

These Card Processing Instructions are provided to help you understand your responsibilities regarding your processing account. **Please read them carefully.** They are incorporated into your Merchant Credit Card Processing Agreement.

Card Processing “INSTRUCTIONS”

(As referred to in paragraph 2 of Merchant Credit Card Processing Agreement)

I. Card Acceptance Procedures:

A. Honor all Cards

1. Merchant shall honor all cards issued by an association, when presented in accordance with these INSTRUCTIONS for the purchase of goods and services, by an authorized holder of card, or a request for credit following such a transaction.
2. Merchant shall not establish minimum or maximum sale amounts as a condition for honoring cards.
3. Merchant shall not impose any surcharge on sales. Any tax the merchant is required to collect must be included in the total transaction amount.

B. Sales Transaction

1. No sale may be completed if cardholder (the duly authorized holder and user of card) fails to present his/her card to merchant at time of sale, except in the case of mail order “MO” or telephone order “TO” where permitted by NPC.
2. Merchant must date each sales draft resulting from the use of a card with the transaction date and should include thereon a brief description of the merchandise and/or services sold and the price thereof (including any applicable taxes) in detail sufficient to identify the sale.
3. Merchant must imprint the card unless successfully read by a magnetic stripe reader/terminal with printer attached. Failure to obtain a signature on the manually imprinted sales draft will expose merchant to a chargeback on such a transaction regardless of the authorization code that may or may not be received (this includes transactions that are key-entered on such a terminal).
4. Merchant shall require cardholder to sign the sales draft. The risk of chargeback or sale dispute is far higher on a transaction when the card and the cardholder are not present at the sale location at the time of the sale.
5. Unless specifically permitted by NPC, goods and services purchased must be delivered to cardholder at time of sale.
6. Merchant shall not require cardholders to provide personal information (such as telephone number or address) as condition for honoring a card sale, unless required by these INSTRUCTIONS.

C. Security Features

1. Merchant is required to examine one or more card security features prior to completing a sale. In all cases, merchant will only complete a sale if the signature on the sales draft appears to be the same as the signature on the card, the person presenting the card resembles the person depicted in the picture on the card (if any), and the appropriate Visa or MasterCard hologram is present on the card. Merchant must also check the dates to ensure the card is valid and has not expired.
2. Specific Card Security Features
 - a. Visa
 1. The “dove” hologram should appear to fly when card is tilted. All Visa numbers begin with a “4” and can be 13 or 16 digits long. Be sure the signature panel has not been tampered with. The “V” to the right of the expiration date should be a special letter (a “flying V” not a normal “V”).
 2. Check that the first four digits of the embossed account number match the four digits printed above the account number of the card. In the event that they do not match, the sale must not be completed. Failure to follow these checks and procedures will expose merchant to chargebacks.
 - b. MasterCard
 1. The “WORLD” hologram should appear as two separate spheres when card is tilted. All MasterCard numbers begin with “51” through “55” and are 16 digits long. Be sure that the signature panel has not been tampered with.
 2. When the card is “Magstripe read” by an Electronic Cash Register “ECR” or Electronic Draft Capture “EDC” terminal, merchant must check the account number on the terminal (if displayed) against the account number embossed on the card. If the card is read with a terminal that displays the card number and the receipt is printed, merchant shall verify that the account number displayed on the terminal and the printed card numbers on the receipt match the embossed numbers on the face of the card. In the event that they do not match, the sale must not be completed. Failure to follow these checks and procedures will expose merchant to chargebacks.

In the event that the terminal is programmed to require merchant to key the last four (or more) digits of each card used for a sale, and the terminal indicates that the numbers keyed are not the same as those present on the card, the sale must not be completed.

In order to protect the integrity of the associations' systems, NPC reserves the right to hold funds settled by merchant in the event of a breach of AGREEMENT, irregular sales activity or receipt of detrimental financial information.

D. Authorization

1. For all sales, merchant shall request an authorization for the total amount of the sale and record the positive authorization response code on the sales draft prior to completing the sale. If merchant receives a negative authorization response, the sale must not be completed and the merchant may be requested to recover the card (if merchant can do so through reasonable and peaceful means). If merchant cannot recover the card, merchant should contact the Voice Authorization Center for further instruction.
2. After receiving a negative response or decline on an authorization attempt, merchant may not split the sale amount into multiple transactions to obtain a valid authorization for each one, so that the separate transactions total the original dollar amount of the sale.
3. In the event that an unsigned card is presented at the point of sale, merchant must request the cardholder provide proof of identification and sign card before completing the sale. Details of the type of identification provided must be placed on the sales draft unless prohibited by local law. When the cardholder provides appropriate information, merchant must ensure that the account number and expiration date appear on the sales draft.
4. In any of the following cases, if merchant refuses, the sale must not be completed. If cardholder complies, authorization must be obtained from Voice Authorization Center designated or approved by NPC before completing the sale in the following cases:
 - a. Merchants who do not use an electronic device to obtain authorization.
 - b. An unsigned card is present.

- c. Merchant believes card may be counterfeit, stolen or the sale is in some other manner suspicious or unusual; in this situation merchant should state to the voice authorization clerk, “this is a code 10” and await further instruction.
- d. In any other circumstances hereinafter established by NPC or stated in the INSTRUCTIONS and/or AGREEMENT.
- e. If permitted in writing by NPC, a retail store that accepts an infrequent telephone order transaction should authorize using the aforementioned authorization acceptance procedures. The MO/TO authorization floor limit is zero. In such cases, the authorization DOES NOT protect the merchant from chargebacks where the cardholder disputes that the card use was authorized.
- f. Merchant shall indicate to the authorization center the reason for the authorization request in any case except where the sole reason for the request is that the sale exceeds the merchant floor limit.
- g. Merchant understands that an authorization is not a guarantee of payment.

E. Sales Draft-Distribution and Storage of Information

1. Merchant shall deliver to the cardholder a true and completed copy of the sales draft, or suitable receipt, evidencing a sale involving the use of the card, at the time of a sale.
2. The following information must be included on the sales draft: card account number; merchant's d.b.a. name; merchant's city and state; amount of sale; sale date; card expiration date and signature (unless MO/TO).
3. Merchant shall not disclose a cardholder's account information or any other personal information to third parties other than to merchant's agents for the purpose of completing the transaction or as specifically required by law or by the INSTRUCTIONS.
4. Merchant shall store in a limited access area for at least one (1) year after the date of sale all sales drafts and transaction records. Merchant shall make and retain for at least three (3) years the original or legible microfilm copies of both sides of all sales drafts and transaction records. Prior to discarding, merchant shall destroy or make unreadable all material containing cardholder account numbers, card imprints such as sales drafts and credit vouchers, vehicle leasing agreements and carbons.

F. Recovery Cards

1. Merchant shall use his/her best effort to recover any card, by reasonable and peaceful means, if:
 - a. The account number thereon is listed on the Electronic Exception File;
 - b. The printed four digits above the embossed account number do not match the first four digits of the account number (Visa);
 - c. Merchant is advised to do so by the authorization center; or
 - d. Merchant has reasonable grounds to believe such card is counterfeit, fraudulent or stolen.
2. This obligation upon merchant in no way authorizes a breach of the peace or any injury to persons or property, and merchant will hold NPC harmless from any claim arising from injury to person(s) or property or other breach of peace.

G. Multiple Sales and Sales Drafts and Partial Consideration

1. Generally, all sales accomplished at the same time should be included on one sales draft.
2. Merchant shall not affect a sale when only part of the amount due is included on the single sales draft except:
 - a. When the balance of the amount due is paid by the cardholder at the time of the sale in cash, by check, with another card or any combination thereof; or
 - b. When the cardholder executes two separate sales drafts in a delayed delivery transaction, whereby a deposit is made by completion of one sales draft and payment of the balance is tendered by completion of a second sales draft, conditioned upon delivery of merchandise or performances of services. If the total amount of both sales drafts exceed the floor limit, authorization must be obtained.
 - c. The use of multiple or different cards for one purchase is permissible as long as an individual sale and sales draft is used for each card. The use of multiple sales on one card for one purchase is not permitted (this is done to bring the value of each sale below the authorization threshold of the card issuer). In the event that this is done, the sale may be reversed.

H. Returned Merchandise and Adjustments

1. In the event that any merchandise subject of a sale is accepted for return or any services are terminated or cancelled, or any price adjustment allowed, the merchant shall not make any cash refund to the cardholder. A credit voucher shall be promptly issued evidencing such refund or adjustment on the same card as the original sale was processed. The refund or adjustment indicated on the credit voucher may not exceed the original sale amount.
2. Merchant may limit its acceptance of returned merchandise or establish a policy to make price adjustments for any sale, provided proper disclosure is made and purchased goods or services are delivered to the cardholder at the time of the sale.
3. Proper disclosure by merchant shall be determined to have been given at the time of the sale only if the cardholder is present at the time of sale; words such as “NO REFUND,” “EXCHANGE ONLY” or “IN STORE CREDIT ONLY” are printed in large letters on all copies of the sales draft prior to obtaining the cardholder's signature on the sales draft. Merchant may stipulate other special circumstances or terms of the sale on the sales draft.
4. For each credit or return transaction, merchant must be able to provide evidence of the original purchase if requested.

I. Cash Transaction

1. Merchant shall not receive any payments from a cardholder with respect to charges for merchandise or services, which are included on the sales draft resulting from the use of a card. Nor shall merchant receive money from a cardholder and subsequently prepare a credit voucher for the purpose of affecting a deposit to the cardholder's account.
2. Cash disbursement by merchant to a cardholder is not permitted. Merchant shall not make any cash advance to an employee or principle of merchant, or family member of same who is also a cardholder.
3. Merchant will not accept sales from cardholders related to the business where the primary purpose of the transaction is for the provision of working capital to said business and not the purchase of goods and/or services from the business.

J. Recurring Transaction and Quasi Cash Transaction

1. Merchant will not accept recurring sales transactions where the delivery, provision of or billing is performed on a periodic basis (recurring transactions) without the express written consent of NPC and CPS.
2. Merchant shall not accept sales for processing that are classified as “Quasi-Cash Transactions” including, but not limited to, the sale of casino gambling chips, money orders, opening deposits on financial or other accounts, wire transfer money orders or the issuance of Scrip.
3. No merchant shall accept a card or use a Visa and MasterCard processing terminal to issue “scrip” exchangeable for cash or products of services as a result of a sale.

K. Promotional Materials

1. Merchant will adequately display promotional materials provided to inform the public that cards will be honored by the merchant.
2. All uses by merchant of decals, signs, printed and broadcast materials and other promotional materials must be in conformity with the requirements of the associations.
3. Merchant may use promotional materials only to indicate that cards are accepted for payment and shall not indicate, directly or indirectly, that merchant has received endorsement of any goods or services other than the cards' services.
4. Merchant may not refer to the cards in stating eligibility for its products, services, or membership.

L. Instructions Specific to Cards Other than Visa and MasterCard

1. In the event that AGREEMENT provides for the acceptance of cards other than Visa and MasterCard:
 - a. Merchant is required to comply with the specific regulations set out in its agreements with associations other than Visa and MasterCard with regard to the acceptance of cards issued by such associations in addition to the regulations set out above.

II. Chargebacks

A. General

1. Merchant has agreed to pay NPC for each chargeback and any association fees, fines or charges imposed on merchant or NPC associated therewith. Such reimbursement will be accomplished by the debit of the sum(s) involved from the merchant's deposit account.
2. Merchants are subject to chargebacks on sales for a minimum period of one hundred eighty (180) days from the date the sale was entered into the associations processing system.
3. NPC agrees to mail chargeback documentation promptly to merchant's address shown on AGREEMENT. Merchant agrees to respond promptly to all chargebacks. If NPC at its discretion elects to take action on chargebacks after MasterCard or Visa time limits have expired; such action shall be done at additional cost.
4. Merchant agrees not to re-deposit sales that have been previously charged back and not represented. This restriction applies whether or not the cardholder consents to such activity.

B. Chargeback Reasons

1. The summary of reasons for chargebacks includes, but is not limited to any one of the following:
 - a. The card account number submitted by merchant is invalid
 - b. The cardholder complains that:
Neither the cardholder or authorized persons by cardholder received the goods/services requested; or He/she received the goods/services but disputes the quality.
He/she never received credit for a returned item or a cancelled order.
He/she was incorrectly charged.
The amount of the sale exceeded the floor limit and authorization was not requested and obtained, or was denied.
The sale was authorized but not for the correct amount.
The authorization code provided is invalid.
The card was expired at the time of the sale, or had not reached its effective date.
The sales draft was not signed. An exception will be made for mail order and telephone order sales where authorized.
The card issuer has information that a merchant fraud has occurred.
The account number and the amount of sale are missing from sales draft or are illegible.
The sales draft bears the imprint of a card which to MasterCard or Visa is a counterfeit card, as defined in the regulations, but which is not embossed in accordance with the standards set forth in the Visa and MasterCard regulations and the sale was not authorized.

C. Chargeback Monitoring Programs

1. In the event that merchant exceeds a one (1) percent chargeback to interchange volume ratio in two (2) months out of three (3) for Consumer Dispute Chargebacks (CDC's – which are currently identified as those falling within reason codes: 23, 24, 30, 41, 53, 56, 61, 85, and 90), or three (3) percent chargeback to interchange volume ratio for all incoming chargebacks, merchant will be defined as a "REVIEW" merchant. Upon notification of "REVIEW MERCHANT" status, merchant will supply NPC with a business plan showing how the reduction of CDC's will occur. In the event that a merchant is unable to reduce CDC's below one (1) percent within 120 days and maintain them at that level for a six (6) month probationary period, NPC or Visa may terminate merchant's agreement to process sales. In this event, merchant will pay NPC or merchant as a result of such classification or notification. The parameters of this section may be amended from time to time, as a result of action by associations.

D. Other Association Monitoring Programs

1. Certain monitoring programs review the number of lost, stolen, and counterfeit cards accepted by merchants through the normal course of business, as well as the percentage of cards used for sales that were not read electronically by terminals or ECR's. The purpose of these programs is to reduce the use of lost, stolen, and counterfeit cards.
2. In the event that a merchant is identified under these programs as exceeding the acceptable threshold of such cards, merchant may become liable for chargebacks and sales on lost, stolen and counterfeit cards, regardless of the card acceptance procedures followed, and AGREEMENT may be terminated on notice by NPC.

III. Unique Business Requirements

A. Mail Order and Telephone Order Merchants

1. Merchants may not accept mail order (MO) or telephone order (TO) sales unless AGREEMENT specifically refers to MO/TO in the description of business. If this is not the case, merchant should contact CPS if they wish to accept MO/TO sales and provide descriptions of product types and marketing methods. CPS reserves the right to refuse merchant permission to accept MO/TO sales.
2. In the event merchant is specifically authorized to accept MO/TO sales by CPS, no sale shall be permitted for processing prior to shipping of the product purchased to the cardholder, unless specifically authorized in the AGREEMENT.
3. MO/TO sales do not require that the cardholder's signature be on the sales draft. Merchant is required to obtain the valid dates for each card used for a sale. The expiration date must be submitted as part of the authorization inquiry.
4. In the event that merchant supplies goods and/or services under a pre-authorization order, it shall not charge a cardholder for goods after receiving notice from a cardholder that the authorization is cancelled.

5. The receipt of a valid authorization does not protect merchant from chargebacks on sales for the unauthorized purchaser reason code. The supply of shipping documents indicating the address the goods were shipped to and a signature of an individual (even cardholder) will not normally be sufficient to reverse an unauthorized purchaser reason code.

6. MO/TO merchants are encouraged to investigate the chargeback protection attributes of the various Address Verification Services available from the association.

B. Vehicle Rental Authorization Procedures

1. A special authorization procedure is available for use by the merchant when merchant estimates the transaction amount which is based upon cardholder's intended rental length (determined at time of rental), the applicable rental rate, tax and/or mileage rates. Such estimated transaction amounts shall not include ancillary charges representing amount to cover potential vehicle damages or insurance deductible when cardholder waives insurance at time of rental.
2. Merchant shall record on the sales draft the date, amount and all authorization approvals obtained.
3. Merchant shall disclose such amount authorized to cardholder at the time of rental.
4. Subsequent Authorization
 - a. If no authorization was obtained at time of rental and merchant, based upon cardholder's actual charges later estimates the transaction amount will exceed the applicable floor limit, merchant may obtain an authorization approval code for the new estimated amount.
 - b. Merchant may obtain authorization for additional amount (not cumulative of previous amounts) at any time on or between the vehicle rental check-out date and check-in date, as necessary. Merchant may not seek authorization for, or charge to cardholder charges for traffic violations, parking tickets, or other related items. Additional authorization is not necessary if the sales transaction does not exceed the applicable floor limit or 115 percent of the sum of the authorized amount.

C. Paper Processing Merchants

1. Paper processing merchants shall authorize by using the established floor limits. Any merchant that wishes to accept a sales transaction under the established floor limits, and which is not authorized, is liable for the resulting chargebacks from those card numbers listed on the Electronic Exception File.
2. In the case of a merchant depositing paper drafts, such draft shall be deposited within five (5) days of the transaction of sale date.

D. Express Payment Services (EPS/QPS)

1. Any "fast food," motion picture theater or parking lot merchant that wishes to participate in the Visa or MasterCard EPS/QPS program must first be in possession of a signed EPS/QPS addendum.
2. This addendum must be in place prior to the offering of the program.

E. Lodging Merchants

1. Hotel Management companies are responsible for all chargebacks and fees for hotels managed at the time of sale.
 2. Visa Hotel Services
 - a. Any merchant that participates or wishes to participate in any of the Visa Hotel services, namely: Advanced Lodging Deposit Service; Priority Check Out Service; Check Guarantee Service; or Cash Disbursement Service, must be in possession of a current Visa hotel service addendum to their AGREEMENT. This addendum covers all the contractual and operational requirements to implement the service and must be in place before merchant offers the service to cardholders.
 3. Visa Reservation Service
 - a. Any merchant who accepts cards to guarantee reservations must do so in accordance with the following requirements:
Merchants must accept all Visa cards
Merchant must inform the cardholder that accommodations will be held until check out time the following day unless cancelled by 6:00p.m. (merchants time) on the scheduled arrival date. If a merchant requires cancellation time prior to 6:00p.m. (merchants time) on the scheduled arrival date, the cancellation date and time may vary but must not exceed 72 hours prior to the scheduled arrival date and the cardholder must be informed of this time when making the reservation. If, in such a situation, a reservation is made within 72 hours of scheduled arrival, the cancellation time of 6:00.m. (merchant's time) on the scheduled arrival date applies.
Merchant will obtain the cardholder's account number, expiration date and name embossed on the card. Advise the cardholder that if he/she has not checked in by checkout time the day after his/her scheduled arrival day, and the reservation was not properly cancelled, the cardholder will be billed for one night's lodging, plus applicable taxes.
Merchant must quote to cardholder the following information: a) rate of reserved accommodation; b) merchant name and address; c) Confirmation Code (advising that it be retained). If requested, the merchant will provide the information above verbally and in written form along with the provisions of the Visa Reservation Services relating to the cardholder's obligation related to the accommodation reserved.
If cardholder complies with the cancellation procedures above, merchant must accept all cancellation requests; and provide cardholder with a cancellation code and advise that it must be retained in order to protect cardholder's rights in case of dispute. If requested, merchant must provide cardholder with written confirmation of all information including the card information.
If cardholder does not claim accommodation that has been reserved under these procedures or cancelled prior to the specified cancellation time, the room(s) must be held available in accordance with the reservation. If the cardholder does not cancel the reservation or check in within the prescribed time, merchant will deposit a sales draft for one night's lodging, plus applicable tax, indicating the cardholders account number, expiration date and name embossed on the card with the words "NO SHOW" on the cardholder signature line. Merchant should then follow the required authorization procedure for hotel transactions.
If accommodations that were guaranteed under this service are unavailable, merchant must provide cardholder with a) at least comparable accommodations for one (1) night at another establishment; b) provide transportation to the location of the alternative establishment; c) if requested, provide cardholder with a (3) minute telephone call and forward calls to the location of the alternative establishment at no cost to the cardholder.
If a chargeback occurs and involves a dispute between the lodging merchant and the cardholder over cancellation of reservations or advance deposits, NPC may request resolution of the dispute by Visa or MasterCard. If the dispute is resolved successfully, NPC will charge the merchant and the merchant agrees to pay NPC a "Resolution Fee."

F. Pre-Authorized Health Care Transactions

1. Any merchant that participates in the Visa Pre-Authorized Health Care Program must be in possession of a current addendum for this program.
2. This addendum must be in place prior to the offering of the program by merchant.

G. Visa Supermarket Incentive Program

Terms and Conditions

1. Any merchant that wishes to participate in the Visa Supermarket Incentive Program must be in possession of the current addendum for this program.

2. This addendum must be in place prior to the offering of the program by merchants.

H. Electron Card Program

1. At its option, a merchant may accept Electron Cards. If a merchant chooses to accept Electron Cards, it must except all Electron Cards when properly presented. In addition, the merchant must:

- Display the Electron symbol
- Obtain authorization
- Use a terminal for authorization and data capture: such terminal must print a receipt.
- Accept Electron Cards only for "face-to-face" transactions in which both the card and cardholder are present; and
- Process all transactions resulting from cards bearing an Electron symbol as electron transactions and be subject to all Visa International Operating Regulations governing the Electron Program.

IV. Operational Requirements

A. Merchant Name and Address

- All forms submitted to CPS must bear both the corporate and "Doing Business As" (DBA) name.
- A signature of a corporate officer provides authorization for us to investigate all corporate officers.
- Merchant will inform NPC immediately of any change in:
 - Corporate name, DBA, or location address
 - Any changes of ownership

B. Imprinters

- All merchants must be in possession of a working imprinter, a supply of blank sales drafts and an accurate imprinter plate showing their DBA name, city and state and merchant number. In the event that merchant is not in possession of the above equipment, merchant must contact NPC to obtain such equipment.
- Failure to be in possession of the equipment and supplies listed above will seriously increase merchant's liability for chargebacks where transactions (cannot be magstripe read by a terminal as a result) are key-entered, and a signed imprinted sales draft is not completed.

C. Incorporation

1. NCB, NPC and CPS, as well as merchant, are parties to an agreement for processing of sales (AGREEMENT) into which these INSTRUCTIONS (as amended from time to time) have been incorporated by reference.

D. Use of Non-CPS Terminals and/or Software

1. If merchant elects to use the terminal of AMEX or Discover third-party provider, or other provider of software (such as a POS or accounting system vendor) to capture and transmit Visa and MasterCard sales to NPC, merchant assumes full responsibility and liability for third-party providers failure to comply with the INSTRUCTIONS. The third-party provider is the source for information regarding authorizations and chargebacks that may be needed by NPC. Certain chargebacks require authorization information to reverse. Merchant is responsible to obtain this information from third-party provider. NPC is not liable for sales that were received by it.

E. Communication Vendors

1. Merchant understands in the event that CPS terminals are used by merchants, the communications vendor is not responsible for losses arising from transactions processed using the vendor's service.

F. Effect of Termination of Processing Agreement

- In the event that AGREEMENT is terminated for cause, NPC is required by associations to file the name and address of merchant and merchant's principal's on the "Match File."
- In the event that AGREEMENT is terminated for cause and merchant is obligated to NPC for sums due, the principals of merchant are liable for such debts and a negative credit report may be submitted to a reporting agency.

G. Member Service Provider Services

- If merchant is using a Member Service Provider's terminal, (i.e. dial terminal or equivalent sale capture device), and the Member Service Provider is providing the customer service, then such Member Service Provider is a separate entity and is not an agent of NPC.
- Merchant agrees that NPC's obligation to pay merchant for sales captured by use of non-NPC terminals is limited to the amount, less discount, received by NPC from the Member Service Provider.
- Any problems or complaints regarding such should be reported, in writing to: NPC, 1231 Durrett Land, Louisville, Kentucky 40285-0001. Attn: Compliance Services.

H. Submission of All Sales

- In order to ensure that there is no duplicate processing of sales by multiple processors, merchant agrees to submit all sales from the business originating within the United States of America to NPC under AGREEMENT.
- Subsequent amendments to these INSTRUCTIONS:

This AGREEMENT provides that merchant will comply with the terms of INSTRUCTIONS as if they were specific terms of AGREEMENT set out therein. Due to changes in the processing industry and the requirements of the association and NPC, the INSTRUCTIONS are amended from time to time and amendments to these INSTRUCTIONS are distributed to merchant at the address currently on record for the distribution of statements.

Submission of sales at any time after seven (7) days from the date of distribution of INSTRUCTIONS to merchant's address for processing statements, shall be evidence that merchant has received the amended INSTRUCTIONS and has agreed to be bound by them.

I. Merchant Statements

Merchant will receive periodic statements reflecting activity on its account. Merchant agrees to examine and reconcile its merchant statement and notify NPC of any error or discrepancy. Unless merchant provides written notice to NPC of any error or discrepancy within 60 days of the statement date, the statement shall be deemed as correct for all purposes and NPC shall not be liable for any error or discrepancy reflected thereon. No legal proceedings or action may thereafter be brought against NPC to recover for any error or discrepancy.

This Merchant Credit Card Processing Agreement ("Agreement") is among the Merchant identified on page one of this Agreement, National City Bank of Kentucky, a national Bank headquartered in Louisville, Kentucky ("Bank"), National Processing Company, a Kentucky corporation headquartered in Louisville, Kentucky ("NPC") and National Payment Systems, a New York Corporation with its principle place of business at 500 Seventh Avenue, 18th Floor, New York, NY 10018 ("CPS"). NPC is engaged in the business of processing and transmitting electronic data of a financial, banking or economic nature, including but not limited to card transactions. Bank is a member of Visa U.S.A., Inc. ("Visa") and MasterCard International Inc. ("MasterCard"). CPS is registered with Visa and MasterCard to provide certain services to you in connection with your card transactions. In this Agreement, the words "you" and "your" mean the Merchant and the words "we," "our," and "us," unless the context clearly requires otherwise, refer collectively to Bank, NPC and CPS. We and you agree that we (directly or through others providing services on our behalf) will be the sole providers of all services necessary to authorize, process and settle all of your Visa and MasterCard transactions and all services specified herein for any other Cards being accepted by you under this Agreement.

1. **Acceptance of Cards:** You must honor any valid and acceptable Visa and MasterCard card properly tendered for use, without imposing any special conditions not required by Association Rules. In this Agreement, "Card" means a credit of off-line debit card bearing the service mark of Visa or MasterCard and a Card issued by any other Card Issuers specified herein as being covered by this Agreement. You must submit any Visa, MasterCard and other card transaction drafts and records to us no later than 5 (five) calendar days or 3 (three) banking days (whichever is earlier) after you complete Card transactions (unless you are entitled to any special extension of these deadlines). However, if you want to qualify for a lower incentive rate, you must submit your Visa and MasterCard transactions in the time frames specified in the Schedule of Charges.

For all Card transactions submitted to us: a) the transaction must represent obligations of the person to whom the Card has been issued and/or the authorized user ("the Cardholder") for the amounts in the transaction (including tax, but without any surcharge) and only for merchandise actually sold or rented or services actually rendered by you (except for any delayed delivery or advance deposit authorized by Association Rules and this Agreement) and must not involve any element of credit for any other purpose, b) the transaction must represent a bona fide sale/rental of merchandise and/or services not previously submitted and may not represent a refinancing of any prior obligation, c) the price charged for the transaction must not be subject to any dispute, setoff or counterclaim, and) you must have no knowledge or notice of any fact, circumstances or defense which would indicate that the transaction was fraudulent or not authorized by the Cardholder or which would otherwise impair the validity or collectibility of the Cardholder's obligation or relieve the Cardholder from liability from the transaction.

2. **Association Rules; Manuals/Instructions.** We may supply you with various manuals and instructions regarding chargebacks, terminal processing and other operational compliance matters (the "Manuals/Instructions"), and may from time to time otherwise advise you of requirements imposed by the Association Rules by providing you with relevant portions or summarization's thereof of the rules, regulations, releases, interpretations and other requirements of Visa, MasterCard and any other Issuers of Cards you intend to accept as specified in this Agreement. You agree to follow the procedures in the Manual/Instructions in connection with each Card transaction and to comply with any such requirements of the Association Rules.

3. **Other Card Types.** Our sole responsibility for transactions involving card types issued by American Express, Diners Club/Carte Blanche and JCB (each a "Card Issuer") will be to provide authorization and transmission of the Card transactions to the applicable Card Issuer on your behalf. All other aspects of processing such Card transactions is governed by your Agreement with the respective Card Issuer including but not limited to settlement of funds and any disputes. If you are required to have a valid Issuer Agreement in effect with a Card Issuer in order to submit Card transactions to us for authorization, you must have such an Agreement in effect. You must notify us immediately upon termination of any such Agreement.

4. **Settlement of Card Transactions.** All credits to the bank account(s) you designate for us to debit and credit for Card transactions and related amounts (the "Settlement Account"), as well as any other payments to you, are provisional and are subject to our final audit and checking. We may debit or credit your Settlement Account for any deficiencies and overages or may deduct such amounts from settlement funds due to you. To the extent the Automated Clearing House (ACH) settlement process is used by us to effect debits or credits to your Settlement Account, you hereby 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 settlement process and/or through direct instruction to (or such other arrangements as we deem appropriate with) the financial institution where your Settlement Account is maintained for amounts due to or from you under this Agreement and under any agreements with us or our affiliates for any related equipment and related services (including any check guarantee or check verification services), as well as for any credit entries in error. You hereby authorize the financial institution stated herein (or such other 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 such financial institution (or such other financial institution where your Settlement Account is maintained) that all monies due from you under this Agreement and under any agreements with us or our affiliates for any related equipment or related services (including any check guarantee or check verification services) have been paid in full.

This Agreement is a contract whereby we are extending financial accommodations to you within the meaning of Section 365(c) of the Bankruptcy Code. We are not liable for any delays in receipt of funds or errors in debit and credit entries caused by unaffiliated third parties including but not limited to the Associations, a clearing house or your financial institution.

5. **Fees; Adjustments; Collection of Amounts Due from You.** Our fees and other charges to you for the services and any supplies we provide will be calculated pursuant to this Agreement and any subsequent amendment to this Agreement. We will charge you a fee for the services to be provided by us to you under this Agreement which shall be calculated daily and charged monthly. The discount fees shown herein shall be calculated based on the gross amount of all Visa and MasterCard transactions submitted to us. The fees with respect to other Card transactions shall be a percentage of the gross amount of, or a per transaction fee for all such Card transactions. If your transactions fail to qualify for any reduced interchange fees used to determine the fees shown herein or any subsequent amendment, we will process such transactions at the applicable interchange fees set by the applicable Association; we may adjust our fees to reflect the higher interchange charges plus our services to handle such adjustments; and you shall pay us the corresponding adjustments in our fees. Also, if your average ticket size and/or annualized Bankcard volume falls below the Expected Annual Card Sales on page one for any (six) 6 month period, we may adjust our fees as we deem appropriate, and you will pay us the corresponding adjustments. Pursuant to Section 17, we may amend the fees and charges for services and supplies provided under this Agreement. We also may require you to pay us an extra or special charge imposed by third parties plus our handling charge, if any transactions are processed or initiated hereunder are charged back, reversed or rejected (including chargeback fees and fines and ACH reject fees), and we may require you to pay handling fees for any supplies we provide.

We may require you to pay any applicable excessive chargeback handling fees or fines imposed by the applicable Association due to your excessive chargeback volume and any other fees or fines imposed by the applicable Association for your acts or omissions.

At our option, we may deduct any chargebacks, adjustments, fees, charges, obligations and other amounts you owe us pursuant to any provisions of this Agreement from any settlements due to you, or we may debit your Settlement Account for any such amounts you owe us, or we may invoice you, in which case you must pay us for the invoiced amounts within 30 days of the date of our invoice or such shorter time as may be specified. Except for amounts we elect to collect by invoice, if there are insufficient funds available to be withheld or debited to pay amounts you owe, you must immediately reimburse us upon demand. You authorize us to debit your

Settlement Account, or any other account we are otherwise authorized to debit, for any amounts due pursuant to this Agreement, or due to us or any of our affiliates for any related services.

If you believe that any adjustments should be made to your Settlement Account based on debits or credits we have made to your Settlement Account, you must notify us in writing within 60 days after the debit or credit in question was made. If you fail to notify us within such time period, we will not be responsible for investigating or effecting any required adjustments, absent our gross negligence or willful misconduct. If you notify us after such time period, we may, in our discretion, assist you in investigating whether any adjustments absent our gross negligence or willful misconduct. Any voluntary efforts by us to assist you in investigating such matters will not create any obligation to continue such investigation or assist with any investigation in response to any future notices of possible adjustments that are not timely submitted.

6. Chargeback Rights. We may charge back to you any transaction amount (commonly referred to as a "chargeback") for the reasons stated and within the time frames permitted by Association Rules in effect from time to time or in accordance with applicable law. In addition, you must reimburse us for any chargebacks or other losses resulting from your failure to produce a transaction record requested by us within the time limits established by Association Rules. We may, but will not be obligated to, provide you with copies or summaries of Association Rules relating to chargebacks from time to time.

7. Confidentiality. You must use the names, addresses and account numbers of Cardholders only in connection with your rights and responsibilities under this Agreement and must not use, sell or disseminate a list of Cardholders to any third party without our prior written consent. You must limit access to, and must render unreadable prior to discarding, all records containing Cardholder account numbers and card imprints.

8. Advertising. You must display Visa, MasterCard and any other applicable Card Issuer decals and program marks on promotional materials we furnish as required by Association Rules. You must not indicate that Visa, MasterCard or any other Association, endorse your goods or services and must not continue using such materials after termination of this Agreement.

9. Assignment. This Agreement is binding upon successors and assigns and inures to the benefit of the parties and their respective permitted successors and assigns. You may not assign or transfer this Agreement, by operation of law or otherwise, without prior written consent. No assignee for the benefit of creditors, custodian, receiver, trustee in bankruptcy, debtor in possession, sheriff or any other officer of a court, or other person charged with taking custody of your assets of business, will have any right to continue, assume or assign this Agreement. We may substitute another VISA and MasterCard member for BANK and we may assign or transfer this Agreement and our rights and obligations under this Agreement and we may delegate our duties under this Agreement, in whole or in part, to any third party or parties without obtaining your consent.

10. Terms; Default; Escrow/Security Account. (a) This Agreement is binding upon its execution by us and will continue in force for the Initial Term of three (3) years and shall continue in force thereafter until terminated by you or us giving written notice to the other party or parties not less than 30 days prior to the designated termination date. Notwithstanding the foregoing, we may terminate this Agreement at any time upon 30 days written notice to you. We may terminate in less than 30 days as provided below.

(b) If any of the following events (each a "Default") occurs, we may terminate this Agreement immediately without notice and exercise all of our other rights and remedies under this Agreement and applicable law: (i) a material adverse change in your business, financial condition, business procedures, products or services, a sale of all or a substantial portion of your assets, or a change in control of your business (directly or indirectly); (ii) irregular Card sales, excessive chargebacks or any other circumstances which, in our discretion may increase our potential exposure for your chargebacks or otherwise present a financial or security risk to us; or (iii) a default by you in any material respect in the performance or observance of any term, covenant, condition or agreement in this Agreement or in any other agreement with us or any of our affiliates (including but not limited to any agreement governing check guarantee or check verification services); or (iv) you file a voluntary petition or complaint seeking relief under any federal or state Bankruptcy or other debt relief statute, an involuntary petition under any federal or state bankruptcy or other debt relief statute is filed against you, you generally become unable to pay your debts or trade obligations as they become due, or you make a general assignment for the benefit of creditors.

(c) If, during any six (6) month period (the "Measurement Period") the average size or the total amount of your bankcard transactions is more than 20% lower than the expected annual Card Sales stated on page one (1) for (i) your average bankcard transaction size or (ii) one-half of your annual Bankcard volume, then we may terminate this Agreement by giving you at least 90 days advance notice; any such notice must be sent to you within 30 days after the end of the applicable Measurement Period.

(d) The provisions of this Agreement that govern processing of Card sales, credits and settlements will continue to apply even after this Agreement is terminated, until all Card transactions are settled or resolved. Upon termination, all amounts payable to us will be due and payable in full without demand or other notice of any kind (all of which you agree to expressly waive) and you must immediately send us all the data relating to Card sales and credits made up to the date of termination. We will not be liable to you for any direct or consequential damages you may suffer as a result of the termination of this Agreement.

(e) After any termination of this Agreement, you will continue to bear total responsibility for any and all chargebacks and adjustments resulting from transactions processed under this Agreement. For a period of 280 days after termination, we may require you to maintain an escrow account with us in an amount equal to the preceding 270 days of your chargeback and adjustment dollar volume (or if this Agreement has been in effect less than 270 days, an amount equal to 9 times your average monthly chargeback and adjustment dollar volume during the term of this Agreement) or such other amount that we deem necessary and sufficient to cover our potential chargeback and adjustment liability. In addition, we may establish an escrow account in the amount specified in the preceding sentence from any funds otherwise due to you. Escrowed funds may be used to settle chargebacks and adjustments (whether arising before, on or after termination) whenever settlement funds due to you are insufficient to cover such chargebacks and adjustments. We will refund any monies remaining in such escrow account no later than 280 days after termination of this Agreement, and will provide you with an accounting of any sums debited or credited from or to such account. If the escrow account is not sufficient to cover your chargebacks and adjustments, or if the escrowed funds have been released, you agree to promptly pay us such sums upon request.

(f) In lieu of exercising (but not as a waiver of) our right to immediately terminate this Agreement without notice in the event of a Default, we may, in our sole discretion, exercise all of our rights and remedies under applicable law, and we may also: (i) require you to establish an escrow account with us equal to the same amount as set forth in Section 10(e) and/or (ii) change processing or payment terms to suspend for a period of thirty (30) days payment of any and all amounts now due or to become due to you pursuant to this Agreement. The requirement to maintain an escrow account will not limit our right to debit or withhold ongoing settlement payments for chargebacks, potential chargebacks, and adjustments.

(g) In the event you fail to establish or maintain any required escrow/security account, we may immediately terminate this Agreement and may exercise any other rights we have under this Agreement.

11. Security Interest and Setoff Rights. You irrevocably grant to us a lien against and security interest in any funds pertaining to the transactions contemplated by this Agreement now in our possession or that may come into our possession, whether due or to become due to you, together with the proceeds thereof. Any such funds may be commingled with other funds and need not be maintained in a separate account. In addition to any rights granted under applicable law and not by way of limitation of such rights, you authorize us at any time and from time to time without notice or demand (any such notice and demand being expressly waived) to set off, to appropriate and to apply any and all such funds against and on account of your obligations under this Agreement and any other agreement with us or any of our affiliates for any related services, whether such obligations are liquidated, unliquidated, fixed, contingent, matured or unmatured. You agree to execute and deliver to us such instruments and documents we may reasonably request to perfect and confirm the lien, security interest and right of setoff set forth in this Agreement.

12. Termination Fee Provision. In the event that the Merchant terminates this Agreement prior to the initial term of 36 months, Merchant will be charged a three hundred dollar (\$300.00) fee for such early termination. Merchant's obligations with respect to the Minimum Monthly Discount Fee, if applicable, will end simultane-

ously with CPS' receipt of said three hundred dollars (\$300.00). If CPS is unable to collect the termination fee from the Merchant, then the Merchant shall be held financially responsible for the fee and the Merchant will be obligated to pay the Monthly Minimum Discount Fee for the remaining months left in the initial term of this Agreement.

13. Financial and Other Information. You and your undersigned official shall provide us, upon request, financial statements and other information about your business and principle owner(s) and officer(s) and your compliance with the terms of this Agreement. You and your undersigned official(s) and any Guarantor(s) authorize us to obtain from third parties, financial and credit information about you, your undersigned official(s) and any Guarantor(s), respectively, in connection with our determination whether to accept this Agreement and our continuing evaluation of the financial and credit status of you, your undersigned official(s) and any Guarantor(s). Upon request, you will provide to us or our representative's reasonable access to your facilities and records for the purpose of performing any inspection and/or copying of your books and/or records we deem appropriate. You will provide us with written notice of your intent to liquidate, substantially change the basic nature of your business, transfer or sell any substantial part (25% or more) of your total assets, or change the control or ownership of your business or of any other entity that controls your business, 30 days prior to such liquidation, change, transfer or sale taking place. You will also notify us of any judgment, writ, warrant of attachment, execution or levy against any substantial part (valued at 25% or more) of your total assets no later than 3 days after you obtain knowledge of any such judgment, writ, warrant of attachment, execution or levy.

14. Indemnification; Personal Guarantee. You agree to indemnify and hold us harmless from and against all losses, liabilities, damages and expenses (including attorneys' and collection fees and expenses) resulting from any breach of any covenant or agreement or any misrepresentation by you under this Agreement, or arising out of you or your employees' gross negligence or willful misconduct in connection with your Card transactions, or otherwise arising from your provision of goods and services to Cardholders.

The individual who signs this Agreement as a Guarantor acknowledges that he or she will benefit from the services and financial accommodation we provide to your business. In order to induce us to enter into this Agreement, any individual signing as a Guarantor hereby personally guarantees the obligations (including all payment and indemnity obligations) contained in this Agreement and any other agreement with us or any of our affiliates for any related equipment or related services (including any check guarantee or check verification service). If there is more than one Guarantor, each such Guarantor will be jointly and severally liable. We may proceed against any Guarantor with or without joining you or a Cardholder and without first or contemporaneously proceeding against or seeking to collect from any other such persons.

We agree to indemnify and hold you harmless from and against all losses, liabilities, damages and expenses (including reasonable attorneys' fees and expenses) resulting from any breach of any covenant or agreement or any misrepresentation by us under this Agreement or arising out of our employees' gross negligence or willful misconduct in connection with this Agreement.

15. Performance of Duties. No party will be liable for its failure to perform under this Agreement if such failure arises out of causes beyond the control and without the fault or negligence of such party. Such causes may include but are not limited to Acts of God, fires, wars, riots, strikes, acts, omissions or delays by an Association or other unaffiliated third parties or acts of civil or military authority.

16. Governing Law; Miscellaneous. This Agreement is governed by and will be construed in accordance with the laws of the Commonwealth of Kentucky, except that Section 16 shall be governed by the Federal Arbitration Act. If any part of this Agreement is not enforceable, the remaining provisions will remain valid and enforceable. In performing its obligations under this Agreement, each party agrees to comply with all laws and regulations applicable to it.

17. Dispute Resolutions and Arbitration. If the parties disagree as to any matter governed by this Agreement, the parties shall promptly consult with one another in an effort to resolve the disagreement. If such effort is unsuccessful, and controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitrator(s) shall have the right to render equitable, as well as other awards and relief. The parties agree that the underlying agreement notwithstanding any choice of law provision in Section 15 of this Agreement, any arbitration hereunder shall be governed by the Federal Arbitration Act.

18. Amendments. We may change this Agreement, the Manuals/Instructions, or other operating procedures by giving you at least 15 days advance notice. However, in the event of changes in the Association Rules or due to security risk control reasons, certain changes may become effective on shorter notice. Any card sales made by you after the effective date of such change will constitute consent to the new terms. If any such changes will materially adversely impact your business, you may advise us in writing as to the reasons therefor and terminate this Agreement upon 30 days written notice to us. You and we agree that you may not terminate this Agreement for the sole reason to obtain a better rate unless your rate was increased pursuant to section 10(c) of this Agreement.

19. Notices. All notices hereunder (unless involving normal operational matters, including requirements for various incentive programs) must be in writing, and shall be deemed given (a) if sent by mail, on the third business day after being mailed by first-class mail as stated in the Agreement or (b) if sent by courier, when delivered, in either case, if to you at the address appearing in this Agreement, and if to us to: CPS, 500 7th Avenue, 18th Floor, New York, NY 10018, Attention: Marketing, or to such other addresses as we or you may have specified in a written notice to the other.

20. Certain Rights of Visa, MasterCard and Issuers of Other Cards. The parties acknowledge that the Visa and MasterCard Association Rules give Visa and MasterCard certain rights to investigate you and to require termination or modification of this Agreement with respect to transactions involving Visa and MasterCard systems. The parties also acknowledge that Issuers of other Cards specified herein may have similar rights under their applicable Association Rules with respect to this Agreement's applicability to transactions involving such other Cards.

21. Entire Agreement, Etc. This Merchant Credit Card Processing Agreement with the Association Rules and any Manuals/Instructions constitute the entire agreement between the parties with respect to the subject matter, supersede any prior agreements and understandings and except as provided in the Agreement, can be changed only by a written agreement.