by applicable law, we may modify this Section 31 by providing written notice of such modifications to you. You may choose not to accept the requirements of any such modifications by notifying us in writing within thirty (30) days after receiving such notice that you are terminating this Section 31.

31.6. Fees. Client shall pay Processor the fees for TransArmor Service as set forth on the Application.

31.7. TransArmor Limited Warranty. Processor warrants that the Token returned to you, as a result of using the TransArmor Service, cannot be used to initiate a financial sale transaction by an unauthorized entity/person outside the Merchant Systems. This warranty by Processor is referred to herein as the "Limited Warranty" and is subject to the terms and conditions set forth in this Section 31. To be eligible for the Limited Warranty, you must maintain a processing relationship with Processor and be in compliance with all the terms of the Agreement, including this Section 31, and any other agreement relating to Cards eligible for the TransArmor Service. Subject to the terms, conditions and limitations set forth in the Agreement, including the limitation of liability provisions, Processor agrees to indemnify and hold you harmless from direct damages, including third party claims, resulting from Processor's breach of the Limited Warranty. The express remedy for Processor's breach of the Limited Warranty set forth in this paragraph constitutes Processor's entire liability and your sole and exclusive remedy for Processor's breach of the Limited Warranty. The Limited Warranty is void if (i) you use the TransArmor Service in a manner not contemplated by, or in violation of, the Agreement, including this Section 31, or any other agreement relating to Cards eligible for the TransArmor Service or (ii) you are grossly negligent or engage in intentional misconduct.

31.8. TransArmor Disclaimer. IN ADDITION TO THE DISCLAIMERS SET FORTH IN THE AGREEMENT, THE FOLLOWING DISCLAIMER APPLIES TO THE TRANSARMOR SERVICE: EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 31, PROCESSOR

MAKES NO REPRESENTATIONS, WARRANTIES OR COVENANTS, EXPRESS OR IMPLIED WITH REGARD TO THE TRANSARMOR SERVICE INCLUDING THE UNINTERRUPTED OR ERROR-FREE OPERATION OF THE TRANSARMOR SERVICE.

32. Special Provisions Regarding Global Gateway e4 Services

If you elect to utilize the Global Gateway e4 Services, the following additional terms and conditions of this Section 32 shall apply.

The Global Gateway e4 Services are provided to you by Processor and not Bank. Bank is not a party to this Agreement insofar as it applies to the Global Gateway e4 Services, and Bank is not liable to you in any way with respect to such services. For the purposes of this Section 32, the words 'we', 'our' and 'us' refer only to the Processor and not the Bank.

The Global Gateway e4 Services provided and other matters contemplated under this Section 32 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 32 directly conflict with another provision of this Agreement, in which case the terms of this Section 32 will control.

32.1. Definitions. Capitalized terms used in this Section 32 shall have the meaning given as defined in this Section or as defined in the Glossary or elsewhere in this Agreement.

Claim means any arbitration award, assessment, charge, citation, claim, damage, demand, directive, expense, fine, interest, joint or several liability, lawsuit or other litigation, notice, infringement or misappropriation of any Intellectual Property Right or violation of any law, and any consequential, indirect, special, incidental or punitive damages and any attorney's fees and expenses incurred in connection therewith. For purposes of the foregoing Claim definition, a Claim shall be considered to exist even though it may be conditional, contingent, indirect, potential, secondary, unaccrued, unasserted, unknown, unliquidated, or unmaturing.

Confidential Information means the Global Gateway e4 Services, Documentation, operational procedures, the terms and conditions of this Section 32 (including any schedule, exhibit or addendum), pricing or other proprietary business information, and any other information provided to you by us, whether or not such information is marked as confidential; provided, however, that Confidential Information will not include information that:

- (a) is or becomes generally known to the public through no fault of yours;
- (b) was lawfully obtained by you from a third party free of any obligation of confidentiality;
- (c) was already in your lawful possession prior to receipt thereof, directly or indirectly, from the disclosing party;
- (d) is independently developed by you without the use of the Confidential Information;
- (e) is disclosed with our express written permission; or
- (f) is disclosed pursuant to a lawful court or governmental order, provided you provide us with prompt prior written notice of any proceeding that may involve such an order, and an opportunity to contest any disclosure at such proceeding.

Customer means your customer who would like to provide payment for your goods or Services.

Documentation means any and all manuals and other written materials in any form provided for use with the Software, as amended by us from time to time, the terms of which are incorporated in this Section 32 as if fully set forth herein.

Global Gateway e4 Services means the Global Gateway e4, payment processing services offered through the Global Gateway e4 (including, but, not limited to authorization of transactions, routing transactions to the appropriate payment processing network or third party service provider, transaction responses (approved, declined), and the detailed reporting of those transactions) and Software, as applicable. Global Gateway e4 Services do not include alternative payment products or services that are supported by or may be accessed through the Global Gateway e4 Services and with respect to which you enter into an agreement: (i) with us (which agreement may consist of an amendment to this Agreement or specific terms in this Agreement expressly covering such alternative payment products or services) (such alternative payment products or services, "Separate Products"), or (ii) a third party service provider (e.g., PayPal) regarding your participation in such alternative payment products or services (together with Separate Products, the "Excluded Products").

Intellectual Property Rights means any and all patents, copyrights, trademarks, trade secrets, service marks, and any other intellectual property rights, and any applications for any of the foregoing, in all countries in the world.

Merchant Account means an account set up for a merchant that requires a card processor, bank, merchant i.d., terminal i.d., merchant account number, or otherwise named unique merchant number. Multiple physical or virtual storefronts that process transactions under the same unique merchant number shall be deemed as one (1) Merchant Account.

Operational Procedures means our published policies and procedures contained in the various documents provided to you, as amended from time to time, concerning the Services provided pursuant to this Addendum, the terms of which are incorporated in this Addendum as if fully set forth herein.

Platform means our operated, or approved, electronic payment platform(s) and/or gateway(s) through which the payment services contemplated under this Section 32 are provided.

Software means all protocols, software components and other interfaces and software provided by us to you pursuant to this Section 32, and any and all Updates to such Software.

Updates means an embodiment of the Software that provides enhancements and/or improvements.

Your Systems means any web site(s) or interface(s) to the Global Gateway e4 Services that are operated or maintained by you or on your behalf through which transactions are submitted for processing, and all of your other associated systems.

Agenda item 2

32.2. Fees. Client shall pay Processor the fees for the Global Gateway e4 Services as set forth on the Application. A separate account with us for Global Gateway e4 Services shall be required for each separate Merchant Account held by you.

32.3. Term; Termination. The Global Gateway e4 Services shall commence as of the effective date of this Agreement and shall remain in effect until terminated by either party as provided herein. Either party may terminate these Services upon giving the other party at least thirty (30) days prior written notice. We may suspend or terminate your access to Global Gateway e4 without prior notice, with or without cause. Regardless of the reason for termination, you shall be responsible for the payment of all fees due up to and including the effective date of termination.

32.4. License Grant.

32.4.1. License. Subject to the terms and conditions of this Agreement, Processor grants to you a royalty free, non-exclusive, nontransferable limited license to use the Global Gateway e4 Services, during the term of this Agreement for the sole and limited purpose of submitting payment transactions to us for processing, and otherwise using our Global Gateway e4 Services as set forth herein.

32.4.2. Documentation License. Subject to the terms and conditions of this Agreement, Processor grants to you, and you hereby accept, a royalty free, non-exclusive, non-transferable limited license, without right of sublicense, to use the Documentation during the term of this Agreement for the sole and limited purpose of supporting your use of the Software and Global Gateway e4. You shall strictly follow all Documentation provided to you, as it may be amended from time to time by us, in our discretion. To the extent that there is any conflict between the Documentation and the terms of this Agreement, the terms of this Section 32 shall govern and control.

32.4.3. Use Restrictions. You shall not, and shall not cause or permit any third party to: (i) use the Software in any way, other than in accordance with this Agreement, the Documentation or as otherwise instructed by us in writing; (ii) use the Software or Documentation, either directly or indirectly, to develop any product or service that competes with the products and services provided under this Section 32; (iii) disassemble, decompile, decrypt, extract, reverse engineer or modify the Software, or otherwise apply any procedure or process to the Software in order to ascertain, derive, and/or appropriate for any reason or purpose, the source code or source listings for the Software or any algorithm, process, procedure or other information contained in the Software, except as otherwise specifically authorized in accordance with this Section 32; (iv) provide the Software or Documentation to any third party, other than to your authorized employees and contractors who are subject to a written confidentiality agreement, the terms of which are no less restrictive than the confidentiality provisions of this Section 32; (v) make any copies of the Software or Documentation, except as is incidental to the purposes of this Section 32, or for archival purposes (any copies made hereunder shall contain all appropriate proprietary notices); (vi) rent, lease, assign, sublicense, transfer, distribute, allow access to, or timeshare the Software or Documentation; (vii) circumvent or attempt to circumvent any applicable security measures of the Software; (ix) attempt to access or actually access portions of Global Gateway e4 Services not authorized for your use; or (x) use the Global Gateway e4 Services or documentation for any unlawful purpose.

32.4.4. Updates. From time to time we may, at our discretion, release Updates. In the event we notify you of any such Update, you shall integrate and install such Update into your Systems within thirty (30) days of your receipt of such notice. You acknowledge that failure to install Updates in a timely fashion may impair the functionality of the Platform or any of our Services provided hereunder. We will have no liability for your failure to properly install the most current version of the Global Gateway e4 Services or any Update, and we will have no obligation to provide support or services for any outdated versions.

32.4.5. Licensors. The licenses granted hereunder may be subject to other licenses currently held by us. Should any license held by us to certain technology or software be terminated or suspended, the corresponding license(s) granted to you hereunder may also be terminated or suspended in our sole and absolute discretion. You acknowledge and agree to such potential termination or suspension and hereby waive any and all damages, whether actual, incidental or consequential resulting therefrom.

32.4.6. Export Compliance. You agree not to export or re-export the Global Gateway e4 Services or any underlying information or technology except in full compliance with all applicable laws and regulations. In particular, but without limitation, none of the Global Gateway e4 Services or underlying information or technology may be downloaded or otherwise exported or re-exported (i) to any country to which the United States has embargoed goods (or any national or resident thereof); (ii) to anyone on the United States Treasury Department's list of Specially Designated Nationals or the United States Commerce Department's Table of Deny Orders; or (iii) in any manner not in full compliance with the requirements of the United States Bureau of Industry and Security and all applicable Export Administration Regulations. If you have rightfully obtained the Global Gateway e4 Services outside of the United States, you agree not to re-export the Global Gateway e4 Services except as permitted by the laws and regulations of the United States and the laws and regulations of the jurisdiction in which you obtained the Global Gateway e4 Services. You warrant that you are not located in, under the control of, or a national or resident of any such country or on any such list.

32.4.7. Federal Acquisition Regulations. If you are acquiring the Global Gateway e4 Services on behalf of any part of the United States Government (the "Government"), the following provisions apply: Any use, duplication, or disclosure by the Government is

subject to the restrictions set forth in subparagraphs (a) through (d) of the Commercial Computer Software-Restricted Rights clause at FAR 52.227-19 when applicable, or in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, and in similar clauses in the NASA FAR Supplement. We are the contractor/manufacturer, with the address set forth below. Any use, modification, reproduction, release, performance, display or disclosure of the Global Gateway e4 Services and/or the accompanying documentation by the Government or any of its agencies shall be governed solely by the terms of this Addendum and shall be prohibited except to the extent expressly permitted by the terms of this Section 32.

32.4.8. Return/Destruction. Upon termination or expiration of the Global Gateway e4 Services, all licenses granted hereunder shall immediately terminate, and within five (5) days thereof, you shall either return to us or destroy the Global Gateway e4 Services and the Documentation, and shall so certify to us in writing.

32.4.9. No other Licenses. Except as expressly provided above, no license for any patents, copyrights, trademarks, trade secrets or any other intellectual property rights, express or implied, are granted hereunder.

32.4.10. Use of Transaction Data. As permitted by applicable law and regulations, we reserve the right to copy and distribute to third parties any information associated with your use of the Global Gateway e4 Services or your activities on Global Gateway e4.

32.5. Platform Matters

32.5.1. Integration with Your Systems. While we provide Global Gateway e4 Services to you, you acknowledge that the Global Gateway e4 Services itself is insufficient to allow your Systems to function with the Platform. Programming, development and maintenance of your Systems and their functionality are your sole responsibility. You have the sole responsibility to select and employ any competent programming agent(s) to accomplish the programming required to make your Systems function correctly with the Platform and the payment services contemplated hereunder ("Integration"). You shall be responsible for all technical support for your Systems and Integration related issues. You agree that you will use commercially reasonable efforts to complete the Integration as soon as possible. You will be responsible for all of your own development and implementation costs associated with such Integration. Notwithstanding any other provision of this Section 32, you acknowledge that unless and until you complete the Integration, no services need be provided by us to you pursuant to Section, except as otherwise specifically provided in Section 32.5.2 below. In addition, you acknowledge and agree that, even if you have completed Integration, if you have not entered into a valid merchant processing agreement with an authorized bank card processor, you cannot receive payment processing services through Global Gateway e4.

32.5.2. Set-Up Assistance Services. Subject to Section 32.5.1 above, upon your request to us, and upon payment of any applicable fees, we will provide you with set-up services to assist with the Integration.

32.5.3. Shut Downs. We reserve the right, from time to time, without prior notice, to shut down and restart the Platform for maintenance and/or software upgrades for reasonable time periods of one minute or more.

32.5.4. Orders by Customers. You are solely responsible for accepting, processing, and filling any orders for purchases by your Customers, and for handling any inquiries arising therefrom. You shall use the highest standards in the industry in responding to complaints by Customers. We are not responsible or liable for any unauthorized access to your data or your Systems by any means or device.

32.6. Security of Information. We will use commercially reasonable efforts to maintain the security of the Global Gateway e4 Services and the Platform. You will use commercially reasonable efforts to maintain the security of your Systems. Such steps by you will be taken at your sole cost and expense, and shall include, without limitation: (i) creating firewalls to protect against unauthorized access to your Systems by your employees, contractors, Customers, or by any other person; and (ii) implementing reasonable protective techniques suggested by us. You further agree that you will be bound by and comply with all of our and all Card Organization security rules and regulations as they now exist or as each may be amended or supplemented from time to time. Notwithstanding the foregoing, the parties recognize that there is no guarantee or absolute security of information that is communicated over the Internet.

32.7. Privacy. We have adopted an online Privacy Statement for the Global Gateway e4 Services to inform individuals as to our online collection and use of personal information. You agree that, during the term of this Agreement, you will adequately communicate and comply with an appropriate privacy policy explaining your online collection and use of the personal information of your Customers. Unless required by law, Card Organization rules, or done pursuant to this Agreement, you shall not, under any circumstances, sell, purchase, provide, or otherwise disclose any customer's account information, transaction information, or other personal information to any third party. You shall store all data securely. We may advise potential users of the services that we have a relationship with you.

32.8. Audit Rights. Upon notice to you, we may audit your usage, records and security of the Global Gateway e4 Services, your Customer's payment processing information, and the services provided hereunder to ensure (i) that you are using the Global Gateway e4 Services and the services in full compliance with the provisions of this Section 32; (ii) that all applicable fees have been paid; (iii) that you are adhering to your Privacy Policy; and; (iv) that you are in full compliance with all applicable laws, regulations and rules (including but not limited to Card Organization rules). Any such audit shall be conducted during regular business hours at your offices and shall not interfere unreasonably with your business.

Agenda item 2

32.9. Indemnification. You shall indemnify, defend, and hold us, our subsidiaries and affiliates and our and their officers, directors, employees, shareholders, agents and attorneys from any Claim(s) arising from the conduct of your business, any transactions submitted through Global Gateway e4 hereunder for payment processing, any false or inaccurate representation made by you or the negligence, fraud, dishonesty or willful behavior of any of your employees or agents, or from your failure to strictly comply, in whole or in part, with any: (i) terms and conditions pursuant to this Agreement and any addenda hereto or Documentation; or (ii) applicable law, regulations or rules. Upon written notice from us to you, you shall immediately undertake the defense of such Claim by representatives of your own choosing, subject to our reasonable approval.

32.10. Limitation of Liability.

32.10.1. Processor is not liable for the merit and legitimacy of the orders forwarded by you. All liability for validity of orders remains with you. We are not responsible for any data entry errors, Customer misrepresentations, or reporting errors resulting from your actions. We shall not be liable to you or your Customer for the accuracy of the information provided by Global Gateway e4 or our Services.

32.10.2. In no event shall we be liable to you, or to any other person or entity, under this Section 32, or otherwise, for any punitive, exemplary, special, incidental or consequential damages, including, without limitation, any loss or injury to earnings, profits or goodwill.

32.10.3. Notwithstanding any provision in this Agreement to the contrary, in no event shall our liability under this Section 32 for all Claims arising under, or related to, this Section 32 exceed, in the aggregate (inclusive of any and all Claims made by you against us, whether related or unrelated), the lesser of: (i) the total amount of fees paid by you for the our Services during the 12-month period immediately preceding the date the event giving rise to such Claim(s) occurred; or (ii) \$50,000.00.

32.10.4. Notwithstanding provisions set forth herein, we will not be liable for any Claims under this Agreement arising directly or indirectly from or otherwise concerning: (a) any termination, suspension, delay or disruption of service (including billing for a service) by the Internet, any common carrier or any third party service provider; (b) any failure, disruption or malfunction of the Global Gateway e4 Services, the services provided hereunder or the Internet, or any communications network, facility or equipment beyond our reasonable control, whether or not attributable to one or more common carriers or third party service providers; (c) any failed attempts by you or your Customers to access any Systems or to complete processing transactions; or (d) any failure to transmit, obtain or collect data from Customers or for human, machine or software errors or faulty or your or your Customer's erroneous input. Except as expressly agreed to by us in writing with respect to any Separate Product, we are not liable for any Excluded Products.

32.11. DISCLAIMER OF WARRANTIES. YOU ACKNOWLEDGE AND AGREE THAT THE USE OF THE GLOBAL GATEWAY E4 SERVICES AND DOCUMENTATION ARE AT YOUR SOLE RISK WE MAKE NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AND NO IMPLIED AT LAW WARRANTY SHALL ARISE FROM THIS SECTION, GLOBAL GATEWAY E4 SERVICES, DOCUMENTATION, OUR PROCEDURES, OTHER SERVICES PROVIDED OR PERFORMED BY US HEREUNDER, INCLUDING, WITHOUT LIMITATION: (A) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, (B) ANY WARRANTIES OF NONINTERFERENCE OR NON-INFRINGEMENT; OR (C) ANY WARRANTIES THAT ANY PRODUCT OR SERVICE PROVIDED HEREUNDER (INCLUDING BUT NOT LIMITED TO THE SOFTWARE) WILL (1) MEET YOUR REQUIREMENTS; (2) OPERATE ACCORDING TO YOUR EXPECTATIONS; (3) PROVIDE ACCURATE DATA; OR (4) OPERATE UNINTERRUPTED OR ERROR FREE. ANY AND ALL SUCH WARRANTIES ARE EXPRESSLY DISCLAIMED BY US AND WAIVED BY YOU. WE DO NOT WARRANT THAT ANY ERRORS WILL BE CORRECTED. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH HEREIN, THE GLOBAL GATEWAY E4 SERVICES, (INCLUDING WITHOUT LIMITATION THE GLOBAL GATEWAY E4 AND SOFTWARE), DOCUMENTATION AND OTHER SERVICES PROVIDED HEREUNDER ARE PROVIDED ON AN 'AS-IS, WITH ALL FAULTS' BASIS. THIS DISCLAIMER OF WARRANTIES CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT. All decisions to reject any processing transaction or payment for your products or services are solely your responsibility.

32.12. Notices. You agree to notify us of any change in your name, type of business, or any other information required on your merchant processing application at least thirty (30) business days prior to the effective date of change. Any notice or other communication required or permitted to be given hereunder shall be in writing, addressed or transmitted to the party to be notified at such party's address or number at such party's last known address or number, and shall be: (i) if sent by us, hand delivered or delivered by facsimile transmission, overnight courier or certified, registered, regular mail or e-mail; or (ii) if sent by you, certified or registered mail, postage prepaid return receipt requested to 3975 N.W. 120th Avenue, Coral Springs, FL 33065. Any notice delivered hereunder shall be deemed effective, as applicable, upon delivery, if hand delivered or sent by overnight courier; upon receipt as evidenced by the date of transmission indicated on the transmitted material; if by facsimile transmission or e-mail; on the date of delivery indicated on the return receipt, if mailed by certified or registered mail; or ten (10) days after mailing, if by regular mail (or as otherwise required by applicable law). The parties' addresses may be changed by written notice to the other party as provided herein.

32.13. Subcontractors. Processor may subcontract all or part of the Global Gateway e4 Services using a variety of providers globally, but, notwithstanding any such subcontract, Processor shall remain fully responsible for performance of the Services, including ensuring the compliance of subcontractors with the terms of this Agreement applicable to such subcontractors.

32.14. Survival. Upon termination or expiration of this Section 32 or the Agreement, a party's obligations shall cease except for those remaining or required to be performed following such termination. For the avoidance of doubt, the parties agree that those provisions of this Section that logically should survive its termination or expiration in order to accomplish its fundamental purposes will do so. All representations, warranties, indemnities and covenants made herein shall survive the termination of this Section and shall remain enforceable after such termination.

33: Choice of Law; Venue; Waiver of Jury Trial

33.1. Choice of Law. Our Agreement shall be governed by and construed in accordance with the laws of the State of New York (without regard to its choice of law provisions).

33.2. Venue. We have substantial facilities in the State of New York and many of the services provided under this Agreement are provided from these facilities. The exclusive venue for any actions or claims arising under or related to this Agreement shall be in the appropriate state or federal court located in Suffolk County, New York.

33.3. Waiver of Jury Trial. ALL PARTIES IRREVOCABLY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY CLAIM RELATING TO OR ARISING UNDER THIS AGREEMENT.

34: Other Terms

34.1. Force Majeure. No party shall be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by (i) fire, flood, earthquake, elements of nature or other acts of God; (ii) any terrorist attacks or outbreak or escalation of hostilities, war, riots or civil disorders in any country; (iii) any act or omission of the other party or any government authority; (iv) any labor disputes (whether or not employees' demands are reasonable or within the party's power to satisfy); or (v) the nonperformance by a Person for any similar cause beyond the reasonable control of such party, including without limitation, failures or fluctuations in telecommunications or other equipment. In any such event, the non-performing party shall be excused from any further performance and observance of the obligations so affected only for as long as such circumstances prevail and such party continues to use commercially reasonable efforts to recommence performance or observance as soon as practicable. Notwithstanding anything to the contrary in this paragraph, your failure to receive payment or funds from a Person shall not excuse the performance of your obligations to us under this Agreement.

34.2. Compliance with Laws. In performing its obligations under this Agreement, each party agrees to comply with all laws and regulations applicable to it. You further agree to cooperate and provide information requested by Servicers, as Servicers determine necessary, to facilitate Servicers compliance with any applicable law including without limitation the rules and regulations promulgated by the Office of Foreign Assets Control of the US Department of the Treasury. You further acknowledge and agree that you will not use your merchant account and/or the Services for illegal transactions, 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, or processing and acceptance of transactions in certain jurisdictions pursuant to 31 CFR Part 500 et seq. and other laws enforced by the Office of Foreign Assets Control (OFAC).

34.3. 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 processing of Card transactions) shall be in writing, if to you at your address appearing in the Application or by any electronic means, including but not limited to the e-mail address you have provided on the Application, and if to us at our address appearing in Section A.5 of Part III of this Agreement, with a copy to Attention: General Counsel's Office, 3975 N.W. 120th Avenue, Coral Springs, FL 33065, and shall be deemed to have been given (i) if sent by mail or courier, upon the earlier of five (5) days after mailing or when actually received or, in the case of courier, when delivered, and (ii) if sent by facsimile machine, when the courier confirmation copy is actually received. Notice given in any other manner shall be effective when actually received. Notices sent to the Merchant's last known address (including e-mail address), as indicated in our records, shall constitute effective notice to the Merchant under this Agreement. If you change your address (including your e-mail address), you must notify us at least 30 days prior of the effective date of any such change. Failure to provide us with a valid address (including e-mail address) may result in the termination of the Agreement.

34.4. Headings. The headings contained in this Agreement are for convenience of reference only and shall not in any way affect the meaning or construction of any provision of this Agreement.

34.5. 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.

34.6. Entire Agreement; Waiver. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter thereof, and supersedes any previous agreements and understandings. A party's waiver of a breach of any term or condition of this Agreement shall not be deemed a waiver of any subsequent breach of the same or another term or condition.

34.7. Amendment. We may modify any provision of this Agreement by providing written notice to you. You may choose not to accept the requirements of any such change by terminating the Agreement within twenty (20) days of receiving notice. If you choose to do so, notify us that you are terminating for this reason so that we may waive any early termination fee that might otherwise apply. For purposes of this section, an electronic or 'click-wrap' notice intended to modify or amend this Agreement and which you check 'I Accept' or 'I Agree' or otherwise accept through an electronic process, shall constitute in writing as required herein. This Section 34.7 does not apply to fee changes, which are governed by Sections 18.4 and 18.5.

34.8. Third Party Beneficiaries. Our respective Affiliates and any Persons we use 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.

34.9. Card Organization Rules. The parties acknowledge that the Visa, MasterCard and Discover Network Card Organization Rules give Visa, MasterCard and Discover Network certain rights to require termination or modification of this Agreement with respect to transactions involving Visa, MasterCard and Discover Network Cards and the Visa, MasterCard and Discover Network Card systems and to investigate you. The parties also acknowledge that issuers of other Cards, for which we perform services on your behalf, may have similar rights under their applicable Card Organization Rules with respect to this Agreement's applicability to transactions involving such other Cards.

34.10. Publicity. Client may not use the logo, name, trademark, or service mark of Processor and/or Bank in any manner, including without limitation, in any advertisements, displays, or press releases, without the prior written consent of Processor and Bank.

15 Glossary

As used in this Agreement, the following terms mean as follows:

Acquirer: Bank in the case of MasterCard, Visa and certain debit transactions or Processor in the case of Discover Network transactions that acquire Card sale transactions from merchants such as yourself.

Address Verification Service ("AVS"): A service provided through which the merchant verifies the Cardholder's address, in whole or in part. Primarily used by Mail/Telephone/Internet order merchants, Address verification is intended to deter fraudulent transactions. However, it is not a guarantee that a transaction is valid.

Affiliate: 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: The Agreements among Client, Processor, and Bank, contained in the Application, the Program Guide and the Schedules thereto and documents incorporated therein, each as amended from time to time, which collectively constitute the Agreement among the parties.

Application: See Merchant Processing Application

Authorization: Approval by, or on behalf of, the Issuer to validate a transaction. An Authorization indicates only the availability of the Cardholder's Credit Limit or funds at the time the Authorization is requested.

Authorization Approval Code: A number issued to a participating merchant by the Authorization Center which confirms the Authorization for a sale or service.

Authorization Center: A department that electronically communicates a merchant's request for Authorization on Credit Card transactions to the Cardholder's bank and transmits such Authorization to the merchant via electronic equipment or by voice Authorization.

Bank: The bank identified on the Application signed by you.

Bankruptcy Code: Title 11 of the United States Code, as amended from time to time.

Batch: A single Submission to us of a group of transactions (sales and Credits) for settlement. A Batch usually represents a day's worth of transactions.

Business Day: Monday through Friday, excluding Bank holidays.

Card: See either Credit Card or Debit Card.

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

Card Not Present Sale/Transaction: A transaction that occurs when the Card is not present at the point-of-sale, including Internet, mail-order and telephone-order Card sales.

Card Organization: Any entity formed to administer and promote Cards, including without limitation MasterCard Worldwide ("MasterCard"), Visa U.S.A., Inc. ("Visa"), DFS Services LLC ("Discover Network"), American Express Company, Inc. ("American Express") and any applicable debit networks.

Card Organization Rules: 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 BBTs, the Quest Operating Rules).

Card Validation Codes: A three-digit value printed in the signature panel of most Cards. Visa's Card Validation Code is known as CVV2; MasterCard's Card Validation Code is known as CVC2; Discover Network'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).

Card Verification Value (CVV)/Card Validation Code (CVC): A unique value encoded on the Magnetic Stripe of a Card used to validate Card information during the Authorization process.

Cash Benefits: An EBT account maintained by an Issuer that represents pre-funded or day-of-draw benefits, or both, administered by one or more government entities, and for which the Issuer has agreed to provide access under the EBT program. Multiple benefits may be combined in a single cash benefit account.

Cash OverTransaction: Dispensing of cash by a merchant in connection with a Card sale, other than a PIN Debit Card transaction, for the purchase of goods or services.

Chargeback: A Card transaction (or disputed portion) that is returned to us by the Issuer. Client is responsible for payment to us for all Chargebacks.

Client: The party identified as 'Client' on the Application. The words 'Subscriber,' 'you' and 'your' refer to Client. Also, sometimes referred to as 'Merchant.'

Credit: A refund or price adjustment given for a previous purchase transaction.

Credit Card: A device bearing a valid Organization Mark of Visa, MasterCard or Discover Network and authorizing the Cardholder to buy goods or services on credit and, to the extent the Schedules 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 Schedules.

Credit Draft: A document evidencing the return of merchandise by a Cardholder to a Client, or other refund or price adjustment made by the Client to the Cardholder, whether electronic, paper or some other form, all of which must conform to Card Organization Rules and applicable law.

Credit Limit: The credit line set by the Issuer for the Cardholder's Credit Card account.

Customer Activated Terminal (CAT): A magnetic stripe terminal or chip-reading device (such as an automatic dispensing machine, Limited Amount Terminal, or Self-Service Terminal) that is not an ATM.

Data Usage Charge: Charged to you for our processing of Sales Data sent to us.

Debit Card: See either PIN Debit Card or Non-PIN Debit Card.

Dial-Up Terminal: An Authorization device which, like a telephone, dials an Authorization Center for validation of transactions.

Discount Rate: A percentage rate and/or amount charged a merchant for processing its qualifying daily Credit Card and Non-PIN Debit Card transactions, as set forth in the Application. Transactions that fail to meet applicable interchange requirements will be charged additional amounts as set forth in Section 18.1.

Electronic Benefit Transfer (EBT): An Electronic Benefits Transfer system used to deliver certain government delivered benefits, including without limitation Cash Benefits and FNS, SNAP and WIC Benefits, to EBT customers.

Electronic Draft Capture (EDC): A process which allows a merchant's Dial-Up Terminal to receive Authorization and capture transactions, and electronically transmit them to the Processor. This eliminates the need to submit paper for processing.

Factoring: The submission of authorization requests and/or Sales Drafts by a merchant for Card sales or cash advances transacted by another business. Factoring is prohibited.

Fixed Acquirer Network Fee (FANF): Fee that applies to the acceptance of all Visa branded products and is based on both the size and the number of merchant locations. The fee will be assessed per merchant Taxpayer ID, based on the number of merchant locations, Merchant Category Code (MCC), and monthly Total Gross merchant Sales Volume associated with each Taxpayer ID.

General Terms: Section of the Program Guide, including any amendments or modifications.

Gross: When referred to in connection with transaction amounts or fees, refers to the total amount of Card sales, without set-off for any refunds or Credits.

Imprinter: 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: The financial institution or Card Organization which has issued a Card to a Person.

Limited Amount Terminal: A Customer Activated Terminal that has data capture only capability, and accepts payment for items such as parking garage fees, road tolls, motion picture theater entrance, or magnetic-stripe telephones.

Magnetic Stripe: 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: Names, logos, emblems, brands, service marks, trademarks, trade names, tag lines or other proprietary designations.

MasterCard Processing Integrity Fee: The MasterCard Processing Integrity Fee is assessed in the event MasterCard cannot match an approved authorization to a settled transaction (within 120 days from the date the authorization was granted) or a reversal request (within a specific time frame). The Processing Integrity Fee can be avoided by settling transactions only with an approved authorization. If an authorization approval is no longer needed, it must be electronically reversed within 24 hours for a card-present transaction or within 72 hours for card not present transaction.

MC Cross Border Fee (USD): Assessed on any MasterCard¹ settled sale processed in USD Currency in which the country code of the merchant differs from the country code of the Cardholder (i.e., U.S. Merchant, Non U.S. Issued Card).

Media: The documentation of monetary transactions (i.e., Sales Drafts, Credit Drafts, computer printouts, etc.)

Merchant Account Number (Merchant Number): A number that numerically identifies each merchant location, outlet, or line of business to the Processor for accounting and billing purposes.

Merchant Identification Card: A plastic embossed card supplied to each merchant to be used for imprinting information to be submitted with each Batch of paper Sales Drafts. Embossed data includes Merchant Account Number, name and sometimes merchant ID code and terminal number.

Merchant Processing Application: The Merchant Processing Application and Agreement executed by Client, which is one of the documents comprising the Agreement.

Merchant Provider: Any Person engaged by you to provide services to you 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).

Non-Bank Services: Products and/or Services for which Bank is not responsible or a party to including American Express, PIN Debit Card, and Electronic Benefits Transfer Transactions and Transactions Involving Cards from other Non-Bank Card Organizations, such as Voyager Fleet Systems, Inc., Wright Express Corporation and Wright Express Financial Services Corporation, Discover, TransArmor, Fraud Services, Wireless, Global Gateway e4 Services, Global ePricing Services and other items as may be indicated in this Program Guide.

Agenda item 2

Non-PIN Debit Card: A device with a Visa, MasterCard or Discover Network Mark that is tied to a Cardholder's bank account or a prepaid account and which is processed without the use of a PIN.

Non-Qualified Interchange Fee: The difference between the interchange fee associated with the Anticipated Interchange Level and the interchange fee associated with the more costly interchange level at which the transaction actually processed.

Non-Qualified Surcharge: A surcharge applied to any transaction that fails to qualify for the Anticipated Interchange Level and is therefore downgraded to a more costly interchange level. The Non-Qualified Surcharge (the amount of which is set forth on the Service Fee Schedule) is in addition to the Non-Qualified Interchange Fee, which is also your responsibility (see above, Section 18.1)

Operating Procedures: The information prepared by Processor, containing operational procedures, instructions and other directives relating to Card transactions. The current Operating Procedures are set forth in Part A of the Program Guide.

PAN Truncation: A procedure by which a Cardholder's copy of a Sales Draft or Credit Draft, or as required by applicable law, the Sales Draft or Credit Draft you retain, will only reflect the last four digits of the Card account number.

Person: A third party individual or entity, other than the Client, Processor or Bank.

PIN: A Personal Identification Number entered by the Cardholder to submit a PIN Debit Card transaction.

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

PIN Debit Sponsor Bank: The PIN Debit Sponsor Bank(s) identified on the Application signed by you that is/are the sponsoring or acquiring bank(s) for certain PIN Debit networks.

Point of Sale (POS) Terminal: A device placed in a merchant location which is connected to the Processor's system via telephone lines and is designed to authorize, record and transmit settlement data by electronic means for all sales transactions with Processor.

Processor: The entity identified on the Application (other than the Bank) which provides certain services under the Agreement.

Program Guide (also known as the Merchant Services Program Terms and Conditions): The booklet which contains Operating Procedures, General Terms, Third Party Agreements and Confirmation Page, which together with the Application and the Schedules thereto and documents incorporated therein, constitute your Agreement with Processor and Bank.

Recurring Payment Indicator: A value used to identify transactions for which a Cardholder provides permission to a merchant to bill the Cardholder's Card account at either a predetermined interval or as agreed by the Cardholder for recurring goods or services.

Referral: A message received from an Issuer when an attempt for Authorization requires a call to the Voice Authorization Center or Voice Response Unit (VRU).

Reserve Account: An account established and funded at our request or on your behalf, pursuant to Section 24 of the Agreement.

Resubmission: A transaction that the Client originally processed as a Store and Forward transaction but received a soft denial from the respective debit network or Card Organization. The resubmission transaction allows the merchant to attempt to obtain an approval for the soft denial, in which case Client assumes the risk that the transaction fails.

Retrieval Request/ Transaction Documentation Request: A request for documentation related to a Card transaction such as a copy of a Sales Draft or other transaction source documents.

Sales/Credit Summary: The identifying form used by a paper Submission merchant to indicate a Batch of Sales Drafts and Credit Drafts (usually one day's work). Not a Batch header, which is used by electronic merchants.

Sales Draft: Evidence of a purchase, rental or lease of goods or services by a Cardholder from, and other payments to, Client 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.

Schedules: The attachments, addenda and other documents, including revisions thereto, which may be incorporated into and made part of this Agreement concurrently with or after the date of this Agreement.

Self-Service Terminal: A Customer Activated Terminal that accepts payment of goods or services such as prepaid cards or video rental, has electronic capability, and does not accept PINs.

Servicers: Bank and Processor collectively. The words 'we,' 'us' and 'our' refer to Servicers, unless otherwise indicated in this Program Guide.

Services: The activities undertaken by Processor and/or Bank, as applicable, to authorize, process and settle all United States Dollar denominated Visa, MasterCard and Discover Network transactions undertaken by Cardholders at Client's location(s) in the United States, and all other activities necessary for Processor to perform the functions required by this Agreement for all other Cards covered by this Agreement.

Settlement Account: An account or account(s) at a financial institution designated by Client as the account to be debited and credited by Processor or Bank for Card transactions, fees, Chargebacks and other amounts due under the Agreement or in connection with the Agreement.

Split Dial: A process which allows the Authorization terminal to dial directly to different Card processors (e.g., American Express) for Authorization. In this instance, the merchant cannot be both EDC and Split Dial. Split Dial is also utilized for Check Guarantee companies.

Split Dial/ Capture: Process which allows the Authorization terminal to dial directly to different Card processors (e.g., Amex) for Authorization and Electronic Draft Capture.

Store and Forward: A transaction that has been authorized by a merchant when the merchant cannot obtain an 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.

Submission: The process of sending Batch deposits to Processor for processing. This may be done electronically or by mail.

Summary Adjustment: An adjustment to your Submission and/or Settlement Accounts in order to correct errors. (See Sections 10.3 and 10.4).

Telecommunication Card Sale: Individual local or long-distance telephone calls, for which the telephone service provider is paid directly by use of a Card. These do not include, however, calls paid for with pre-paid telephone service cards. Telecommunication Card Sales are considered Card Not Present Sales.

Transaction Fees: Service costs charged to a merchant on a per transaction basis.

Transaction Integrity Fee: Fee assessed on Visa Debit Card and prepaid Card purchase transactions that either fail or do not request CPS qualification.

Us, We and Our: See Servicers.

Visa International Service Fee: Assessed on any Visa settled sale where the merchant is located in the U.S. and the Card is issued outside of the U.S. (i.e., U.S. Merchant, Non U.S. Issued Card).

Visa Misuse of Auth: Charged to Visa authorized transactions that are not followed by a matching Visa settled transaction (or in the case of a canceled transaction, not properly reversed). The fee can be avoided by settling your transactions within 10 days for Non Travel and Entertainment (T&E) Merchants Segments and 20 days for T&E merchants. If an authorization is not needed, the authorization must be electronically reversed within 24 hours for face to face authorizations and reversed within 72 hours for Card Absent authorizations.

Visa Zero \$ Verification: Charged for Visa Card verification requests (without an actual dollar authorization). This fee can be avoided by obtaining an authorization request for the amount of the sale. If the authorization is not needed, the authorization request must be electronically reversed within 24 hours for face to face authorizations and reversed within 72 hours for Card Absent authorizations (to avoid the Visa Misuse of Authorization System fee).

Visa Zero Floor Limit: Charged when a Visa sale is settled without the required authorization (transaction ID is used to match the authorization to settled sale). All transactions above zero dollars require an authorization approval. This fee can be avoided by only settling transactions that have been approved. If an authorization is declined, the merchant must request another form of payment.

You, Your: See Client.

¹MasterCard Credit or Debit Card, Cirrus Card, or Maestro Card.

PART 111: ADDITIONAL IMPORTANT INFORMATION FOR CARDS

A.1. Electronic Funding Authorization

All payments to Client shall be through the Automated Clearing House ("ACH") and shall normally be electronically transmitted directly to the Settlement Account you have designated or any successor account designated to receive provisional funding of Client's Card sales pursuant to the Agreement. Client agrees that any Settlement Account designated pursuant to the preceding sentence will be an account primarily used for business purposes. Neither *Wells Fargo Bank, N.A.* nor Bluefin Payment Systems can guarantee the time frame in which payment may be credited by Client's financial institution where the Settlement Account is maintained.

Client hereby authorizes *Wells Fargo Bank, N.A.* and its authorized representative, including Bluefin Payment Systems, to access information from the Settlement Account and to initiate credit and/or debit entries by bankwire or ACH transfer and to authorize your financial institution to block or to initiate, if necessary, reversing entries and adjustments for any original entries made to the Settlement Account and to authorize your financial institution to provide such access and to credit and/or debit or to block the same to such account. This authorization is without respect to the source of any funds in the Settlement Account, is irrevocable and coupled with an interest. This authority extends to any equipment rental or purchase agreements which may exist with Client as well as to any fees, fines and assessments and Chargeback amounts of whatever kind or nature due to Bluefin Payment Systems or *Wells Fargo Bank, N.A.* under terms of this Agreement whether arising during or after termination of the Agreement. This authority is to remain in full force and effect at all times unless and until Bluefin Payment Systems and *Wells Fargo Bank, N.A.* have consented to its termination at such time and in such a manner as to afford them a reasonable opportunity to act on it. In addition, Client shall be charged twenty-five dollars (\$20.00) for each ACH which cannot be processed, and all subsequent funding may be suspended until Client either (i) notifies Bluefin Payment Systems that ACH's can be processed or (ii) a new electronic funding agreement is signed by Client. Client's Settlement Account must be able to process or accept electronic transfers via ACH.

A.2. Funding Acknowledgement

Automated Clearing House (ACH). Automated Clearing House (ACH). Your funds for MasterCard, Visa and Discover Network transactions will ordinarily be processed and transferred to your financial institution within two (2) Business Days from the time a batch is received by Processor if your financial institution is the Bank. If your financial institution is not the Bank, your MasterCard, Visa and Discover Network transactions will ordinarily be processed via the Federal Reserve within two (2) Business Days from the time a batch is received by Processor. The Federal Reserve will transfer such amounts to your financial institution.

A.3. Additional Fees and Early Termination

If Client's MasterCard, Visa and Discover Network transaction(s) fail to qualify for the discount level contemplated in the rates set forth in the Application, Client will be billed the fee indicated in the Mid-Qualified Discount field or Non-Qualified Discount field. If you are utilizing the Enhanced Billback Discount option, the Client will be charged the Enhanced Billback Rate on the volume of said transaction that failed to qualify, in addition to the difference between the MasterCard/Visa/Discover Network Qualified Rate agreed to on the Service Fee Schedule and the actual interchange rate assessed to the downgraded transaction.

- a. Any increases or decreases in the interchange and /or assessment portion of the fees;
- b. The appropriate interchange level as is consistent with the qualifying criteria of each transaction submitted by Client;
- c. Increases in any applicable sales or telecommunications charges or taxes levied by any state, federal or local authority related to the delivery of the services provided by Bluefin Payment Systems when such costs are included in the Service or other fixed fees.

The discount fees shown on the Service Fee Schedule shall be calculated based on the gross sales volume of all Visa and MasterCard and Discover volume.

A Monthly Minimum Processing Fee will be assessed immediately after the date Client's Application is approved. (Refer to Service Fee Schedule, if applicable.)

In addition to the PIN Debit Card transaction fees set forth on the Application, Client shall be responsible for the amount of any fees imposed upon a transaction by the applicable debit network.

The parties further agree and acknowledge that, in addition to any remedies contained herein or otherwise available under applicable law and, if (a) Client breaches this Agreement by improperly terminating it prior to the expiration of the initial term of the Agreement, or (b) this Agreement is terminated prior to the expiration of the initial term of the Agreement due to an Event of Default, then Servicers will suffer a substantial injury that is difficult or impossible to accurately estimate. Accordingly, the parties have agreed that the amount described below is a reasonable pre-estimate of Servicers' probable loss.

In the event that Client terminates this Agreement within three (3) years from the date of approval by Bluefin Payments and Wells Fargo Bank, N.A. or this Agreement is terminated by Servicers within 3 years from the date of approval due to an Event of Default, Client will be charged a \$500.00 fee for such early termination. Client understands that any unsettled transaction data received by us on or after the date of termination will not be processed. Client agrees that termination of this Agreement shall not affect our rights or your obligations relating to any applicable termination fees or Chargebacks that occurred prior to the date of termination, even if the Chargebacks are instigated after the date of termination.

Client's obligation with respect to the Monthly Minimum Processing Fee will end simultaneously with Bluefin Payment Systems' receipt of Termination Fee.

A.4. 6050W of the Internal Revenue Code

Pursuant to Section 6050W of the Internal Revenue Code, merchant acquiring entities and third party settlement organizations are required to file an information return for each calendar year reporting all payment card transactions and third party network transactions with payees occurring in that calendar year. Accordingly, you will receive a Form 1099-K reporting your gross transaction amounts for each calendar year. Your gross transaction amount refers to the gross dollar amount of the card transactions processed through your merchant account with us. In addition, amounts reportable under Section 6050W are subject to backup withholding requirements. Payors will be 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 you provide us with the correct name and TIN that you use when filing your tax return that includes the transactions for your business.

A.5. Addresses For Notices

PROCESSOR:
Bluefin Payment Systems:
 8200 Roberts Drive, Suite 150
 Atlanta, GA 30350

Important Phone Numbers:
(see also Sections 3.3 and 5.4)
 Customer Service
 1-800-675-6573

BANK:
Wells Fargo Bank N.A.:
 1200 Montego
 Walnut Creek, CA 94598
 Attn: Merchant Services
 (925) 746-4143

PayGOV.US, LLC.
5144 E. Stop 11 Road, Suite #17
Indianapolis, IN 46237

AGENCY SERVICE AGREEMENT

THIS AGREEMENT effective _____ by and between **PayGOV.US LLC (Hereinafter PGV)**, with its principal address at 5144 E. Stop 11 Road, Suite #17 and the _____ (**Hereinafter The AGENCY**), with its principal address at _____

_____ for a month to month term cancelable by 30 days written notice by either party.

PGV has designed and developed a payment processing system for Government agencies, to include operator-assisted and Internet processing services to enhance the collection of Payments or other obligations on a 24/7 basis. The person wanting to pay an obligation to **THE AGENCY** by credit or debit card, or any of its departments, may do so by calling the **PGV** toll-free number, or logging on to the designated website link (where applicable), at no cost to **THE AGENCY**. **PGV** will charge the cardholder a 3.00% convenience fee for all POS, ONLINE, or OVER THE PHONE IN OFFICE transactions. A minimum fee of \$1.00 will apply. **PGV** will charge the cardholder a 4.95% convenience fee for all OPERATOR ASSISTED transactions. A minimum fee of \$4.95 will apply. Service includes timely and accurate transaction processing, next business day reconciliation and funds transfer via ACH transfer, or check, from **PGV** to **THE AGENCY**.

PGV will be the provider of the agreed upon merchant services to the **AGENCY** for the awarded payment processing services during the period beginning on the date on which **PGV** and the **AGENCY** execute the Agreement. **PGV** agrees **THE AGENCY** is not responsible for any compensation for this service, nor shall **THE AGENCY** pay any associated operational costs, state or federal taxes on behalf of **PGV**. **PGV** accepts and agrees to perform all services associated with this agreement as an independent contractor and not as an employee of **THE AGENCY**. **PGV** and **THE AGENCY** each agree (i) to hold the other party's Confidential Information in strict confidence; (ii) not to disclose such information to any third parties without the prior written consent of the disclosing party or as required by law or regulation.

PGV will indemnify and save **THE AGENCY** harmless from any loss, cost damage, cardholder transaction disputes, charge-backs, and other expenses, including attorney's fees and litigation expenses, suffered or incurred due to **PGV's** negligence or failure to perform any of its obligations under this service agreement. **THE AGENCY** agrees to assist **PGV** with (i) any efforts necessary to facilitate collection of funds from any cardholder to include reinstatement of the obligation owed **AGENCY**; (ii) all cardholder information pertinent to any inquiry or dispute regarding payment made to the **AGENCY** via the services of **PGV**.

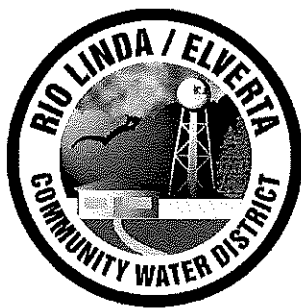
PGV represents it is qualified to perform the aforementioned services as outlined in this agreement, and that all work shall be accomplished in a workmanlike manner. **PGV** agrees to observe and comply with all federal, state, and local law in performing the services listed. This Agreement shall be governed by the law of the State of _____.

The initial term of this Agreement shall be month to month. This Agreement shall automatically be extended for an additional one month terms at the end of each month. **IN WITNESS WHEREOF, AGENCY and PGV** have caused this Agreement to be effective on the date executed by **THE AGENCY**.

Reviewed and Approved:

Date: _____

Laura J. Hiatt
PayGOV.US LLC.
Date: _____



Executive Committee Agenda Item: 3

Date: June 3, 2019

Subject: Preliminary 2019/2020 Budget

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

The Executive committee should forward an item onto the June 17th Board agenda to adopt the fiscal year 2019/2020 preliminary budget.

Current Background and Justification:

Current District policy prescribes adoption of a preliminary budget in May of each year. The Finance discussed the anticipated and known changes to costs and revenues at the May 13th meeting. However, the Finance Committee agreed with staff's recommendation to postpone the preliminary budget adoption process in consideration of the potential negative impact (for budget adoption) and limited consequences (for one-month postponement) in the context of the then pending MOU renewal.

The MOU was approved, and the potential consequences issue is eliminated. It is now entirely necessary and appropriate to adopt a preliminary budget for FY 2019/2020. This allows for District continued operation on and after July 1st and continuing until the final budget can be adopted in August pursuant to District policy.

Conclusion:

I recommend the Executive Committee forward an item onto the June 17th Board agenda to consider adopting the FY 2019/2020 preliminary budget.

**PRELIMINARY
OPERATING BUDGET
2019-20**

Agenda Item 3

			2018-2019 ACTUAL JULY 18-MAR 19	2018-2019 BUDGET	2019-2020 BUDGET	DIFFERENCE	EXPLANATION
REVENUE							
	40000 OPERATING REVENUE						
	40100 Water Service Rates						
	40101	Basic Service Charge	1,240,517.00	1,863,992.00	1,901,272.00	37,280.00	Ordinance 2016-02 Increase; Water Rate Study Table 2.1
	40102	Usage Charge	551,914.00	637,187.00	656,303.00	19,116.00	Ordinance 2016-02 Increase; Water Rate Study Table 2.1
	40105	Backflow Charge	21,510.00	25,000.00	25,000.00	0.00	
	40106	Fire Prevention	11,370.00	10,600.00	11,225.00	625.00	Increased to adjust for projected revenues
		Total Water Service Rates	1,825,311.00	2,536,779.00	2,593,800.00	57,021.00	
	40200 Water Service Fees						
	40201	Application Fees	9,600.00	15,000.00	6,500.00	(8,500.00)	Decreased to adjust for a lower fee based on actual cost to process applications
	40202	Delinquency	18,865.00	26,000.00	80,000.00	54,000.00	Increased to include Late, Notice Tag & Shutoff Charges; Previously Late Penalty Fee; includes prior year budget 40202 & 40203
	40203	Disconnect Tag/NSF Fee	47,225.00	54,000.00	0.00	(54,000.00)	Account no longer used; see 40202
	40204	Termination/Reconnection	4,240.00	7,000.00	0.00	(7,000.00)	Account no longer used; see 40209
	40209	Misc. Charges	642.00	2,000.00	12,000.00	10,000.00	Account previously Other Account Service Fees; Budget includes prior year budgeted GL 40209, 40204, and 40303.
		Total Water Services	80,572.00	104,000.00	98,500.00	(5,500.00)	
	40300 Other Water Service Fees						
	40301	New Construction QC	3,995.00	4,000.00	4,000.00	0.00	
	40302	Service Connection Fees	8,300.00	10,000.00	10,000.00	0.00	
	40303	Other Field Service Fees	1,410.00	3,000.00	0.00	(3,000.00)	Account no longer used; see 40209
	40304	Other Operating Revenue	6,665.00	6,000.00	6,000.00	0.00	
	40305	Grant Revenue-Operating	200.00	650.00	0.00	(650.00)	Decreased to eliminate Rebate Program
		Total Other Water Service Fees	20,570.00	23,650.00	20,000.00	(3,650.00)	
	TOTAL OPERATING REVENUE		1,926,453.00	2,664,429.00	2,712,300.00	47,871.00	
	41000 NON-OPERATING REVENUES						
	41110	Investment Revenue	362.00	400.00	400.00	0.00	
	41120	Property Taxes & Assessments	50,562.00	70,000.00	81,856.00	11,856.00	Increased based on prior 3 year average
	TOTAL NON-OPERATING REVENUE		50,924.00	70,400.00	82,256.00	11,856.00	
TOTAL REVENUE			\$1,977,377.00	\$2,734,829.00	\$2,794,556.00	59,727.00	

**PRELIMINARY
OPERATING BUDGET
2019-20**

			2018-2019 ACTUAL JULY 18-MAR 19	2018-2019 BUDGET	2019-2020 BUDGET	DIFFERENCE	EXPLANATION
OPERATING EXPENSE							
60010 PROFESSIONAL FEES							
	60011	General Counsel fees-Legal	\$41,294.00	\$65,000.00	\$65,000.00	\$0.00	
	60012	Auditor Fees	13,379.00	13,379.00	10,731.00	(2,648.00)	Decreased to adjust for GASB 75 (replaced GASB 45) non full actuarial year; includes 2.5% increase annual financial audit
	60013	Engineering Services	51,240.00	70,000.00	70,000.00	0.00	
	60015	Other Professional Fees	10,785.00	17,600.00	25,000.00	7,400.00	Increased to project for Prop 218 rate study contract
	TOTAL PROFESSIONAL FEES		116,698.00	165,979.00	170,731.00	4,752.00	
60100 PERSONNEL SERVICES							
60110 Salaries & Wages							
	60111	Salary - General Manager	77,395.00	109,664.00	113,344.00	3,680.00	Increased to adjust for projected cost
	60112	Staff Regular Wages	363,772.00	525,000.00	569,444.00	44,444.00	Increased to adjust for projected cost
	60113	Contract Extra Help	0.00	0.00	0.00	0.00	
	60114	Staff Standby Pay	12,900.00	18,250.00	18,250.00	0.00	
	60115	Staff Overtime Pay	6,735.00	10,200.00	10,200.00	0.00	
	Total Salaries & Wages		460,802.00	663,114.00	711,238.00	48,124.00	
60150 Employee Benefits and Expenses							
	60151	PERS Retirement	102,652.00	138,987.00	123,240.00	(15,747.00)	Decreased to adjust for projected costs
	60152	Workers Compensation	10,798.00	14,937.00	16,054.00	1,117.00	Actual Annual Contribution Change
	60153	Medical & Benefit Insurance	120,222.00	160,000.00	217,740.00	57,740.00	Increased using employee allowance and GM per MOU/Contract amounts
	60154	Retirees Insurance	15,459.00	22,110.00	22,110.00	0.00	
	60155	Staff Training	1,112.00	3,500.00	5,000.00	1,500.00	Increased to combine with GL 60156 prior year budget
	60156	Management Training	0.00	1,500.00	0.00	(1,500.00)	Decreased to eliminate account & combine with GL 60155
	60157	Uniforms	2,537.00	4,350.00	4,650.00	300.00	
	60158	Payroll Taxes	39,643.00	53,400.00	56,494.00	3,094.00	Increased to adjust for projected costs
	60159	Payroll Services	618.00	550.00	1,200.00	650.00	Increased to adjust for projected costs related to FSA Plan
	60160	457 Employer Contribution	6,270.00	8,765.00	9,425.00	660.00	Increased to adjust for projected costs
	Total Employee Benefits and Expenses		299,311.00	408,099.00	455,913.00	47,814.00	
	TOTAL PERSONNEL SERVICES		\$760,113.00	\$1,071,213.00	\$1,167,151.00	\$95,938.00	

PRELIMINARY
OPERATING BUDGET
2019-20

		2018-2019 ACTUAL JULY 18-MAR 19	2018-2019 BUDGET	2019-2020 BUDGET	DIFFERENCE	EXPLANATION	
60200 ADMINISTRATION							
	60205	Bank and Merchant Fees	\$21,880.00	\$26,000.00	\$4,500.00	(\$21,500.00) Decrease to adjust for Merchant Fees result of Convenience Fee policy	
	60207	Board Meeting Expense	10,875.00	16,770.00	10,770.00	(6,000.00) Decreased due to less ad hoc and special meeting compared to previous FY	
	60210	Building Expenses					
	60211	Office Utilities	4,269.00	6,000.00	6,000.00	0.00	
	60212	Janitorial	1,755.00	2,340.00	2,340.00	0.00	
	60213	Maintenance	3,807.00	7,500.00	7,500.00	0.00	
	60214	Security	252.00	400.00	400.00	0.00	
		Total Building Expenses	10,083.00	16,240.00	16,240.00	0.00	
	60220	Computer & Equipment Maint.					
	60221	Computer Systems	18,912.00	23,000.00	25,000.00	2,000.00	Increased based on prior year actual expense
	60222	Office Equipment	2,661.00	2,200.00	3,650.00	1,450.00	Increased to adjust for Neopost Maintenance Contract
		Total Computer & Equipment Maint.	21,573.00	25,200.00	28,650.00	3,450.00	
	60230	Office Expense	3,961.00	7,000.00	7,000.00	0.00	
	60240	Postage and Delivery	14,030.00	17,500.00	20,000.00	2,500.00	Increased to project for Prop 218 mailing
	60250	Printing	4,171.00	4,500.00	3,400.00	(1,100.00)	Decreased to omit cost of billing return envelope
	60255	Meetings & Conferences	4,784.00	10,000.00	4,000.00	(6,000.00)	Decreased to omit cost of ACWA conference
	60260	Publishing	514.00	1,300.00	800.00	(500.00)	Decreased using prior year actual
	60270	Telephone & Internet	3,738.00	5,500.00	5,500.00	0.00	
	60430	Insurance					
	60431	General Liability	16,360.00	22,997.00	22,997.00	0.00	
	60432	Property	3,997.00	5,329.00	5,329.00	0.00	
		Total Insurance	20,357.00	28,326.00	28,326.00	0.00	
	60500	Water Memberships					
	60501	SAWWA	103.00	225.00	110.00	(115.00)	Decreased to include only 1 staff membership
	60502	Regional Water Authority	9,667.00	9,667.00	9,667.00	0.00	
	60503	SGA	24,866.00	24,866.00	24,866.00	0.00	
	60504	ACWA	9,450.00	9,450.00	9,923.00	473.00	Increase includes 5% annual increase
	60505	CSDA	6,740.00	6,740.00	7,077.00	337.00	Increase includes 5% annual increase
	60506	AWWA	0.00	420.00	0.00	(420.00)	Decreased to cancel membership
	60507	CRWA	0.00	1,263.00	1,326.00	63.00	Increase includes 5% annual increase
		Total Water Memberships	50,826.00	52,631.00	52,969.00	338.00	
	60550	Permits & Fees	27,170.00	40,000.00	40,000.00	0.00	
	60555	Subscriptions & Licensing	1,363.00	2,120.00	2,120.00	0.00	
	60560	Elections	2,008.00	2,008.00	0.00	(2,008.00)	Decreased for Non Election Year
	60565	Uncollectable Accounts	0.00	2,000.00	2,000.00	0.00	
	60570	Other Operating Expenditures	140.00	500.00	500.00	0.00	
		TOTAL ADMINISTRATION	\$197,473.00	\$257,595.00	\$226,775.00	(\$30,820.00)	

**PRELIMINARY
OPERATING BUDGET
2019-20**

Agenda Item 3

			2018-2019 ACTUAL JULY 18-MAR 19	2018-2019 BUDGET	2019-2020 BUDGET	DIFFERENCE	EXPLANATION
64000 CONSERVATION							
	64001	Community Outreach	10.00	1,000.00	300.00	(700.00)	Decreased to adjust for lack of prior two year spending of \$233
	64002	Rebate Program	675.00	700.00	0.00	(700.00)	Decreased to eliminate program
	64003	Regional Conservation Program	5,048.00	5,048.00	0.00	(5,048.00)	Decreased to adjust for termination of program
	64005	Other Conservation Programs	0.00	0.00	0.00	0.00	
TOTAL CONSERVATION			5,733.00	6,748.00	300.00	(6,448.00)	
65000 FIELD OPERATIONS							
65100 Other Field Operations							
	65110	Backflow Testing	\$1,475.00	\$3,000.00	\$3,000.00	\$0.00	
	65120	Construction Equipment Maintenance	4,251.00	5,500.00	5,500.00	0.00	
	65130	Field Communication	3,173.00	4,500.00	2,600.00	(1,900.00)	Decreased to adjust for new Verizon service contract
	65140	Field IT	14,788.00	20,775.00	28,000.00	7,225.00	Increased for SCADA backup service; AMI Meter Cloud Service
	65150	Laboratory Services	22,844.00	23,500.00	23,500.00	0.00	
	65160	Safety Equipment	255.00	5,000.00	5,000.00	0.00	
	65170	Shop Supplies	3,553.00	5,000.00	5,000.00	0.00	
	Total Other Field Operations		50,339.00	67,275.00	72,600.00	5,325.00	
	65200	Treatment	13,797.00	15,000.00	15,000.00	0.00	
65300 Pumping							
	65310	Maintenance	22,656.00	25,000.00	25,000.00	0.00	
	65320	Electricity and Fuel	122,124.00	180,000.00	180,000.00	0.00	
	Total Pumping		144,780.00	205,000.00	205,000.00	0.00	
65400 Transmission & Distribution							
	65410	Distribution Supplies	29,431.00	37,000.00	37,000.00	0.00	
	65420	Meter Maintenance	56,515.00	56,534.00	56,600.00	66.00	Increased for rounding
	65430	Tank Maintenance	0.00	3,000.00	3,000.00	0.00	
	65440	Contract Repairs	1,200.00	21,000.00	21,000.00	0.00	
	65450	Valve Replacements	0.00	0.00	35,000.00	35,000.00	Increased to add new account; budgeted line item moved from Capital Budget to reflect as an operating expense.
	65460	Paving Repairs	0.00	0.00	25,000.00	25,000.00	Increased to add new account; budgeted line item moved from Capital Budget to reflect as an operating expense.
	Total Transmission & Distribution		87,146.00	117,534.00	177,600.00	60,066.00	
65500 Transportation							
	65510	Fuel	8,590.00	13,000.00	13,000.00	0.00	
	65520	Maintenance	3,773.00	6,000.00	6,000.00	0.00	
	Total Transportation		12,363.00	19,000.00	19,000.00	0.00	
TOTAL FIELD OPERATIONS			\$308,425.00	\$423,809.00	\$489,200.00	\$65,391.00	

PRELIMINARY
OPERATING BUDGET
2019-20

Agenda Item 3

			2018-2019 ACTUAL JULY 18-MAR 19	2018-2019 BUDGET	2019-2020 BUDGET	DIFFERENCE	EXPLANATION
TOTAL OPERATING EXPENSES			\$1,388,442.00	\$1,925,344.00	\$2,054,157.00	\$128,813.00	
NON OPERATING EXPENSES							
	69010 Debt Service						
	69100	Revenue Bond 2015					
	69105	Revenue Bond 2015-Principle	53,163.00	133,163.00	139,015.00	5,852.00	Per Loan Payment Schedule
	69120	Interest	33,260.00	65,726.00	61,717.00	(4,009.00)	Per Loan Payment Schedule
		Total Revenue Bond 2015	86,423.00	198,889.00	200,732.00	1,843.00	
	69125	AMI Meter Loan					
	69130	Principle	46,818.00	46,818.00	48,281.00	1,463.00	Per Loan Payment Schedule
	69135	Interest	11,696.00	11,696.00	10,233.00	(1,463.00)	Per Loan Payment Schedule
		Total AMI Meter Loan	58,514.00	58,514.00	58,514.00	0.00	
	69400	Other Non Operating Expense	0.00	2,000.00	2,000.00	0.00	
TOTAL NON OPERATING EXPENSES			\$144,937.00	\$259,403.00	\$261,246.00	\$1,843.00	
TOTAL EXPENSE			\$1,533,379.00	\$2,184,747.00	\$2,315,403.00	\$130,656.00	

**PRELIMINARY
OPERATING BUDGET
2019-20**

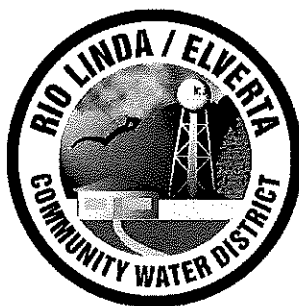
Agenda Item 3

		2018-2019 ACTUAL JULY 18-MAR 19	2018-2019 BUDGET	2019-2020 BUDGET	DIFFERENCE	EXPLANATION
NET INCOME (Income-Expense)		\$443,998.00	\$550,082.00	\$479,153.00	(\$70,929.00)	
OPERATING FUND BALANCE						
	Operating Account Balance June 30		\$634,454.00	\$634,536.00		
	Net Revenue		\$550,082.00	\$479,153.00		
	Transfer to CEBRT Funds		\$0.00	(\$20,000.00)		
	Transfer to GL 10010 Operating Reserve		\$0.00	(\$50,000.00)		One time adjustment to equal 1 months operating expenditures
	Transfer to Capital Improvement Funds		(\$550,000.00)	(409,153.00)	(140,847.00)	
	Estimated Operating Fund Balance June 30		\$634,536.00	\$634,536.00	(\$140,847.00)	
SURCHARGE 1 FUND BALANCE						
	Surcharge 1 Fund Balance June 30		\$497,603.00	\$565,413.00		
	43010 Surcharge Revenue		523,374.00	523,374.00	0.00	
	41110 Investment Revenue		8,000.00	8,000.00	0.00	
	69155 SRF Principle		(342,540.00)	(351,403.00)	8,863.00	Per Loan Payment Schedule
	69160 SRF Interest		(118,814.00)	(109,952.00)	(8,862.00)	Per Loan Payment Schedule
	69220 SRF Administration		(2,210.00)	(2,100.00)	(110.00)	Zions Investment Advisor Fees per prior FY actual
	Estimated Surcharge 1 Fund Balance June 30		\$565,413.00	\$633,332.00	(\$109.00)	
SURCHARGE 2 FUND BALANCE						
	Surcharge 2 Fund Balance June 30		\$399,687.00	\$71,936.00		
	43050 Surcharge 2 Revenue		439,019.00	439,019.00	0.00	
	41110 Investment Revenue		20.00	20.00	0.00	
	Surcharge 2 Surplus Repayment		(435,752.00)	(110,201.00)	(325,551.00)	Per Loan Payment Schedule
	69180 Principle		(195,000.00)	(210,000.00)	15,000.00	Per Loan Payment Schedule
	69185 Interest		(136,038.00)	(118,818.00)	(17,220.00)	Per Loan Payment Schedule
	Estimated Surcharge 2 Fund Balance June 30		\$71,936.00	\$71,956.00	(\$327,771.00)	
CERBT FUND BALANCE						
	CERBT Fund Balance June 30		\$0.00	\$16,355.75		
	Annual Deposit from Operating Revenues		0.00	20,000.00	20,000.00	Increased for new budgeted amount
	41110 Investment Revenue		0.00	500.00	500.00	Estimated Only
	Deposit Transfer from LAIF		16,355.75	0.00	(16,355.75)	Carryover from prior year only
	Estimated CERBT Fund Balance June 30		\$16,355.75	\$36,855.75	\$20,500.00	
LAIF FUND (CAPACITY FEES) BALANCE						
	LAIF Fund Balance June 30		\$0.00	\$159,332.00		
	44100 Capacity Fee Revenue		0.00	40,000.00	40,000.00	Used prior year budget amount
	41110 Investment Revenue		0.00	500.00	500.00	Estimated
	Deposit Transfer Prior Year Connection Balance		159,332.00	0.00	(159,332.00)	Carryover from prior year only
	Estimated LAIF Fund Balance June 30		\$159,332.00	\$199,832.00	\$40,500.00	

**PRELIMINARY
CAPITAL BUDGET
2019-20**

Agenda Item 3

	GENERAL	CHROMIUM MITIGATION & NEW WELLS	VEHICLE REPLACEMENT	TOTAL
ESTIMATED BEGINNING BALANCE	1,889,935.00	63,915.00	10,000.00	1,963,850.00
FUNDING SOURCES				
Fund Transfers				
Operating Fund Transfers In	409,153.00	0.00	0.00	409,153.00
CIP Fund Intrafund Transfers	(5,000.00)	0.00	5,000.00	0.00
Surcharge 2 Surplus Repayment	0.00	110,201.00	0.00	110,201.00
Contributed Funding				
Contributed Facilities (Developers)	0.00	0.00	0.00	0.00
Grant Revenue	0.00	516,500.00	0.00	516,500.00
Loan Proceeds	0.00	2,033,500.00	0.00	2,033,500.00
Investment Revenue	350.00	0.00	0.00	350.00
Sale of Fixed Assets	0.00	0.00	0.00	0.00
TOTAL FUNDS AVAILABLE FOR CIP PROJECTS	2,294,438.00	2,724,116.00	15,000.00	5,033,554.00
PROJECTS				
A · WATER SUPPLY				
A-1 · Well XX - Cr6 Treatment/Design	0.00	50,000.00	0.00	50,000.00
A-2 · Well 16	0.00	2,500,000.00	0.00	2,500,000.00
A-3 · Miscellaneous Pump Replacements	40,000.00	0.00	0.00	40,000.00
Total A · WATER SUPPLY	40,000.00	2,550,000.00	0.00	2,590,000.00
B · WATER DISTRIBUTION				
B-1 · Service Replacements	30,000.00	0.00	0.00	30,000.00
B-2 · Large Meter Replacements	5,000.00	0.00	0.00	5,000.00
Total B · WATER DISTRIBUTION	35,000.00	0.00	0.00	35,000.00
C · CONTINGENCY				
C-1 · Contingency (10% of Est A,B,M)	7,500.00	255,000.00	0.00	262,500.00
TOTAL BUDGETED PROJECT EXPENDITURES	82,500.00	2,805,000.00	0.00	2,887,500.00
ESTIMATED ENDING BALANCE	2,211,938.00	(80,884.00)	15,000.00	2,146,054.00



Executive Committee Agenda Item: 4

Date: June 3, 2019

Subject: Capital Improvement Plan Projects List Updating

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

The Executive committee should continue providing the direction to staff and pick up where the Planning Committee left off at the May 3rd meeting.

Current Background and Justification:

The May Planning Committee provided direction to staff on the recommended prioritization of projects on the list. The Planning Committee further recommended modifying the Well # 12 project from a “design only” project, which can be misleading. To an actual project, complete with design and construction costs. Staff confirmed the District needs the project and the Committee provided direction to the Engineer to begin work on estimate the full cost of the Well #12 project.

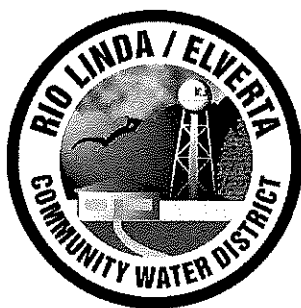
Other items directed to staff included continuing to keep the River Arc project and EDWPA project on the projects list as long as these projects continue to be zero cost for participation projects.

When all refinements have been complete and the schedule for completion of each item has been established, that data will be used to revise the Capital Budget. The Board should then adopt the revised project list and corresponding revised Capital Budget.

Conclusion:

There is no need for a Board agenda item at this time. The Capital Improvement Plan projects list requires continued refinements.

Rio Linda / Elverta Community Water District								
Capital Improvement Project List								
5/30/2019								
Budget FY(s)	Project Name	Budget Amount	Funding Source	Project Description (per budget documents)	Last Transaction Date	Amount Paid to Date	Status	Priority (Rankings to be discussed per Planning Committee discussion)
2016-17 2017-18	El Dorado County Water & Power Supply MOU	\$275,000.00	District	This budget item is a carryover project from previous capital budget. The cost was approved by the Board of Directors as part of a signed Memorandum of Understanding (MOU) between El Dorado Water and Power Authority (EDWAPA) and the District. The purpose of the MOU is for the District and EDWAPA to work together to put EDWAPA's surface water right to use by the District until EDWAPA has a need for them. The project is being administrated by EDWAPA.	9/27/2017	\$39,441.63	Active.	7
2016-17 2017-18	River Arc Participation	\$115,000.00	District	The River Arc Project consists of six local water purveyors (Rio Linda / Elverta Community Water District, City of Sacramento, Sacramento County Water Agency, California American Water Company, Placer County Water Agency, and City of Roseville) that are working together to construct a surface water treatment plant that treats Sacramento River water and delivers treated water to the region. The District is participating in this project to bring supplemental surface water into the District to supply the current and future customers with a combination of ground and surface water. This is a long range project that is planned to be built within the next 10 to 20 years.	7/21/2017	\$125,011.22	Suspended, but can opt back in.	8
2014-15	Well 12A Design	\$500,000.00	District	This budget item is for the plans and specifications to replace Well 12 with a new well that is more efficient and has an expected capacity of 1,500 gpm. The replacement well will be called Well 12A. This includes separate designs for (1) tests wells, (2) production well, and (3) above grade improvements (equipping), along with preparation of environmental documents and permitting.	5/6/2015	\$6,542.00	On hold pending funding availability. Currently existing Well 12 is pumping 325 gpm into the reservoir.	4
2019-20	Well 12A Construction	\$4,500,000.00	District	The budget item is for the construction of Well 12A detailed as follows: Construction of test wells, production well, and above grade improvements including pump and motor, piping, site work, back up generator, building, electrical, SCADA, and other appurtenances. Includes water quality and water capacity testing, construction management, inspection, and labor compliance.	N/A	\$0.00	On hold pending funding availability. Currently existing Well 12 is pumping 325 gpm into the reservoir.	5
2015-16	District Office Design and Permitting	\$30,000.00	District	This budget item is to complete plans and specifications for a new District Office that was planned to be built in the 2016/17 capital budget year. The existing office is not large enough for District operations and would require extensive upgrades to meet current code requirements.	12/1/2015	\$4,870.00	Two Rivers Architects: Preliminary Architect for District Office Building. On hold pending funding availability.	9
2015-16	Install 100 feet of 8" DIP in Paladin Way	\$20,000.00	District	This budget item will close a loop in Paladin Way eliminating two dead ends and providing better water quality and circulation to customers on this water line.	9/15/2015	\$2,120.00	On hold pending funding availability.	6
2018-19	Hexavalent Chromium (Cr6) Well Treatment Project	\$1,000,000.00	Opus Bank Loan and District.	This budget item is for the installation of a pre-packaged and skid mounted Cr6 treatment system at a District well site yet to be determined. The appropriate well site will be selected upon State Water Board Cr6 MCL determination and well site water quality data.	N/A	\$0.00	On hold pending the construction of Well 16 and State Water Board Cr6 MCL determination.	3
2018-19 2019-20	Well 16 Equipping Design	\$270,000.00	Proposition 84 Grant Funding and Opus Bank Loan.	The budget item is for the design of Well 16 detailed as follows: Design by a consultant of the above grade improvements including pump and motor, piping, site work (pavement, walls and fencing), back up generator, building, electrical, SCADA, and other appurtenances. Includes bidding support and District Engineer review. The project is expected be designed by August 31, 2019, and awarded to a contractor by December 31, 2019	N/A	\$0.00	Design in progress.	1
2019-20 2020-21	Well 16 Equipping Construction	\$3,270,000.00	Proposition 84 Grant Funding and Opus Bank Loan.	The budget item is for the construction of Well 16 detailed as follows: Construction of the above grade improvements including pump and motor, piping, site work (pavement, walls and fencing), back up generator, building, electrical, SCADA, and other appurtenances. Includes construction management, inspection, and labor compliance. The project is expected to be constructed by December 31, 2020.	N/A	\$0.00	Will be bid for construction in Quarter 3 of 2019.	2



Executive Committee Agenda Item: 5

Date: June 3, 2019

Subject: Status of Hexavalent Chromium MCL Re-Adoption

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

The Executive Committee should receive an update from staff regarding the state's published schedule for re-adopting the Hexavalent Chromium Maximum Contaminant Level, then consider the status as the deadline for actions associated with the Opus Bank loan approaches this September.

Current Background and Justification:

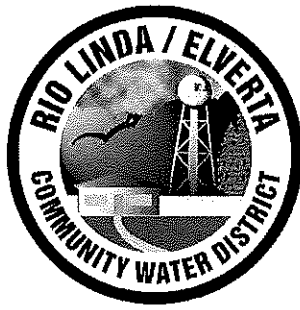
In May 2018, the State Water Resources Control Board (SWRCB) announced that re-establishing the Hexavalent Chromium MCL was their number one priority. In January 2019, the SWRCB announced a schedule for the MCL process to begin with a stakeholder's meetings in March/April of 2019. Those months have passed and there has been no update from SWRCB.

Additionally, one would reasonable expect an update at the spring ACWA conference. I contacted the ACWA Water Quality Committee, who confirmed that no update has been provided. The District Engineer and I have each reached out to SWRCB Division of Drinking Water contacts, and each request for update was fruitless.

The stall and postponement of schedule could simply reflect a shuffling of priorities under the new administration (Governor Newsome and his new appointment to SWRCB). Regardless, the District has a rapidly approaching need to know. In September, the District will need to take action to withdraw the remainder of the full \$3.8 million from Opus Bank for Hexavalent Chromium mitigation, or just the amount anticipated for completing the Well #16 project.

Conclusion:

There is no need for a Board agenda item at this time.



Executive Committee Agenda Item: 6

Date: June 3, 2019

Subject: New Policies for Personnel Handbook

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

The Executive Committee should forward an item onto the June 17th Board agenda, with recommendation for Board approval for several new policies which were negotiated as part of the recent MOU renewal.

Current Background and Justification:

As described in the recently approved MOU with the RLECWD General Unit, several new policies were incorporated into the negotiation process. The new MOU acknowledges the existence of the new policies, but the content and need for flexibility in the policy to comply with steadily evolving legislation and standards makes policy a better fit than MOU for the details.

The negotiation process identified four needed new policies: 1) Lateral Transfer/Promotion Policy, 2) Vacation Cash Out Policy, 3) Safety Footwear Policy, and 4) Certification Incentive Policy.

The above policies need to be adopted by the Board. If regulatory changes and/or operational needs require future modifications to the policies, the modification are appropriately subject to meet and confer with the Union requirements, but that process is less cumbersome than MOU revisions or addendums.

Conclusion:

I recommend the Executive Committee forward an item onto the June 17th Board agenda to consider adopting these new policies.

**RLECWD
Certification Incentive Policy**

Purpose: This policy is intended to encourage professional development in the employees at RLECWD, while assuring that the certifications incentivized are of value to the District.

Policy: Certification incentive increases will be authorized as set forth below, subject to the prior approval of the General Manager that receipt of such education/certification meets the needs of the District. Any certification that is incorporated into the requirements of the applicable position description will not be additionally compensated beyond base salary/wages.

- (a) A one percent (1%) increase shall be granted for each grade level above the grade level stipulated in the applicable position description for the following:
 - 1. State of California water treatment operator certification.
 - 2. State of California water distribution system operator certification.
 - 3. Dept. of Motor Vehicles Class B License (assumes the District acquires a vehicle requiring such license to operate).
 - 4. Water Use Efficiency Practitioner
- (b) A three percent (3%) wage increase shall be granted for backflow prevention assembly tester license.

Timing: The incentive pay for the above certifications will be granted beginning the first pay period following receipt of the actual certificate. Actual payment will only be made after a copy of the certificate is submitted to the General Manager. Employees are encouraged to coordinate with the General Manager prior to pursuing certifications to assure the certification meets the needs of the District. This will help preclude disappointment and confusion.

**RLECWD
Safety Footwear Policy**

Purpose

The purpose of this policy is to protect employees who work in areas where there is a danger of foot injuries or hazards.

Policy

District employees who are exposed to potential foot hazards during the normal course of duty are required to wear protective footwear. This includes but is not limited to exposure to falling or rolling objects; objects piercing the sole; exposure to electrical hazards; and material/equipment handling. Canvas shoes, soft sole shoes, or sandals do not provide adequate foot protection and hence shall not be worn in operational areas within the District.

Compliance

Failure to wear appropriate foot protection as required by this policy will be treated in accordance as a Safety Policy Violation. Employee would be subject to disciplinary actions which could lead to dismissal.

Responsibilities

Supervisors/Superintendents
are responsible for the following:

- Determining those employees who are exposed to foot hazards.
- Selection of and approval of the appropriate safety footwear for hazards identified.
- Enforcing the safety footwear program.

Employees

Each employee is expected to:

- Observe the foot protection requirements for their job.
- Attend required Safety training sessions.
- Properly wear, clean, maintain, and inspect equipment provided.

OSHA Accepted Standards

Foot protection shall comply with one of the following US Government mandated standards:

- ASTM F-2412-05 - "Standard Test Methods for Foot Protection" and ASTM F-2413-05 - "Standard Specification for Performance Requirements for Protective Footwear"
- ANSI Z41-1991, "American National Standard for Personal Protection -- Protective Footwear"
- ANSI Z41-1999, "American National Standard for Personal Protection -- Protective Footwear"

Specific Requirements

- Safety shoes or boots with impact protection are required to be worn in work areas where carrying or handling materials such as packages, objects, parts or heavy tools, which could be dropped; and for other activities where objects might fall onto the feet.
- Safety shoes or boots with compression protection are required for work activities involving skid trucks (manual materials handling cars) or other activities in which materials or equipment could potentially roll over an employee's feet.

Employees with physical problems that prevent the wearing of safety footwear must have a written statement from a physician, at the employee's expense, stating the reason safety footwear cannot be worn.

RLECWD VACATION CASH-OUT POLICY

Purpose

The purpose of this policy is to provide restrictions, clarification and guidance regarding vacation cash-out by RLECWD regular, benefited employees.

Scope

This policy applies to all regular, benefited RLECWD employees, who are entitled to cash out excess vacation.

Policy

By default, every regular, benefited RLECWD employee is restricted from cashing out vacation. To become eligible for cash out of up to 40-hours of excess vacation for each calendar year, the employee must satisfy all of the below criteria:

- Prior to the beginning of each calendar year, i.e. no later than the last working day of the previous calendar year, each regular, benefitted employee wishing to become eligible must complete RLECWD Vacation Cash Out Declaration Form (Exhibit A to this policy).
 - Filing, or choosing not to file, the RLECWD Vacation Cash Out Declaration Form is irrevocable, i.e. employees are prohibited from changing their status after the last working day of the previous calendar year. However, if an employee, who chose to be ineligible, endures specific unforeseen emergency circumstances, the employee may become eligible for excess vacation cash out. See Exhibit B to this policy for definitions of unforeseen emergency.
- Have an accrued balance of at least 180-hours of vacation at the time of cash out.
- Use at least 40-hours or vacation in conjunction with (i.e. cash out must be in the same pay period or an adjacent pay period) the cash out of excess vacation; so called Use a Week/Sell a Week.

Restrictions and Clarifications

If the employee elects to cash-out/sell a week during a given calendar year, he/she must do so by the last pay period entirely in December of that same calendar year. The cash out cannot be “rolled” into a future calendar year.

If an eligible employee (meets all the criteria delineated above) does NOT cash out vacation , the employee will be subject to payroll tax withholding in accordance with the Constructive Receipt Doctrine regardless of the fact that the employee did not receive the income from cash out. However, if the employee is otherwise ineligible due to failing to accrue at least 180-hours of

vacation at any time in the effected calendar year, the tax withholding consequence would not apply.

If an employee elects NOT to cash-out/sell a week of vacation for a given calendar year, the choice is irrevocable, except for the unforeseen emergency exemption described above and detailed in Exhibit B. The amount of cash out under the unforeseen emergency exemption is further restricted as detailed in Exhibit B.

EXHIBIT A

VACATION CASH-OUT DECLARATION FORM

Date:	
Employee Name (Please Print):	
For Calendar Year:	

"Use a Week, Sell a Week"

<p>I believe that I will have accrued 180 hours or more of vacation leave during the calendar year referenced above. I have elected to cash-out 40 hours of vacation leave and schedule a corresponding week of vacation during said calendar year.</p>	
Employee Signature:	

EXHIBIT B**Required Statutory Definitions**

Title 26, Code of Federal Regulations, Section 1.409A-3

(3) ***Unforeseeable emergency***—(i) *Definition*. For purposes of §§ 1.409A-1 and 1.409A-2, this section, and §§ 1.409A-4 through 1.409A-6, an *unforeseeable emergency* is a severe financial hardship to the service provider resulting from an illness or accident of the service provider, the service provider's spouse, the service provider's beneficiary, or the service provider's dependent (as defined in section 152, without regard to section 152(b)(1), (b)(2), and (d)(1)(B)); loss of the service provider's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by insurance, for example, not as a result of a natural disaster); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the service provider. For example, the imminent foreclosure of or eviction from the service provider's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the costs of prescription drug medication, may constitute an unforeseeable emergency. Finally, the need to pay for the funeral expenses of a spouse, a beneficiary, or a dependent (as defined in section 152, without regard to section 152(b)(1), (b)(2), and (d)(1)(B)) may also constitute an unforeseeable emergency. Except as otherwise provided in this paragraph (i)(3)(i), the purchase of a home and the payment of college tuition are not unforeseeable emergencies. Whether a service provider is faced with an unforeseeable emergency permitting a distribution under this paragraph (i)(3)(i) is to be determined based on the relevant facts and circumstances of each case, but, in any case, a distribution on account of unforeseeable emergency may not be made to the extent that such emergency is or may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the service provider's assets, to the extent the liquidation of such assets would not cause severe financial hardship, or by cessation of deferrals under the plan. A plan may provide for a payment upon a specific type or types of unforeseeable emergency, without providing for payment upon all unforeseeable emergencies, provided that any event upon which a payment may be made qualifies as an unforeseeable emergency.

(ii) ***Amount of payment permitted upon an unforeseeable emergency***. Distributions because of an unforeseeable emergency must be limited to the amount reasonably necessary to satisfy the emergency need (which may include amounts necessary to pay any Federal, state, local, or foreign income taxes or penalties reasonably anticipated to result from the distribution). Determinations of amounts reasonably necessary to satisfy the emergency need must take into account any additional compensation that is available if the plan provides for cancellation of a

deferral election upon a payment due to an unforeseeable emergency. See paragraph (j)(4)(viii) of this section. However, the determination of amounts reasonably necessary to satisfy the emergency need is not required to take into account any additional compensation that is available from a qualified employer plan as defined in § 1.409A-1(a)(2) (including any amount available by obtaining a loan under the plan), or that due to the unforeseeable emergency is available under another nonqualified deferred compensation plan (including a plan that would provide for deferred compensation except due to the application of the effective date provisions under § 1.409A-6). The payment may be made from any plan in which the service provider participates that provides for payment upon an unforeseeable emergency, provided that the plan under which the payment was made must be designated at the time of payment.

(iii) *Payments due to an unforeseeable emergency.* A service provider may retain discretion with respect to whether to apply for a payment upon an unforeseeable emergency, and a service recipient may retain discretion with respect to whether to make a payment available under the plan due to an unforeseeable emergency. A service provider who has experienced an unforeseeable emergency will not be treated as making a subsequent deferral election under § 1.409A-2(b) (subsequent deferral election rules) if the service provider does not apply for or elect to receive a payment available under the plan. A service recipient will not be treated as making a subsequent deferral election under § 1.409A-2(b) (subsequent deferral election rules) if the service recipient exercises its discretion not to make a payment otherwise available due to an unforeseeable emergency.

(4) *Disability*—(i) *In general.* For purposes of §§ 1.409A-1 and 1.409A-2, this section, and §§ 1.409A-4 through 1.409A-6, except as otherwise specifically provided, a service provider is considered disabled if the service provider meets one of the following requirements:

(A) The service provider is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months.

(B) The service provider is, by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving income replacement benefits for a period of not less than three months under an accident and health plan covering employees of the service provider's employer.

(ii) *Limited plan definition of disability.* A plan may provide for a payment upon any disability, and need not provide for a payment upon all disabilities, provided that any disability upon which a payment may be made under the plan complies with the provisions of this paragraph (i)(4).

(iii) *Determination of disability.* A plan may provide that a service provider will be deemed disabled if determined to be totally disabled by the Social Security Administration or Railroad Retirement Board. A plan may also provide that a service provider will be deemed disabled if determined to be disabled in accordance with a disability insurance program, provided that the

definition of disability applied under such disability insurance program complies with the requirements of this paragraph (i)(4).

Notes/ Clarifications

Service Provider = Employee

Service Recipient = Employer

RLECWD
LATERAL TRANSFER-PROMOTION POLICY

Purpose

This policy is a guideline for full-time benefitted employees to lateral transfer-promote into a different benefitted position within the District.

Definitions

For the purpose of this policy only, a full-time benefitted employee means non-management employee, currently working within the District.

Employee "in good standing" means a regular, non-probationary, employee who is not then subject to a disciplinary proceeding or under disciplinary action, including disciplinary probation. However, if an employee is on non-disciplinary probation the non-probationary clause may be waived subject to verification from the employee's current direct supervisor that he/she is on a path towards passing probation and that there are no existing disciplinary issues.

Scope

The District and Teamster Local 150 agree to the following language pertaining to the filling of vacant positions through internal promotions. The following language will be part of District policy applicable to non-management employee hires and may be incorporated into any Memorandum of Understanding between RLECWD and any employee representative upon request.

When the District intends to fill an open, non-management, position, it will first offer an opportunity to existing, regular employees in good standing to fill the position by providing employees with written notice of the vacancy. Employees who wish to apply must do so within three workdays after the date of the posting.

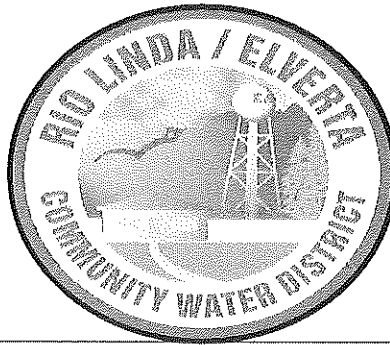
Policy

The lateral transfer-promotion posting will include the following:

- Three day written notice of the vacancy (via email or hard copy of email posted in a location(s) accessible to all employees). The District will make a reasonable effort to notify employees of the vacancy who are off work due to illness, injury, vacation or for some other reason. At a minimum, the district will place a telephone call to all numbers for the employee known to the district (home, cell) and provide three working days after the date of the call for response.
- Salary range.
- Position description.

Once the written notice is posted the employee may contact the person or persons listed in the notice to obtain a lateral transfer-promotion form. At the end of the three-day notification period the following will occur:

- The lateral transfer-promotion form(s) will be reviewed and position will be filled by an existing employee who applies for the position if there is an employee who meets the required qualifications.
- All applicants may also be subject to an interview panel.
- If more than one qualified existing employee applies for the position, the position will be filled by the most qualified employee as determined by the interview panel and examination (where applicable). A written examination (incorporating computer skills where appropriate) may be used to assure appropriate range of knowledge.
- If a written exam is deemed necessary, all qualified applicants will be given the same written exam and the employee with the highest passing score will be offered the position first.
- The District may waive some or all of the required qualifications and appoint a candidate with the understanding that the candidate will acquire the qualifications within a specified time period. In such circumstances, the District and the Union agree to meet and confer regarding the specified time period and the process to obtain the qualifications.
 - The time period and expectations to achieve the qualifications will be reduced to writing.
 - "If no existing employee who meets the required qualifications applies for the position, or if the District in its discretion chooses not to fill the position with an employee not meeting the required qualifications as described in the immediately preceding paragraph, the District will fill the position by seeking applications from outside of the organization."
 - "In the event that an existing employee transfers or is promoted, that employee will serve a probationary period of six months. If the employee fails the probationary period, the employee will be reinstated in his/her former position at the salary that the employee was receiving at the time of the appointment, subject to any changes in salary that would have been applicable to the employee if he/she had remained in the prior position. "



MEMORANDUM OF UNDERSTANDING

November 12, 2018 to November 12, 2021



THE RIO LINDA/ELVERTA
COMMUNITY WATER
DISTRICT

AND

THE RIO LINDA/ELVERTA COMMUNITY WATER DISTRICT GENERAL
UNIT

Fully Executed

730 L Street Rio Linda, CA

Contents

Article I. PURPOSE	3
Article II. NON-DISCRIMINATION.....	3
Article III. IMPLEMENTATION	4
Article IV. PLEDGE OF COOPERATION.....	4
Article V. RECOGNITION/UNION MEMBERSHIP	5
Article VI. CATEGORIES FOR APPOINTMENT	6
Article VII. PROBATIONARY PERIOD.....	7
Article VIII. WAGES	7
Article IX. HOURS OF WORK	9
Article X. PAYMENT OF WAGES.....	9
Article XI. STANDBY DUTY AND PAY.....	10
Article XII. BOOT ALLOWANCE.....	10
Article XIII. TERMINATION PAY	10
Article XIV. TRAVEL RELATED EXPENSES.....	11
Article XV. BENEFIT PROGRAM DEFINED	12
Article XVI. PAID HOLIDAYS.....	15
Article XVII. VACATION.....	16
Article XVIII. SICK LEAVE.....	17
Article XIX. COMPASSIONATE LEAVE.....	18
Article XX. OTHER LEAVES OF ABSENCE.....	18
Article XXI. JURY DUTY	19
Article XXII. TRAINING AND CAREER DEVELOPMENT	19
Article XXIII. EXTRA CONTRACT AGREEMENT	19
Article XXIV. NOTICES TO THE PARTIES.....	20
Article XXV. WORK RULES.....	21
Article XXVI. UNION REPRESENTATIVES	21
Article XXVII. PEACEFUL PERFORMANCE OF DISTRICT SERVICES	22
Article XXVIII. HEALTH AND SAFETY	22
Article XXIX. FULL UNDERSTANDING, MODIFICATIONS, WAIVER	22

Article XXX. SUCCESSORS 22

Article XXXI. SAVINGS CLAUSE 23

Article XXXII. CONTINUED EMPLOYMENT..... 23

Article XXXIII. TERMINATION OF EMPLOYMENT 23

Article XXXIV. DISCIPLINARY ACTION..... 24

Article XXXV. SENIORITY..... 28

Article XXXVI. GRIEVANCE PROCEDURE..... 29

Article XXXVII. DRESS CODE..... 30

Article XXXVIII. DURATION OF AGREEMENT 30

Article XXXIX. SIGNATURES..... 31

EXHIBIT A..... 32

Article I. PURPOSE

Section 1.01 It is the purpose of this Memorandum of Understanding (also referred to herein as “MOU” and “Agreement”) to promote and provide for harmonious relations, cooperation and understanding between Rio Linda/Elverta Community Water District (referred to hereinafter as “Employer” or “District”) and the Rio Linda/Elverta Community Water District General Unit (referred to hereinafter as “Union”) and the employees covered herein; to provide orderly means of attempting to resolve misunderstandings or differences which may arise under this Memorandum of Understanding; and to set forth the understanding of the parties reached as a result of good faith negotiations regarding the wages, hours and other terms and conditions, of employment of the employees covered hereby.

The negotiations for this MOU included the mutual agreement that some subject matter is better suited for inclusion as policies in the Personnel Handbook, e.g. the administration of FMLA and sick leave. The parties have agreed that the employer will implement and incorporate policies on the following into the Personnel Handbook:

- Lateral Transfer/Promotion
- Certification Incentive
- Safety Footwear
- Vacation Sell Back (Use a Week / Sell a Week)

The parties agree the District’s Personnel Handbook shall be applicable to bargaining unit employees, provided, however, that to the extent any policy contained in the District’s Personnel Handbook is in conflict with the provisions of this MOU, the provisions of the MOU shall prevail. Further, revisions to any policy having an impact on wages, benefits and working conditions remain subject to meet and confer requirements. The provisions of this MOU and the District Personnel Handbook shall be interpreted and administered in accordance with state and federal law.

Article II. NON-DISCRIMINATION

Section 2.01 The District and the Union agree not to discriminate against any employee for employment on account of his/her race, color, sex, veteran status, national origin, age, marital status, mental or physical disability, religion, sexual orientation, medical condition, gender identification, genetic background, military status, membership in the Union, or because of any lawful activities on behalf of the Union.

Article III. IMPLEMENTATION

Section 3.01 This Memorandum of Understanding constitutes a mutual recommendation to be submitted to the District's Board of Directors. This Memorandum of Understanding shall not be binding upon the parties in whole or in part unless and until said Board of Directors formally approves said Memorandum of Understanding. Additionally, this MOU shall not be binding in whole or in part unless and until it is ratified by a simple majority of Union members.

Article IV. PLEDGE OF COOPERATION

Section 4.01 Pledge of Cooperation: The parties to this MOU realize that resolutions which are in the best interest of the Union, employees and District, in the long run, are largely identical and all parties will benefit by a continuous, peaceful relationship and intelligent, constructive efforts to resolve any differences that may arise.

Section 4.02 The District and the Union have entered into a partnership that will ensure efficient and profitable operations while pledging to work together to best serve the needs of the District's customers.

Section 4.03 Labor and Management Advisory Committee: The District and the General Unit agree to form a committee with the designated objective of maintaining and improving the District's capacity to attract and retain qualified personnel resources. The committee will meet at least semi-annually, e.g. May and November of each calendar year. The committee will be comprised of the General Manager and three or more Unit employees to ensure a representation of the various areas of service specialties and employment dynamics within the District, e.g. operations, customer service, entry level and seasoned. The employee members of this committee may invite their Union Business Representative to participate as needed.

The committee will exercise both a near-term and long-range focus on goals and means for maintaining and improving the District's capacity for attracting and retaining employees sufficiently qualified to meet the District's current and future needs. Areas of focus will include compensation, professional development, lateral transfers/promotion and industry trends. Committee meetings will normally be held at District facilities during normal business hours. The committee will draft and submit a written report of their findings and opinions to the RLECWD Board of Directors.

Article V. RECOGNITION/UNION MEMBERSHIP

Section 5.01 Union Recognition: The District recognizes the Union as the exclusive bargaining representative for all Regular Full Time and Regular Part Time employees employed by the District in its General Unit, the classifications of which are set forth below. The District and the Union recognize the right of the employees to join the Union or not, and will not interfere with that right.

General Unit Classifications:

1. Laborer
2. Water Utility Worker
3. Distribution System Operator I
4. Distribution System Operator II
5. Distribution System Operator III
6. Distribution System Operator III/Foreman
7. Operations Superintendent
8. Administrative Assistant
9. Customer Service Technician I
10. Customer Service Technician II
11. Customer Service Tech I/Conservation Coordinator
12. Accounting Specialist

The District shall notify the Union, in writing, of all new hires within seven (7) days after the initial hire date. The information provided by the District regarding new hires shall contain name, job title, department, work location, work, home, and personal cellular phone numbers, personal email on file with the District and home address. Notwithstanding the foregoing, District shall not disclose the personal email address, cellular and/or home phone number and/or home address of any employee who submits a written request that such information remain private. The District shall provide a list of all previously stated information for all employees working for the District in the covered classifications once every 120 days (January 1, May 1 and September 1 of every year), with the exception of those employees who have requested in writing that the information remain private.

When a new employee orientation is scheduled, the Union will receive an invitation to such at least ten (10) days in advance of scheduled date of orientation, unless there is an unforeseeable urgent need requiring a shorter notice period, pursuant to California Government Code section 3556. District will allow the Union to meet with new employees hired into the bargaining unit for a total of 30 minutes during the employee orientation.

Payment of dues shall be by payroll deduction, after the District receives written authorization

from the Union to make these deductions. Upon receipt of written certification by the Union that an employee has signed a deduction authorization, the District will deduct the appropriate dues or fees from the employee's pay, as established and as may be changed from time to time by the Union, and will remit such dues or fees to the Union. Payroll deductions for members authorizing dues deduction will become effective the first of the pay period following the date the District receives written authorization from the Union to to make dues deductions. .

Employee requests to cancel or change deductions must be directed to the Union, rather than District. Payroll deductions will cease or be modified upon receipt of written certification from the Union that the employee has revoked or modified the deduction authorization for dues or fees. Revocations or modifications of authorizations will become effective the first of the pay period following District's receipt of the written certification of revocation or modification. Neither the District nor the Union will discriminate against any Unit member because of the exercise of their statutory rights.

In accordance with Government Code section 1157.12, the Union agrees to hold the District harmless from all claims, demands, suits or other forms of liability that may arise against the District for or on account of any deduction made from the wages of such employees pursuant to this memorandum of understanding

Article VI. CATEGORIES FOR APPOINTMENT

Section 6.01 The following categories of appointment may be made by the General Manager in conformity with the rules established:

- a. Regular Full-Time Employees. A regular full-time employee normally works at least forty (40) hours per week on a continuing indefinite basis. Such employees are subject to all District rules and policies and receive all benefits and rights as provided by this MOU.
- b. Regular Part-Time Employees. A regular part-time employee normally works less than 40 hours per week, but works on a regularly scheduled basis. Such employees are subject to all District rules and policies and receive all benefits and rights as provided by this MOU. Unless otherwise provided in this MOU or required by law, those rights or benefits shall be in proportion to their work hours, when financial or other numerical calculations are involved.
- c. Temporary Employees. Temporary employees may be appointed by the General Manager for up to one hundred and twenty (120) days. Temporary employees serve at the will and pleasure of the General Manager and may be terminated with or without cause and without right of appeal, hearing or grievance. Temporary employees are ineligible for benefits.

- d. Contract Services. Except as provided hereinafter, District retains the right, in its sole discretion, to contract out of office and operational fieldwork. The General Manager, in his or her sole discretion, may authorize the contracting out of office services and operational field work to supplement Regular Employees, provided, however, District agrees that it will not subcontract if it would reduce the work level of employees employed as of the effective date of this MOU.

Article VII. PROBATIONARY PERIOD

Section 7.01 All regular appointments shall be tentative and subject to a probationary period fixed by the General Manager at the time of appointment of not less than six (6) months nor more than twelve (12) months. The probationary period may not be extended beyond the length of time initially established, unless mutually agreed to between the employee and General Manager.

Section 7.02 The probationary period shall be regarded as part of the selection process. It shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to the position, and for rejecting a probationary employee whose performance does not meet acceptable standards of work.

Section 7.03 A performance report of each probationary employee shall be made by the General Manager. The employee performance valuation report shall be prepared by the General Manager upon the completion of the employee's third, and sixth month of employment. Thereafter, they shall be prepared every three months until the end of the probationary period.

Section 7.04 During the probationary period, an employee may be suspended, demoted, or terminated at any time by the General Manager without cause and without the right to appeal or to submit a grievance.

Article VIII. WAGES

Section 8.01 Base pay for covered classifications shall be defined as the regular rate of pay for that classification exclusive of overtime, incentive or certification pay, bonuses or any other compensation, reimbursement or recompense. The base pay shall be as set forth in the Wage Schedule for covered classifications, in Exhibit 'A',

- a. Effective the first pay period after ratification of this MOU, each hourly rated employee shall receive a \$1.33 per hour increase in base pay Effective the first pay period after ratification, all current Unit employees shall receive an increase in base pay of 1.9%. In addition, a lump sum corresponding to the 1.9% increase in base pay for the period from November 13, 2018 to the first pay period following ratification of this MOU will be provided to each current employee.

- b. Employees shall receive a Cost of Living Adjustment (COLA) not to exceed three percent (3%) in any one year, as set forth in the Wage Schedule (Exhibit 'A').

Section 8.02 The District may establish new or consolidated employee classifications within the General unit; provided, however, it shall meet and confer with the Union concerning the appropriate wage rate prior to implementing the classification or classifications.

Section 8.03 District agrees to furnish the Union with one (1) copy of each job description presently established and of such up-to-date job description as it may prepare in the future for the classifications set forth in Exhibit "A" attached hereto.

Section 8.04 Mileage will be reimbursed when the employee is requested or required to use his or her own vehicle on District business. Such reimbursement shall be calculated at the current mileage rate established by the Internal Revenue Service for business use.

Section 8.05 Uniforms. When employees are required to wear uniforms as provided by the Employer, the cost of laundering and furnishing shall be borne by the Employer. The Employer will yearly replace any damaged, worn uniforms, at the cost of the Employer. The number of uniforms issued where applicable, will be determined by the parties.

Section 8.06 An employee when first appointed to a position in a classification shall be assigned to a step on the appropriate pay range based upon qualifications for the position. Following a satisfactory evaluation of the employee's performance on the anniversary date of his or her appointment to the position, the employee shall be advanced one step until reaching the highest step on the range.

Section 8.07 Regular hourly rated employees shall be eligible to receive incentive pay in addition to base pay, in accordance with the District's Certification Incentive Policy. Provided that the General Manager has determined that an employee's receipt of a certification serves the District's operational needs, employees who obtain approved certifications shall receive certification incentive pay in the following amounts:

- a. A one percent (1%) increase in the employee's base pay shall be granted for each grade level above the grade level stipulated in the job description for the following:
 - 1. State of California water treatment operator certification;
 - 2. State of California water distribution system operator certification;
 - 3. State of California Dept. of Motor Vehicles Class B license.
 - 4. Water Use Efficiency Practitioner Grade I certification.
- b. A three percent (3%) increase over the employee's base rate shall be granted for a backflow prevention assembly tester license.

Certification incentive pay for receipt of pre-approved certifications/ licenses shall be granted in the first pay period following employee's receipt of the certification/license and in accordance with the policy set forth in the Personnel Handbook.

Article IX. HOURS OF WORK

Section 9.01 The work week shall begin at 12:00 am on each Sunday and end at 11:59 p.m. on Saturday. Scheduling of working hours during each week shall be done by the General Manager for each employee.

Section 9.02 The standard work hours are 7:00 a.m. to 4:00 p.m. depending upon operational requirements. The standard work week will not exceed 40 hours. The GM reserves the right to make reasonable changes to the standard work week and to the standard work hours due unforeseen circumstances or for other business reasons at the GM's discretion with reasonable notice to employees to accommodate emergencies or workload changes. Flexible schedules will be considered and may be implemented when, in the GM's determination, such schedules meet the District's business needs.

Section 9.03 An employee shall be in attendance at scheduled working hours in accordance with these rules and general departmental or program regulations. All employees shall keep daily attendance records, which shall be approved by the employee's immediate supervisor and submitted for payroll as specified by the General Manager.

Article X. PAYMENT OF WAGES

Section 10.01 Time of Payment: Except as otherwise mandated by law, all wages and salaries shall be paid on the 20th and 5th of each month, except when said date falls on Saturday, Sunday or a holiday, then the payment shall be made on the last working day preceding the usual date. The time of payment, i.e. semi-monthly pay periods may be changed if required to comply with flexible work schedules.

Section 10.02 Overtime Work: Unless exempt, all employees shall be eligible for overtime pay as provided under California law and in the Federal Fair Labor Standards Act (FLSA). Overtime pay shall be paid for all time worked in excess of 40 hours during a workweek or in excess of eight (8) hours in a given day, pursuant to State law. The 40 hours in a week and 8 hours in a day criteria may be modified to accommodate 4/10s or 9/80 work schedules. An employee shall be paid for overtime work at rates that comport with state federal or local law . Failure to obtain preauthorization from the immediate supervisor before working overtime is a violation of the District's rules and could result in disciplinary action.

Section 10.03 Reporting pay; Employees not on Standby as described below who are called to work on their day off or called back to work after they have left the job, will receive no less than three (3) hours of pay at 1½ times the Employee's regular hourly rate (base pay plus applicable incentive or other additional compensation). If the Employee is on standby, the Employee shall receive no less than fifteen (15) minutes of pay at 1-½ times the employee's regular hourly rate of reporting pay per call-out. If the employees work more than the two (2) hours and fifteen (15) minutes when they are called out, each hour of work shall be compensable at 1½ times the Employee's regular hourly rate.

Article XI. STANDBY DUTY AND PAY

Section 11.01 Compensation for assuming Standby Duty shall be \$50.00 per day. Additionally, employees assigned Standby Duty on District observed holidays will be provided 8-hours of additional Floating Holiday paid leave for each full day of stand by duty.

Section 11.02 To provide for and take care of problems and emergencies that occur outside regular work hours, certain employees shall be assigned to Standby Duty. Employees on Standby Duty are subject to call whenever needed. They shall keep themselves available for call and shall answer the after-hours emergency contact system. They shall keep assigned cellular phones in a location in which they can readily answer it at all times. The Standby employee must respond to after-hours emergencies within 30 minutes of call. Employees are expressly prohibited from being intoxicated while on Standby Duty.

Article XII. BOOT ALLOWANCE

Section 12.01 The District will provide up to \$250 as reimbursement for safety footwear in accordance with the Safety Footwear Policy in the Personnel Handbook. The effective date of increased reimbursement will be the first pay period following ratification of this MOU.

Article XIII. TERMINATION PAY

Section 13.01 At the time an employee terminates employment with the District, the employee shall be compensated for all unused accrued vacation as provided in Article 17 of this MOU, at the employee's then current rate of pay.

Article XIV. TRAVEL RELATED EXPENSES

Section 14.01 Employees traveling on District related business shall be eligible for reimbursement of pre-authorized travel expenses. Eligible travel related expenses shall include, but not be limited to, the following:

- Transportation on public carriers such as airplanes, trains, buses and taxi cabs;
- Private vehicle use and commercially available rental vehicles;
- Overnight lodging at commercial establishments;
- Meals at restaurants and other food service establishments;
- Conference and seminar fees and charges;
- Business related telephone calls, faxes, postage, copy charges and related incidentals;
- Tolls and parking fees
- Such other expenses approved by a majority of the Board of Directors.

Section 14.02 Reimbursement for travel related expenses shall be for actual costs subject to the following limitations:

- Reimbursement for meals not covered as part of the event or hotel registration fee shall be limited to the following amounts: Breakfast - \$13.00; Lunch - \$20.00; Dinner - \$30.00;
- Use of a personal vehicle: The current Internal Revenue Service (IRS) mileage rate for business travel shall be the only personal vehicle use expense eligible for reimbursement;
- Air and train travel shall be in an amount not to exceed the standard or coach fare;
- Entertainment or non-business-related events or expenses not provided as part of the conference fee shall not be eligible for reimbursement;
- Alcoholic beverages are not eligible for reimbursement;
- Meals and/or lodging provided in a private home are not eligible for reimbursement;
- Travel related expenses for a spouse or companion shall not be eligible for reimbursement;
- Rental vehicle reimbursement shall not exceed the midsize vehicle rate.

Section 14.03 Employees authorized to travel for District related business shall complete a claim form and provide supporting receipts in order to receive reimbursement. No reimbursement shall be made, unless a completed and signed claim form with corresponding receipts is submitted to the District office within ninety-days of travel.

Article XV. BENEFIT PROGRAM DEFINED

Section 15.01 The District's benefit program for Regular Employees consists of the following:

- a. a group health insurance program which will be activated on the First day of the month following 1 month of continuous employment; and
- b. a retirement program that includes participation in the California Public Employees Retirement System (CalPERS) and a deferred compensation program.

Section 15.02 Medical Insurance During Service: Effective with the first pay period following MOU ratification, the District shall pay up to \$1,705.00 per employee each month for the group medical, dental and vision insurance program offered by the District.

Section 15.03 Incentive For Opting Out Of District Provided Medical, Dental, Or Vision Insurance: Effective with the first open enrollment period following ratification of this MOU, the District will provide a taxable increase in monthly compensation to employees who are eligible to decline medical, dental or vision insurance because they are eligible for alternative coverage, e.g. via coverage provided by the employee's spouse or military service. The amount of incentive is \$300 per month for opting out of medical, dental and vision insurance. The amount of incentive for partial opt out will be \$300 minus the cost of insurance retained. For example; if the employee wishes to retain dental insurance through the District, and the monthly cost of the employee's dental insurance is \$120/month. The incentive would be \$300 minus \$120, employee receives \$180 taxable monthly incentive.

Section 15.04 Medical Insurance During Retirement: Employees hired before January 1, 2003 (Tier One), and who retire from the District, and who have attained the age of fifty (50) and have at least five (5) years of service with the District, shall be eligible for paid group medical plan coverage. Such paid coverage shall only be available to the eligible retiree and one eligible dependent in accordance with the terms of the medical plan provider. The District shall pay the cost of the eligible retiree and eligible dependent's medical plan premium, plus any additional costs for administrative fees and/or contingency reserve fund assessments subject to the vesting schedule (Schedule 1) for District paid retiree and eligible dependent medical insurance premium.

Employees hired by the District on, or after, January 1, 2003 (Tier Two), and also retire from the District, and who have attained the age of fifty (50) and service eligibility requirements set forth, below, in vesting Schedule 1, shall be subject to the terms in vesting Schedule 1 for District paid retiree and one eligible dependent medical insurance premium:

Schedule 1

<u>Service</u>	<u>District Share</u>	<u>Retiree Share</u>
<u>0 – 9.9 Years</u>	<u>0 %</u>	<u>100 %</u>
<u>10 Years</u>	<u>50 %</u>	<u>50 %</u>
<u>11 Years</u>	<u>55 %</u>	<u>45 %</u>
<u>12 Years</u>	<u>60 %</u>	<u>40 %</u>
<u>13 Years</u>	<u>65 %</u>	<u>35 %</u>
<u>14 Years</u>	<u>70 %</u>	<u>30 %</u>
<u>15 Years</u>	<u>75 %</u>	<u>25 %</u>
<u>16 Years</u>	<u>80 %</u>	<u>20 %</u>
<u>17 Years</u>	<u>85 %</u>	<u>15 %</u>
<u>18 Years</u>	<u>90 %</u>	<u>10 %</u>
<u>19 Years</u>	<u>95 %</u>	<u>5 %</u>
<u>20 or more years</u>	<u>100 %</u>	<u>0 %</u>

Employees hired by the District on or after May 1, 2004 (Tier Three), and also retire from the District, and have attained the age of fifty (50) and have at least (5) years of service with the District, shall be eligible for paid group medical coverage for the retiree only.

The maximum contribution under Tiers One and Two shall be \$600 for Employee only coverage, and \$800 for Employee +1 coverage, the District’s maximum monthly contribution for Tier Three employees hired after May 1, 2004 shall be \$300.

Employees hired by the District on or after January 1, 2013 (Tier Four), and who retire from the District, and who have attained the age of sixty two (62) and have at least twenty (20) years of service with the District, shall be eligible for paid group medical plan coverage for the retiree only, in an amount not to exceed three hundred (\$300.00) per month.

Retiree Group Medical Plan Coverage for all retirees (Tiers One, Two, Three, and Four) shall end when the retiree becomes eligible for Medicare Coverage.

Section 15.05 Employees will be enrolled in the California Public Employees Retirement System (“PERS”) as required by the District’s contract and law. The District shall be obligated to pay any contributions required of it as the employer to CalPERS. All employees’ portions are pre-taxed.

The District and Employee shall each pay 3.5% of the normal member contribution as Employee Paid Member Contributions (EPMC) for CalPERS Classic employees, which currently consists of seven percent (7%) of gross wages. The employee shall pay any increase in EMPC CalPERS contribution rates.

Section 15.06 PEPRA Employees - For employees hired after January 1, 2013, who are defined as “New Members” under the Public Employee Pension Reform Act (“PEPRA”), the law prohibits Employer Paid Member Contributions. As such, the Employee must pay 100% of the member (employee) contributions. For New Members, as defined by PEPRA, employees, the District will contribute 3% (three percent) of the New Member’s base hourly compensation to the employee’s 457 Deferred Compensation Plan account. These employees, defined as New Members, are enrolled in the 2% at 62 formula for retirement.

Section 15.07 CalPERS Classic employees only: Uniform allowance is \$15.62 reported semi-monthly.

Section 15.08 The District has entered into a deferred compensation program for employees who wish to participate. Employees may contribute to the program as permitted by law and the contract. The District shall not contribute to the program.

Section 15.09 The Board reserves the right to review and revise the scope of coverage and payment of costs of the elements of the benefit program. The Union must be advised prior to the review or revision of any working condition change by the district at any time. Which includes but not limited to health care job class or any district policy that could come in conflict with the current M.O.U.

Section 15.10 Employee Life Insurance – To the extent feasible, the District will provide a group policy for \$50,000 in employee life insurance coverage, provided that such coverage may be subject to underwriting restrictions/denials delineated by the insurance providers. The District reserves the right to discontinue coverage should premiums increase to a level the District determines to be excessive.

Article XVI. PAID HOLIDAYS

Section 16.01 Employees shall not be required to be in attendance on paid holidays. Paid holidays are authorized as follows:

New Year's Day	January 1 st
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Cesar Chavez Day	March 31 st (adjusted)
Memorial Day	Last Monday of May
Independence Day	July 4 th
Labor Day	1 st Monday of September
Thanksgiving Day	4 th Thursday of November
Day After Thanksgiving	Friday after 4 th Thursday
Veteran's Day	November 11 th (or when observed)
Christmas Eve (1/2 day)	December 24 th
Christmas Day	December 25 th

When March 31st falls on a Sunday, Monday or Tuesday, the holiday will be observed on the Monday. When March 31st falls on a Wednesday, Thursday Friday or Saturday, the holiday will be observed on Friday.

When an authorized paid holiday falls on a Saturday, the preceding Friday shall be observed as an authorized paid holiday and when an authorized paid holiday falls on a Sunday the following Monday shall be observed as an authorized paid holiday.

Section 16.02 Upon prior approval of the employee's immediate supervisor, a regular, non-probationary, employee may take two (2) "floating holidays" per calendar year. These floating holidays shall be with pay. Floating holidays shall be used in the year accrued and may not be carried over to a subsequent year or paid off. Due to the timing of anticipated MOU ratification, whereby the two new observed holidays have already passed in calendar year 2019, each employee will be allocated 16-hours of floating holiday for 2019 effective with the first pay period following MOU ratification.

Article XVII. VACATION

Section 17.01 Vacation leave are days away from work provided by the District to employees with pay for the purpose of rest, relaxation and recreation. This respite is a benefit and is intended as an aid in maintaining the long-term and consistent productivity and contentment of the employee. Vacation shall be administered in accordance with District policy as set forth in the District Personnel Handbook.

Section 17.02 Vacation Accrual Rates: Vacation will accrue at a rate which results in the following amounts of paid vacation a year:

1 st year of employment	40-hours per year	11 th year of employment	164 hours per year
2 nd year of employment	80-hours per year	12 th year of employment	168 hours per year
3 rd year of employment	88-hours per year	13 th year of employment	172 hours per year
4 th year of employment	96-hours per year	14 th year of employment	176 hours per year
5 th year of employment	120 hours per year	15 th year of employment	180 hours per year
6 th year of employment	128 hours per year	16 th year of employment	184 hours per year
7 th year of employment	136 hours per year	17 th year of employment	188 hours per year
8 th year of employment	144 hours per year	18 th year of employment	192 hours per year
9 th year of employment	152 hours per year	19 th year of employment	196 hours per year
10 th year of employment	160 hours per year	20 th year of employment	200 hours per year

- a. No employee may accrue more than three hundred (300) hours of vacation leave. Upon reaching the maximum accrual, vacation leave accrual shall cease until the accrual is reduced below the maximum by usage of vacation leave.
- b. No employee may accrue vacation leave during such time as the employee is not receiving wages from the District.

Section 17.03 Vacation schedules should be arranged as far in advance as possible. An employee should obtain the approval of his/her immediate supervisor at least one week prior to using vacation leave. A vacation schedule covering the following twelve months will be maintained, and scheduling conflicts will be resolved on the basis of the order of requests received. The District reserves the right to schedule vacations in accordance with its operating needs. No employee shall take vacation leave during the first six months of employment.

Section 17.04 At termination of employment for any reason, the District shall pay the employee for accrued and unused vacation time at the employee's current hourly rate of pay.

Article XVIII. SICK LEAVE

Section 18.01 Sick leave is granted to provide financial security to employees by providing for salary continuation when the employee is unable to work because of illness, injury, or quarantine due to exposure to a contagious disease. In addition, it is granted to allow the employee to maintain his or her health by providing paid leave so that the employee can visit medical practitioners during normal working hours, subject to advance approval. Sick leave is not a privilege that an employee may use at his or her discretion. Sick leave shall be administered in accordance with District policy as set forth in the Personnel Handbook..

Section 18.02 Sick Leave Accrual:

- a. Regular full-time employees shall accrue sick leave, pro-rata, at a rate of ninety-six (96) hours per year, with a maximum accrual of two hundred forty (240) hours.
- b. Regular part time employees shall accrue sick leave in accordance with the requirements of California law.
- b. No employee may accrue sick leave during such time as the employee is not receiving wages from the District.
- c. Due to the timing of MOU ratification, each current Unit employee shall receive a one-time allocation of forty-eight (48) hours of sick leave upon ratification of the MOU, to allow for a total of ninety-six hours of sick leave accrual in the first year of the MOU.

Article XIX. COMPASSIONATE LEAVE

Section 19.01 Compassionate leave with pay for funerals of members of the immediate family will be allowed when prior authorization has been granted by the General Manager. The maximum time off with pay that will be authorized is three (3) days; provided, however, two (2) additional days may be taken and charged to accrued vacation. The General Manager is empowered to grant additional time off, using accrued vacation time, for funeral attendance under appropriate circumstances, if so requested. For purposes of this section, immediate family means the employees spouse, children, parent, parent-in-law, grandparent, brother or sister, registered domestic partner, stepparent, stepbrother and stepsister.

Article XX. OTHER LEAVES OF ABSENCE

Section 20.01 Leave of absence without pay may be granted in cases of emergency or where such absence would not be contrary to the best interests of the Rio Linda/Elverta Community Water District. Such leave is not a right, but a privilege. Employees on authorized leave of absence without pay may not extend such leave without the written approval of the General Manager. Leave of absence without pay for one week or less may be granted by the General Manager, depending upon the merit of the individual case. Leaves of absence without pay in excess of one-week duration, shall be requested in writing prior to the leave and may be granted by the General Manager depending upon the merit of the case, but such leaves may not exceed four months. During any leave of absence, employee shall not accrue any vacation or sick leave time, and employee shall be responsible to pay for the cost of all benefits.

Section 20.02 Absence without leave shall be considered to be without pay, and reductions in the employee's pay shall be made accordingly. Absence without leave for more than three consecutive days may result in termination of employment. Such termination shall not be subject to appeal.

Section 20.03 Leave without pay may be granted to a regular employee by the General Manager in the event of death to family members other than one of the immediate family, such leave granted in accordance with Article 21.

Article XXI. JURY DUTY

Section 21.01 Employees required to report for jury duty shall be granted a leave of absence from their assigned duties until released by the Court. Employee serving on jury duty shall be paid by the District for up to two (2) weeks for serving on jury duty, provided the employee remits to the Rio Linda/Elverta Community Water District within thirty days from the termination of his/her jury service all fees received for such duties on the District paid days other than mileage and subsistence allowance.

Article XXII. TRAINING AND CAREER DEVELOPMENT

Section 22.01 The General Manager or his/her designee is authorized and responsible for establishing a training program that provides all employees who require a license or certificate to perform critical District functions an opportunity to earn or maintain such a license or certificate. Further, the General Manager or his/her designee is authorized to establish a career development program that will enhance employee skills in accordance with the District's mission statement, values, goals and principles. Fees, tuition and expenses will be paid by the District as determined and approved by the General Manager.

The District shall pay for all testing and licenses required by the District in order for staff to perform their duties. The acquisition of licenses above the Grade or of a type not needed to perform duties required of the District will not be compensated.

Article XXIII. EXTRA CONTRACT AGREEMENT

Section 23.01 The District agrees not to enter into any agreement or contract with its Employees, individually or collectively, which in any way conflicts with the terms and provisions of this Agreement. Office procedures, safety and security policies, including computer and Internet security policies, are deemed not to conflict with this MOU. This article does not include independent contractors of the District.

Article XXIV.NOTICES TO THE PARTIES

Section 24.01 Any required notices, grievances, reports, or filing as may be required, or as otherwise provided for in any provision of this MOU, shall be served by one party to the other as follows:

- a. To the District by mailing (Certified Return Receipt) or receipted hand-delivery to:

Attention: General Manager

Rio Linda/Elverta Water District

730 L Street

Rio Linda, CA 95673 and

Attention: Barbara Brenner

Churchwell White

1414 K Street, 3rd Floor

Sacramento, CA, 95814

- c. To the Union by mailing (Certified Return Receipt) or receipted hand-delivery to:
Attention:

Attention: Business Agent

General Teamster Local No. 150

7120 East Parkway

Sacramento, CA 95823

Article XXV. WORK RULES

Section 25.01 Where the terms of the District's Policy Manual and this Memorandum Of Understanding are in conflict, the terms of the MOU shall prevail.

Article XXVI.UNION REPRESENTATIVES

Section 26.01 One (1) employee selected by the Union may attend scheduled negotiation meetings with District Management during regular hours without loss of pay. Such employee shall not leave his/her workstation or assignment without first securing approval of the General Manager. Such meetings shall be scheduled in a manner consistent with the District's operating requirements and work schedules. Nothing herein shall be deemed to preclude the scheduling of such negotiations at hours other than the employee's regular working hours.

Section 26.02 Duly authorized representatives of the Union shall be permitted to enter the District for the purpose of transacting Union business and observing conditions under which employees are employed, provided that no interference with the work of any employee shall result. The Union representative shall, upon arrival at the Employer's facility, notify the General Manager or designee prior to conducting union business. Any Union representative on District property for the purpose of conducting Union business must comply with all safety regulations or requirements of the District. This provision shall be administered in good faith and in a reasonable manner.

Section 26.03 Union stewards shall perform their functions or Union-related activities on their own time. However, if a meeting is mutually agreed to with the Union steward and Management during the Union steward's work shift, the Employer will pay for that time. If the Union wishes to schedule a meeting with an employee during the Union steward's work shift, release time will not be unreasonably denied.

The Union shall provide to the District the names in writing of the employee representatives within fifteen (15) days after passing requirements. The union business shall include, but not be limited to, investigating grievances, helping and informing employees of the rights under the Agreement, and meetings held in conjunction with the Agreement.

Section 26.04 Bulletin Boards

- a. The Union shall be given bulletin board space in an area designated by the District.
- b. The Union agrees that it will not post any materials that are disparaging of the Employer or its employees. The Union will deliver a copy to the General Manager upon posting new material.
- c. If the Employer removes a Union item, it will contact the Union and meet and confer over the objection.

Article XXVII. PEACEFUL PERFORMANCE OF DISTRICT SERVICES

Section 27.01 There shall be no strike (including sympathy strikes), picketing, slowdowns or other stoppage of work by union employees and no lockout by the District during the life of this Memorandum of Understanding.

Article XXVIII. HEALTH AND SAFETY

Section 28.01 The District will comply with state and federal law and regulations relating to Occupational Safety and Health and endeavor to provide a safe and healthful work environment. Likewise, it is the duty of each employee to comply with all health and safety regulations of the District and to practice good safety habits in the performance of their duties.

Article XXIX. FULL UNDERSTANDING, MODIFICATIONS, WAIVER

Section 29.01 It is intended that this Memorandum of Understanding sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the parties whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

Section 29.02 Any agreement, alteration, understanding, variation, waiver or modification of any of the terms or provisions contained herein shall not be binding upon the parties hereto unless made and executed in writing by all parties hereto and approved and implemented by the District's Board of Directors.

Section 29.03 The waiver of any breach, term or condition of this Memorandum of Understanding by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

Article XXX. SUCCESSORS

Section 30.01 If the District is sold or assumed, or if an agreement is reached to merge the District with another employer, the District will notify the Union in writing at least ten (10) days prior to the effective date of the sale, assumption or merger. Upon request, the District will meet at the Union's request to engage in good faith bargaining over the impact of such sale, assumption or merger, as required by law.

Section 30.02 The District also agrees that as part of any sale, assumption, transfer and/or merger, the District will negotiate that the entity buying, assuming, and/or otherwise acquiring all or part of the District will reorganize the union and terms and conditions set forth herein.

Article XXXI. SAVINGS CLAUSE

Section 31.01 It is understood and agreed that all provisions of this Agreement are subject to applicable laws, and if any provision of any Article in the Agreement is held or found to be in conflict therewith, said Article shall be void and shall not bind either of the parties hereto. However, such invalidity shall not affect the remaining Article of this Agreement. In the event that any provision shall be held unlawful and unenforceable by any court of competent jurisdiction, the parties agree to meet forthwith for the purpose of renegotiating such provision and attempt to reach a valid agreement.

Article XXXII. CONTINUED EMPLOYMENT

Section 32.01 Continued employment with Rio Linda/Elverta Community Water District shall be subject to good behavior, satisfactory work performance, and availability of funds.

Article XXXIII. TERMINATION OF EMPLOYMENT

Section 33.01 An employee wishing to leave the services of the Rio Linda/Elverta Community Water District in good standing either by resignation or retirement shall give the supervisor at least two weeks' notice.

Section 33.02 An employee's position may be terminated by the General Manager because of changes of duties or organization, abolishment of position, shortage of work or funds, or completion of work. In cases involving Regular Employees only, notice of such terminations will be given to the employee at least two (2) weeks prior to the effective date of termination, unless employee agrees to a different termination period. Such termination shall not be subject to appeal, but the employee shall be given priority consideration for any other position with the District which is vacant at the time the Employee is terminated for which the Employee is qualified.

Article XXXIV. DISCIPLINARY ACTION

Section 34.01 The provisions of this Article shall apply only to Regular Employees. Probationary and Temporary employees serve at the will and pleasure of the General Manager and may be disciplined, up to, and including, termination with or without cause and without right of appeal, hearing or grievance.

Section 34.02 Whenever an employee's performance, attitude, work habits, or personal conduct at any time falls below a desirable level, the General Manager is expected to inform employees promptly and specifically of such lapses and give counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, an incident may justify severe disciplinary action; the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. Any instance of disciplinary action shall be documented in the employee's personnel file. As used in this chapter "disciplinary action" shall mean discharge, demotion, reduction in salary, reprimand, disciplinary probation, or suspension.

Section 34.03 Causes for disciplinary action against any employee may include, but shall not be limited to, the following:

- a. Failure to meet prescribed standards of work, morality, and ethics to an extent that makes an employee unsuitable for employment.
- b. Theft or malicious destruction of the Rio Linda/Elverta Community Water District's property or the property of customers of the District.
- c. Incompetency, inefficiency, or repeated negligence in the performance of duty.
- d. Insubordination/willful disobedience.
- e. Dishonesty.
- f. Inexcusable neglect of duty.
- g. Illegal political activity.
- h. Discourteous treatment of the public or other employees.
- i. Misuse of District property.
- j. Conviction of a criminal offense.
- k. Notoriously disgraceful personal conduct.
- l. Unauthorized absences or abuse of leave privileges.
- m. Acceptance or receipt of any gift, whether in the form of money, services, loan, travel, entertainment, promise, or any other form under circumstances in which it could reasonably be inferred that the gift was intended to influence the employee or could reasonably be expected to influence him, in the performance of job duties or could reasonably be regarded

as a reward for any action on his part.

- n. Falsification, alteration or manipulation of records or use of position for personal advantage or for the advantage of others.
- o. Drunkenness or use of alcohol or any substance which impairs performance while on duty including Standby duty.
- p. Unlawful use, sale or possession of narcotics or other proscribed drugs.
- q. Violation of any provisions of this MOU, as approved by the Board of Directors or adopted by the General Manager.
- r. Engaging in harassment or sexual harassment.
- s. Other behavior during which is of such a nature that causes discredit to the Rio Linda Elverta Community Water District.

Section 34.04 The General Manager may take disciplinary action against an employee under their control for one or more of the causes for discipline specified in this chapter by notifying the employee in writing with at least two days notice prior to the proposed action of the following:

- a. The nature of the proposed disciplinary action.
- b. A statement of reasons for the proposed action.
- c. A statement that any available/accessible documents or materials upon which the proposed disciplinary action is based are attached for employee's review.
- d. A statement indicating the proposed effective date for the disciplinary action and that the employee may respond orally or in writing prior to that date.

At the time the General Manager presents the employee with the proposed disciplinary action, the employee shall acknowledge receipt of the proposed disciplinary action by signing the document outlining the items listed in Section 34.04. Such acknowledgement of receipt of the proposed disciplinary action will not be deemed an admission of guilt. If the employee refuses or otherwise fails to acknowledge receipt of the proposed disciplinary action, this in and of itself is grounds for further disciplinary action, including termination of employment.

The General Manager shall review any responses from the employee. If no response is received or the response is deemed inadequate to alter the proposed action, then the disciplinary action may be carried out. If the proposed action is to be suspension or discharge, the employee may be relieved of duty while continuing to receive pay and other benefits until the disciplinary action is effective. Disciplinary action against regular employees is valid only if a written notice is served on the employee and said written notice includes:

- A statement of the nature of the disciplinary action;
- The effective date of the penalty;
- A statement of the causes therefore;
- A statement in ordinary language of the facts upon which the causes are based; and
- A statement advising the employee of his right of response or appeal from such action, if any.

Section 34.05 Summary of the Forms of Disciplinary Action

- a. Oral Reprimand - Employees receiving a oral reprimand will have it noted in their personnel file by the General Manager in the form of a memorandum or letter.
- b. Written Reprimand - Employees receiving a written reprimand shall have a copy of their reprimand filed in their personnel file.
- c. Disciplinary Probation Period - Employees placed on disciplinary probation shall not use paid personal leave or earn time for salary review while on such probation and the rules governing regular probationary periods shall govern.
- d. Suspension - Employees suspended from employment shall forfeit all rights, privileges, benefits, and salary while on such suspension with the exception of group insurance benefits.
- e. Discharge - Employees terminated for disciplinary reasons shall be paid salary accumulated to the effective date of termination only.

Section 34.06 Unless otherwise specifically stated in these rules, any regular employee shall have the right of appeal to the Board of Directors for any disciplinary action taken pursuant to the provisions of this chapter. Such appeal must be filed with the District's General Counsel and General Manager within twenty (20) working days after receipt of written notice of such disciplinary action; failure to file an appeal within such time constitutes the waiver of the right to appeal. The appeal must be in writing, must be verified before a Notary Public, must be made under penalty of perjury, and must state specifically the reason upon which it is based. District General Counsel shall cause such appeal to be investigated and shall submit a report to the Board of Directors. Neither the provisions of this section or this chapter shall apply to reductions in force or reductions in pay that are part of a general plan to reduce staffing levels or adjust salaries and wages.

Section 34.07 The Board of Directors shall conduct a hearing on an appeal filed in accordance with this chapter within thirty (30) days after the appeal is filed with District Counsel. The Board may continue the hearing either for the convenience of the District or upon written application of the appellant, for a period not to exceed an additional thirty (30) days, unless mutually agreed to by the parties. Written notice of the time and place of the hearing and any continuance thereof shall be given the appellant and the General Manager. Such hearing shall be conducted in accordance with the provisions of Section 11513 of the Government Code of the State of California, except that the appellant and other persons may be examined as provided in Section 19580 of the Government Code, and the parties may submit all proper and confident evidence against or in support of the causes of the disciplinary action, but it shall be a rebuttable presumption that the statement of the causes is true.

- a. The appellant may appear in person or be represented by a person of his or her choice.
- b. The Board of Directors shall issue notices for the appearances of witnesses for the appellant upon written request and at his/her cost, said cost to be prepaid.
- c. Failure of the appellant or his/her representative to appear at the hearing shall be deemed a withdrawal of his/her appeal and the disciplinary action shall be final.
- d. The Board of Directors shall render a written decision within 30 days after concluding the hearing. The Board's decision shall be final and conclusive. A copy of such decision shall be forwarded to appellant. If a disciplinary action taken against the employee is reversed or modified by the Board, the employee may be compensated in whole or in part, for the time lost as determined by the Board.

Section 34.08 In the interest of preventing undue embarrassment and subsequent loss of ability to perform work effectively, the following policy will prevail regarding the release of information to the public on personnel actions:

- a. No information will be released without the prior approval of the General Manager.
- b. No information will be released until final action has been determined and taken.
- c. Even after final disposition of the matter, no details will be released other than the exact nature of the action taken.
- d. If the employee or his representative makes detailed information available to others, then the General Manager may make any information on the employee available to the public as he deems to be in the best interest of the District.

Article XXXV. SENIORITY

Section 35.01 Probation. A probationary employee shall have no seniority rights.

Section 35.02 Layoff.

- a. The order of Layoff of regular employees shall be determined by the General Manager based on skill, ability and performance. Where skill, ability and performance are substantially equal, the order of layoff shall be based on seniority in the affected classification.
- b. Recall from layoff shall be in inverse order of layoff, provided the General Manager determines that the employee being recalled has the skill and ability to perform the vacant position.
- c. The District shall make reasonable effort to notify the Union at least four (4) weeks in advance of the effective date of a layoff; provided, however, in the event that a decision to impose a layoff occurs less than four (4) weeks from the effective date, the District shall notify the Union within twenty-four (24) hours of the decision. Upon request, the District shall meet and confer with the Union over the effects of a layoff.
- d. Four (4) weeks of notice, or severance pay in lieu thereof, will be provided to Regular Full-time and Regular Part-time employees whose employment is terminated as a result of a layoff. Payment will be at the employee's then current base rate. Severance pay for Regular Part-Time employees will be prorated base upon time they are regularly scheduled to work. Effective beginning the date of this Agreement, an employee who is laid off, receives severance pay and is returned to work before the period which severance pay covered, shall have their future entitlement for severance pay adjusted accordingly.

Section 35.03 An employee's seniority will be lost upon:

- a. Voluntary quit
- b. Discharge.
- c. Failure to report to work within three (3) days after receipt by the employee of a notice of recall from layoff, mailed by the District by certified or registered mail or by telegram to the employee's last address given to the District, unless within such period an employee obtains permission from the District to report at a later time
- d. Layoff for twelve (12) consecutive months.
- e. Failure to report for work upon the expiration of a leave of absence, unless such absence is authorized.
- f. If absent from work, failure to contact the General Manager within three (3) working days regarding the reasons for such absence ("no call/no show").

Article XXXVI. GRIEVANCE PROCEDURE

Section 36.01 The grievance procedure serves to (1) promote improved employer-employee relations, (2) afford employees individually a systematic means of obtaining further considerations of problems after every other reasonable effort has failed to resolve them through discussions, (3) to provide that grievances shall be settled as near as possible to the point of origin, and (4) to provide that grievances shall be heard and settled as informally as possible.

Section 36.02 Any Regular employee shall have the right to present a grievance regarding wages, hours, and working conditions, except that matters subject to the provisions of Article 35 (disciplinary actions) shall not be subject to the grievance procedure.

Section 36.03 No employee will be retaliated against for filing a grievance or participating in an investigation following a grievance complaint.

Section 36.04 Informal Resolution of Issues. Before filing a grievance, if appropriate, a Regular Employee with a complaint is encouraged to attempt to resolve the matter through informal avenues by discussing the issue promptly with the Manager.

Section 36.05 If informal resolution is not appropriate or does not work, grievances shall be presented to the General Manager promptly, but no more than ten (10) days after the occurrence of the act, condition, or conduct that is being grieved. Upon receiving the grievance, the General Manager shall discuss the grievance with the employee, the Union and with any other appropriate persons. The General Manager may designate a fact-finding committee or the General Counsel to advise him concerning the grievance. The decision of the General Manager shall be final and shall be rendered within thirty (30) calendar days from receipt of the grievance and shall set forth, in writing, the reasons upon which the decision is based.

Section 36.06 The time limits specified herein above may be extended to a definite date by written mutual agreement of the Union and the reviewer concerned.

Section 36.07 When an employee has a grievance against the General Manager, the procedures described herein above shall be used except that the duties of General Manager, as they relate to the Grievance Procedure, shall be performed by the Board of Directors. The Board may appoint the General Counsel or a fact-finding committee to advise it concerning the grievance.

Article XXXVII. DRESS CODE

Section 37.01 The District's professional atmosphere is maintained, in part, by the image that employees present to residents, customers and vendors. Employees are asked to use their best judgment and common sense with regard to their dress and appearance and are expected to present a professional image. Employees should dress conservatively, in good taste, and according to the requirements of their position. Attention should be paid to safety, District image, and customer interaction. If you have any questions as to what constitutes proper attire, please consult your General Manager before wearing the attire. Listed below are several guidelines that will assist you in making these determinations.

Clothing should be conservative, modest, clean, professional, and in good condition. Garments of employees must cover the body to avoid unnecessary exposure. Shorts, Spandex type clothing, halters, abbreviated tops, tank tops, undershirts, torn Levi's, sandals, and any articles of clothing displaying cartoons or language that might be considered offensive are not to be worn. However, employees may wear walking shorts (that are no more than two inches above the knee) so long as they receive the approval of their General Manager. Approval will generally be denied in those cases where the employee will have to work in the field or attend business meetings on behalf of the District. Shirts and dresses must be long enough to avoid exposure of undergarments. Visible facial and body piercing are not allowed. Hair must be kept in a neat and professional length and style. Mustaches and beards must be neatly trimmed. Tattoos deemed offensive must be covered at all times.

In the event that inappropriate attire is worn to work, the employee will be asked to leave the workplace and promptly return to work in appropriate attire. The amount of time missed from work to travel and change clothing will be unpaid time, unless the employee elects to utilize accrued vacation.

Article XXXVIII. DURATION OF AGREEMENT

Section 38.01 Except as herein provided, this Memorandum of Understanding shall be in effect upon execution by all parties and until 12 o'clock midnight on November 12, 2021.


Section 38.02 In the event either party hereto desires to negotiate the provisions of a successor Memorandum of Understanding, such party shall serve upon the other, ninety (90) days prior to the termination date of this Agreement, its written request to commence negotiations, and, to the extent reasonably possible, its full and entire written proposal for such successor Memorandum of Understanding. Upon receipt of such written notice and proposals, negotiations shall begin thereafter not later than sixty (60) days prior to the termination date of this Agreement.

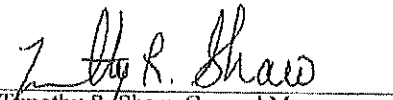
Article XXXIX. SIGNATURES

IN WITNESS WHEREOF, the parties have caused their authorized representatives to execute this Memorandum of Understanding this 24th the day of May, 2019.

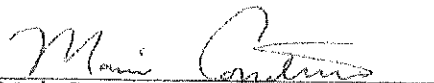
RIO LINDA/ELVERTA COMMUNITY
WATER DISTRICT


**Rio Linda Elverta Community
Water District**

By: 
John Ridilla
Board President

By: 
Timothy R. Shaw, General Manager

Teamster Local 150

By: 
Mario Contreras, Secretary/Treasurer

By: 
Ron Cannizzaro, Teamster Local 150
Representative

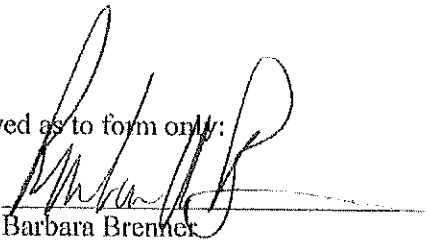
Approved as to form only:
By: 
Barbara Brenner
RLECWD Legal Counsel

EXHIBIT A

Rio Linda/Elverta Salary Schedule Effective November 12, 2018 (increase CURRENT wages by 1.9%)
Step Increase 4%

Classification/Position Title	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Time Basis
Admin Assistant	\$23.15	\$24.08	\$25.04	\$26.04	\$27.08	\$28.17	Hourly
Accounting Specialist	\$26.47	\$27.53	\$28.63	\$29.78	\$30.97	\$32.21	Hourly
Conservation Coordinator/Customer Service Tech 1	\$19.86	\$20.65	\$21.48	\$22.34	\$23.23	\$24.16	Hourly
Customer Service Tech 1	\$19.86	\$20.65	\$21.48	\$22.34	\$23.23	\$24.16	Hourly
Customer Service Tech 2	\$20.95	\$21.79	\$22.66	\$23.57	\$24.51	\$25.49	Hourly
Distribution System Operator 1	\$17.64	\$18.34	\$19.08	\$19.84	\$20.64	\$21.46	Hourly
Distribution System Operator 2	\$20.95	\$21.79	\$22.66	\$23.57	\$24.51	\$25.49	Hourly
Distribution System Operator 3	\$25.38	\$26.40	\$27.45	\$28.55	\$29.69	\$30.88	Hourly
Distribution System Operator 3/Foreman	\$25.92	\$26.96	\$28.04	\$29.16	\$30.33	\$31.54	Hourly
Laborer	\$13.24	\$13.77	\$14.32	\$14.89	\$15.49	\$16.10	Hourly
Operations Superintendent	\$80,310.62	\$83,523.05	\$86,863.97	\$90,338.53	\$93,952.07	\$97,710.15	Annual
Utility Worker	\$15.45	\$16.07	\$16.71	\$17.38	\$18.07	\$18.79	Hourly

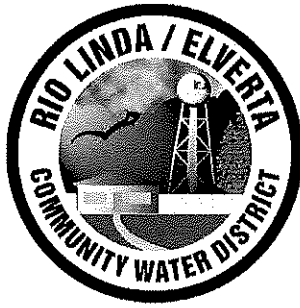
Rio Linda/Elverta Salary Schedule Effective on the First Pay Period Following MOU Ratification (increase all hourly rated employees CURRENT wages by \$1.33 per hour)

Classification/Position Title	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Time Basis
Admin Assistant	\$24.48	\$25.46	\$26.48	\$27.54	\$28.64	\$29.78	Hourly
Accounting Specialist	\$27.80	\$28.91	\$30.07	\$31.27	\$32.52	\$33.82	Hourly
Conservation Coordinator/Customer Service Tech 1	\$21.19	\$22.04	\$22.92	\$23.84	\$24.79	\$25.78	Hourly
Customer Service Tech 1	\$21.19	\$22.04	\$22.92	\$23.84	\$24.79	\$25.78	Hourly
Customer Service Tech 2	\$22.28	\$23.17	\$24.10	\$25.06	\$26.06	\$27.11	Hourly
Distribution System Operator 1	\$18.97	\$19.73	\$20.52	\$21.34	\$22.19	\$23.08	Hourly
Distribution System Operator 2	\$22.28	\$23.17	\$24.10	\$25.06	\$26.06	\$27.11	Hourly
Distribution System Operator 3	\$26.71	\$27.78	\$28.89	\$30.05	\$31.25	\$32.50	Hourly
Distribution System Operator 3/Foreman	\$27.25	\$28.34	\$29.47	\$30.65	\$31.88	\$33.15	Hourly
Laborer	\$14.57	\$15.15	\$15.76	\$16.39	\$17.04	\$17.73	Hourly
Operations Superintendent	\$80,310.62	\$83,523.05	\$86,863.97	\$90,338.53	\$93,952.07	\$97,710.15	Annual
Utility Worker	\$16.78	\$17.45	\$18.15	\$18.88	\$19.63	\$20.42	Hourly

Employees shall receive the following COLA:

Cost of Living Adjustments will be provided on December 1, 2019 and December 1, 2020 at the percentage set by the United States Department of Labor, Bureau of Labor Statistics, utilizing the Consumer Price Index for Western Urban Consumers (CPI-U) for the 12-month period ending in October of each adjustment year provided that COLAs shall not exceed three percent (3%) in any one year. However, if the CPI-U percentage increase is greater than 3 % in any one year, the amount over 3% shall be available as a "credit" to be applied if the CPI-U increase is less than 3% in any subsequent year of the term of this MOU.

Operations Superintendent shall have minimum State of California Department of Public Health Certification of D3.



Executive Committee Agenda Item: 7

Date: June 3, 2019

Subject: General Update for New Committee Configuration

Staff Contact: Timothy R. Shaw, General Manager

Recommended Committee Action:

Discuss the legacy items under discussion by Planning and Finance/Admin Committees prior to consolidation into the Executive Committee.

Current Background and Justification:

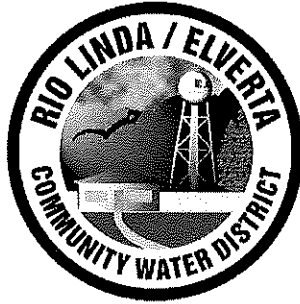
The Board took action at the May 20th meeting to consolidate the Planning and Finance Admin Committee meetings into one Executive Committee. In doing so, the assignments to the Executive Committee include Directors who were not previously assigned to Planning and Directors who were not previously assigned to Finance/Admin Committee. Accordingly, it would be appropriate to review items having been discussed, especially those that were not yet forwarded to a Board agenda for discussion and/or action.

Items which may be worthy of discussion include, but are not limited to:

- Elverta Specific Plan Owners Group.
- RLECWD rates and fees.
- SB 998, SB-606, SB 555
- Hexavalent Chromium Mitigation and the Opus Bank Loan.

Conclusion:

I recommend the Executive Committee spend some time reviewing and discussing such matters.



Executive Committee

Agenda Item: 8

Date: June 3, 2019
Subject: General Status Update from the District Engineer
Staff Contact: Mike Vasquez, PE, PLS, Contract District Engineer

Recommended Committee Action:

Receive a status report on specific focus items currently being addressed by the District Engineer.

Current Background and Justification:

Subjects anticipated for discussion include:

- Well 16 Groundwater Pumping Station
 - Basis of Design Report
 - Preliminary (30% Design) Construction Cost Estimate
 - 60% Design
 - Schedule
- Proposition 84 RWA/DWR \$505K Grant Agreement
- Urban Conservation Legislation Stakeholders Meeting
- SCADA Historian Program Standard Operating Procedure (SOP)

Conclusion:

I recommend the Executive Committee receive the status report from the District Engineer. Then, if necessary and appropriate, forward an item(s) onto the June 17, 2019 Board of Directors Meeting agenda with recommendations as necessary.