



1. MERCHANT INFORMATION

DBA Name:		Legal Name:	
Physical Business Address:		Mailing Address:	
City, State, Zip:		City, State, Zip:	
DBA Phone:	Cellular Phone:	Manager Contact:	
Fax Number:	Email:	Business Website:	Federal Tax ID #:

2. Owner/ Officer Information (must be greater than 50% ownership)

Primary Owner/Officer:		Title:	Owner/Officer Name:		Title:
Social Security #:	Date of Birth:		Social Security #:	Date of Birth:	
Residence Address:			Residence Address:		
City, State, Zip:			City, State, Zip:		
Home Phone:	Ownership %:		Home Phone:	Ownership %:	

3. Business Bank Account Information (please attach a voided check for verification)

Bank Name:	Bank Phone/contact:	Bank Account Number:	Bank Routing Number (9 digits):
------------	---------------------	----------------------	---------------------------------

4. Visa/MasterCard & Discover® Information

Do you currently Accept Visa, MasterCard and/or Discover? <input type="checkbox"/> YES <input type="checkbox"/> NO		Terminal Type & Model:	
Current Processor (attach copies of your 3 most recent processor statements):		Check Reader:	Pin Pad:
Transaction / Ticket Information:	Account Type:	Reprogram Only: <input type="checkbox"/> EPS Ship: <input type="checkbox"/>	Shipment Type:
Low Ticket: \$ _____	Card Swipe: _____ %	Gateway or Software:	
Average Ticket: \$ _____	Manually Keyed: _____ %	<input type="checkbox"/> Tip Line: <input type="checkbox"/> EBT*(food Stamps): <input type="checkbox"/> Auto Batch Time: _____ <input type="checkbox"/> Other: _____	
High Ticket: \$ _____	Website: _____ %	*EPS must receive a State License for merchant to accept EBT at their location	
Average Monthly: \$ _____	Call Center: _____ %	Mobile Only: Mobile Phone Carrier: _____ Phone Model: _____	

5. Terminal Information & Activation

Esquire Bank Disclosure

320 Old Country Road, Garden City, NY 11530 800-996-0213

Important Bank Responsibilities:

1. Esquire Bank is the only entity approved to extend acceptance of VISA products directly to a Merchant.
3. Esquire Bank is responsible for educating Merchants on pertinent VISA Operating Regulations with which Merchants must comply.
5. Esquire Bank is responsible for all funds held in reserve that are derived from settlement.

Important Merchant Responsibilities:

1. Ensure compliance with cardholder data security and storage requirements.
3. Review and understand the terms of the Merchant Agreement.

2. Esquire Bank must be a principal signor to the Merchant Agreement.
4. Esquire Bank is responsible for and must provide settlement funds to the merchant.

2. Maintain Fraud and Chargebacks below thresholds.
4. Comply with Visa Operating Regulations.

The responsibilities listed above do not supersede terms of the Merchant Agreement and are provided to ensure the Merchant understands some important obligations of each party and that the VISA Member-Esquire Bank- is the ultimate authority should the merchant have any problems.

Owner Signature: X _____ Printed Name: _____ Date: _____

Business Profile Information & Merchant Site Survey

Years In Business:	Length of Current Ownership:	Type of Business/Services Sold:	
How is the product/service delivered:		Location of Business: <input type="checkbox"/> Retail Store Front <input type="checkbox"/> Residence <input type="checkbox"/> Office Building <input type="checkbox"/> Other: _____	
Type of Ownership: <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> LLC <input type="checkbox"/> Other	Major Cross Streets:	Area Zoned: <input type="checkbox"/> Commercial <input type="checkbox"/> Residential <input type="checkbox"/> Industrial	
	Business Premises is: <input type="checkbox"/> Owned by Merchant <input type="checkbox"/> Leased from: _____	Phone: _____	
	Square Footage: <input type="checkbox"/> 0-250 <input type="checkbox"/> 251-500 <input type="checkbox"/> 501-2,000 <input type="checkbox"/> Over 2,000	Photos of Business provided? <input type="checkbox"/> YES <input type="checkbox"/> NO	
	Does the inventory and merchandise on the shelves and floor appear to match the type of business? <input type="checkbox"/> YES <input type="checkbox"/> NO Explain if no: _____		
	Describe Merchant's refund/return policy:		
Further comments by inspector (must be completed):			

Agent/ISO Acceptance and Information

I hereby verify that this application has been fully completed by the merchant and that I have physically inspected the business premises of the merchant at this address and that the information stated above is true and correct to the best of my knowledge and belief.

Agent Name: _____ Agent Signature: _____ Date: _____

Agent Office Contact Number: _____ Agent / ISO Office Number: _____

Electronic Debit/Credit Authorization

Merchant hereby authorizes Bank in accordance with this Agreement to initiate debit/credit entries to merchant's deposit account, as indicated below. This authority is to remain in full force and effect until (a) Bank has received written notification from Merchant of its termination, in such a manner as to afford Bank reasonable opportunity to act on it and (b) all obligations of

Merchant to Bank that have arisen under this agreement have been paid in full. This authorization extends, but is not limited, to such entries to this account which concern discount fees, transaction fees, chargebacks, penalties, service fees, return item fees, lease, rental and purchase charges, check services, warranty services, internet services or other services offered by EPS, involving Point Of Sale ("POS") and processing equipment.

PRICING SCHEDULE A**Credit Card Processing****Pin Based Debit**

Card Discount Rate _____%	Offline Debit _____%	American Express I.D. _____	Discount Rate _____%
Cost Plus Pricing _____%	Per Item Fee \$_____ (+ VS/MC/DS cost of interchange)	Annual Fee \$99.50	Per item Fee \$. _____
		PCI –DSS Compliance \$99.50	Admin. Fee \$10.00
AUTH. Fee Retail MOTO	Monthly Administration \$10.00	Warranty Program	Encryption Fee \$20.00
VS/MC/DS \$0.25 \$0.35	Minimum Discount Fee* \$25.00		An encrypted pin pad is needed to accept pin based debit.
Other \$0.25 \$0.35	Internet/Gateway Fee* \$15.00		
Wireless* \$0.15 \$0.15	Mobile Monthly Fee* \$12.95	1 Terminal \$9.95	
AVS \$0.04 \$0.04	Wireless Access Fee* \$25.00	2 Terminals \$14.95	
Voice Auth. Set Up \$4.95	Charge Back Fee \$25.00	Warranty includes free repair and replacement	
Voice Auth.* \$0.95 \$0.95	Retrieval Fee \$12.00		SIC/MCC Code:

*Some fees above may or may not apply due to the type of account and terminal or gateway you will use to process transactions. If you add additional terminals or programs these fees may come into effect. When accepting cards a surcharge of up to 1.75% applied to all transactions which fail to qualify for Visa MasterCard electronic data capture interchange requirements. If applying for a Cost Plus account, fees quotes are in addition to VS/MC/DS cost of interchange. Please review your merchant processing agreement for additional information on the fees listed under pricing schedule A. If using mobile, each additional phone added has an additional \$5.95 monthly fee assessed.

EZ Payment Plan and Single Check Conversion Pricing**Additional Products and Services****Please Initial >**

A Registration and Set up fee of \$320.00 is due at time of signing. Fees to merchants as follows:

Monthly Admin Fee \$10.00	Monthly Minimum \$25.00
% Per Check	Per Check Fee
<input type="checkbox"/> Conversion with Guarantee (EZ PAYMENT PLAN) _____	\$ 1.00
<input type="checkbox"/> Single Check Conversion with Guarantee _____	\$0.25

An account set up fee of \$50.00 will be debited from the first check in the series when multiple checks are used in a single transaction. Fee payment not otherwise covered in this Agreement shall be debited from merchants account on or about the 5th of each month for activity in the prior calendar month. An annual fee of \$99.50 is billed each year regardless of time of enrollment and cannot be waived or refunded. When applicable, in consideration for the granting of the license and use of the software, licensee agrees to pay developer a recurring monthly gateway fee of \$19.95 of the term of this agreement and any subsequent renewals.

☐ **Single Check Conversion without guarantee** will allow you to submit your checks through the ElectCheck system and have the funds automatically debited from your customers account and deposited in to your business account. Per check fee \$0.59.

☐ **Access Now** will develop a custom website template for your business, allowing you full access to make changes, and promote your business, with a free 30 day trial period. Choose from the following:

- ☐ 1 Page website \$9.95/mo ☐ 3 Page website \$19.95/mo
☐ 5 Page Website \$29.95/mo

Access now offers a free 30 day trial period for your website design. Merchant can cancel this website via email or fax to corporate office with no additional charges within the first 30 days from the date of this agreement. After 30 days the merchant agrees to fees as stated above. Merchant must provide EPS with all marketing information and Logos if specific designs are requested. After template completion EPS is no longer obligated to change or update the website, merchant will have ability to make all changes to website as needed.

PCI-DSS Data

Does Merchant use any independent servicer that stores, maintains, or transmits cardholder information: ☐ YES ☐ NO If Yes please provide the following for each servicer:

Name: _____ Phone Number / Contact: _____
 Does the merchant use: Software Type: _____ Terminal Type: _____

X _____
 Merchant Signature Printed Name Date

X _____
 Merchant Signature Printed Name Date

PERSONAL GUARANTEE AND ACCEPTANCE

The undersigned personally, and in his or her capacity of and for any named entity he/she represent, unconditionally guarantees the Bank and Electronic Payment Systems, LLC (EPS) the performance of this Agreement including by not limited to: payment of all sums due and owing; adherence to all terms and conditions of this agreement and any attachments hereto; and agrees to pay any attorney's fees and costs associated with enforcement of the terms, conditions, and agreements contained herein. Bank and/or EPS shall not be required to first proceed against Merchant for enforce or see any other remedy before proceeding against the undersigned. This is a continuing guaranty and shall not be discharged or affected by the death or the undersigned, shall bind the heirs, administrators, representatives and assigns and may be enforced by or for the benefit of any successor of Bank or EPS. The terms of this guaranty shall be for the duration of the Merchant Processing Agreement and all attachments thereto and shall guarantee all obligations which may arise or accrue during the terms thereof. Enforcement may be sought subsequent to any termination.

X _____
 Personal Guarantor (No Title)

X _____
 Personal Guarantor (No Title)

The undersigned personally, and in his or her capacity of and for any named entity herein represents and warrants that all information provided by Merchant in the Merchant Application and Processing Agreement, and if elected as a service, the EPS 90 Application and Purchase Agreement, and any other documents thereto, is true and correct. Also, the undersigned authorizes the Bank and/or EPS or its representative to investigate the credit of each person and/or entity listed on the Merchant Application and represents that he/she has the authority to provide such information. **MERCHANT HEREBY AGREES AND ACCEPTS ALL TERMS AND CONDITIONS CONTAINED HEREIN AND OUTLINED IN THE ARTICLES 1.01 THRU 3.14(L) and articles 1-7 of the MERCHANT APPLICATION. RESPECTIVELY FOR THE MERCHANT PROCESSING AGREEMENT, AND IF ELECTED AS A SERVICE, ARTICLES 1 THRU 8(b) RESPECTIVELY OF THE ARTICLES, TERMS AND CONDITIONS OF THE EZ PAYMENT PLAN APPLICATION AND PURCHASE AGREEMENT. FURTHERMORE, MERCHANT ACKNOWLEDGES RECEIPT OF A PHYSICAL COPY OF THIS AGREEMENT WHICH CONTAINS THE AFOREMENTIONED ARTICLES AND OTHER TERMS AND CONDITIONS THAT GOVERN THIS AGREEMENT, INCLUDING THE TWO (2) YEAR PROCESSING TERM FOUND IN SECTION 3.05 OF THE TERMS AND CONDITIONS.**

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT: To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

X _____ X _____
 Merchant Signature Printed name and Title Date Merchant Signature Printed name and Title Date

FOR OFFICE USE ONLY

Accepted by Esquire Bank * Garden City, NY 11530 * 800-996-0213

Accepted by Electronic Payment Systems, LLC * Englewood, CO 80111 * 800.863.5995

By _____ Title _____

By _____ Title _____

In consideration of the mutual covenants and agreements herein Esquire Bank ("Acquirer"), Electronic Payment Systems ("EPS"), acting on behalf of and for Acquirer, and the undersigned merchant ("Merchant") have agreed as follows as of the date of acceptance by Acquirer and issuance of a valid merchant card.

ARTICLE 1-CARD TRANSACTIONS

1.1 Honoring Cards

- (a) Merchant shall honor without discrimination all valid cards of the type(s) made available for processing by EPS and Acquirer (collectively, "Cards") when properly presented as payment by customers in connection with a bona fide, legitimate business Transaction. If Merchant does not deal with the public at large (such as in the case of a private club), Merchant shall be deemed to have complied with this non-discrimination rule if it honors all valid payment cards of cardholders who have purchasing privileges or memberships with Merchant.
- (b) Merchant shall not require, through an increase in price or otherwise, any cardholder to pay any surcharge at the time of sale or to pay any part of any charge imposed on Merchant by Acquirer except as expressly permitted by, and under terms and conditions that comply in full with, applicable law and Card Association (as that term is defined herein) and any applicable rules and regulations.
- (c) Merchant shall not establish minimum or maximum amounts for transactions completed with Cards ("Transactions").
- (d) Merchant shall not require a cardholder to provide identification information such as telephone number, address or driver's license number as a condition of completing a Transaction, unless such requirement is mandated by MasterCard, Inc. ("MasterCard"), Visa U.S.A. Inc. ("Visa") or Discover® rules and regulations and is permitted by the law of the state in which the Transaction takes place (for example, in mail order Transactions). MasterCard, Visa and Discover are referred to herein as the "Card Associations".
- (e) Merchant may not make a photocopy of a Card under any circumstances and may not request that the cardholder provide a photocopy of the Card as a condition for honoring the Card.

1.2 Advertising

- (a) Merchant shall display adequately any advertising or promotional material provided or required by Acquirer to inform the public that Cards will be honored at Merchant's place of business. Such displays, however, are not required if Merchant is a private club or does not deal with the general public, is a vehicle leasing company at airport locations, is a transportation company subject to government regulation, or is otherwise expressly exempted from this requirement by the Card Associations.
- (b) Merchant shall not display or use advertising or promotional materials containing Acquirer's name or symbol which might cause a customer to assume that Merchant honors only Cards issued by Acquirer.
- (c) Merchant shall have the right to use or display the proprietary names and symbols of the Card Associations only while this Agreement is in effect or until Merchant is notified by Acquirer or any appropriate Card Association to cease such usage.
- (d) Merchant shall comply with all applicable rules and regulations concerning the use of service marks and copyrights owned by any Card Association.
- (e) Merchant shall use the proprietary Card Association names and symbols only to indicate that Cards are accepted for payment and shall not indicate, directly or indirectly, that Acquirer or any Card Association endorses Merchant's products or services.
- (f) Merchant shall not refer to any Card Association in stating eligibility for its products, services or memberships.

1.3 Card Examination

- (a) Merchant agrees to confirm that the customer presenting the Card in each Transaction is the appropriate cardholder.
- (b) Merchant agrees to examine any security features (such as a hologram) included on each Card presented to Merchant. Merchant shall compare the embossed account number on the face of the Card with the account number indented on the signature panel.
- (c) Merchant shall, prior to completing any Transaction, check the validity date and expiration date of the Card and shall not honor any Card that is not valid or that has expired, without proper authorization.
- (d) Where the magnetic stripe on the Card is read in connection with a Transaction, Merchant shall compare the embossed account number on the Card to the number displayed or printed by the terminal to ascertain that they are the same.
- (e) Except in connection with a mail order, telephone order, eCommerce or pre-authorized Transaction, Merchant shall not complete the Transaction without presentation of the Card by the cardholder and a proper examination by the Merchant of the Card.
- (f) If the signature panel on any Card presented to Merchant is blank, Merchant shall:
 - (i) review positive identification to determine that the customer presenting the Card is the appropriate cardholder. Such identification must consist of a current official government identification document (such as a passport or driver's license) that bears the cardholder's signature; and
 - (ii) request authorization from Acquirer.
- (g) In the case of a Visa Card, Merchant shall compare the printed issuing bank identification number, which is directly above the first four digits of the embossed account number, with the embossed account number. If the printed number and the embossed number do not match, Merchant shall not accept or process the Transaction.

1.4 Authorization

- (a) Before honoring any Card, Merchant shall request authorization from Acquirer's designated authorization center.
- (b) Authorization numbers or positive account number verification response codes, as appropriate, shall be printed legibly in the designated area on the sales slip.
- (c) If authorization is denied, Merchant shall not complete the Transaction and shall use its best efforts by reasonable and peaceful means to follow any instructions from the authorization center.
- (d) Merchant shall be liable to Acquirer, regardless of any authorization, if Merchant completes a Transaction when the cardholder is present but does not have his or her Card, the cardholder does not sign the sales slip, the signature on the sales slip does not match the signature appearing on the Card, or the signature panel on the Card is blank.
- (e) In no event shall an authorization be deemed to be Acquirer's representation that the particular Transaction is in fact a valid, authorized or undisputed Transaction entered into by the cardholder or an authorized user of the Card.
- (f) An authorization for a restaurant Transaction in which a gratuity is added to the sales slip by the cardholder is valid if the total Transaction amount is within 20% of the authorization amount.
- (g) If authorization is obtained for the estimated amount of a car rental Transaction, Merchant shall disclose to the cardholder the amount authorized on the rental date.
- (h) Merchant acknowledges that EPS and Acquirer will monitor Merchant's daily deposit activity. The deposit activity should remain consistent to the "approved" monthly volume and average ticket amount approved on the Merchant Agreement and Application. If Merchant should exceed the "approved" monthly volume, Merchant acknowledges that additional documentation may be required. Merchant agrees that Acquirer may upon reasonable grounds suspend the disbursement of Merchant's funds for any unreasonable period of time required to investigate Merchant's activity. Merchant agrees to make good on the sales slip to the customer at the time of any suspension. EPS and/or Acquirer shall have no liability for any losses, either direct or indirect, which Merchant may attribute to any suspension of the disbursement of funds.
- (i) All cases the final delivery and/or performance of all goods and/or services shall not exceed ninety (90) days from the date of the original Transaction.

1.5 Completing the Transaction Record

- When honoring a Card in connection with a Transaction, Merchant agrees to:
- (a) Enter on the sales slip the Transaction date, a description of the goods or services sold, and the price thereof (including any applicable taxes) in detail sufficient to identify the Transaction.
 - (b) Obtain the signature of the customer on the sales slip after the Transaction amount is identified in the "Total" column.
 - (c) Compare the signature on the sales slip and the signature panel of the Card and, if the Card has a photograph of the cardholder, to ascertain that the customer resembles the person depicted in the photograph; if either identification is uncertain, or the account numbers are not the same or Merchant otherwise questions the validity of the Card, to not accept or process the Transaction.
 - (d) Imprint legibly on the sales slip the embossed legends from the Card and from Merchant's imprint plate. If the imprinter does not legibly imprint the embossed legends from the Card and Merchant's imprint plate, Merchant shall detail legibly the cardholder's name and account number and Merchant's name and place of business, as well as the name or trade style of the issuer as it appears on the face of the Card, the ICA number, the Card initials, if any, and both the effective date and expiration date. Merchant shall also record on the sales slip any other embossed data (such as security symbols).
 - (e) Make a true and completed copy of the sales slip to the customer at the time of delivery of the goods or performance of the services or for point of transaction terminal Transactions, at the time of the Transaction.
 - (f) Deliver to the cardholder's copy of the sales slip and the sales slip to the customer at the time of delivery of the goods or performance of the services or for point of transaction terminal Transactions, at the time of the Transaction.
 - (g) If the Card's account numbers which originate at and are data captured using point-of-transaction terminals, the following information on the cardholder's copy of the sales draft:
 - (i) the Card's account number;
 - (ii) Merchant's name;
 - (iii) Merchant's location code or city and state;
 - (iv) the amount of the Transaction;
 - (v) the Transaction date.
 - (h) The records must be produced for all Transactions which originate at and are data captured using automated dispensing machines or limited amount terminals, except for Transactions which originate at magnetic stripe reading terminals. Such Transaction records must include at least the following information:
 - (i) the Card's account number;
 - (ii) Merchant's name;
 - (iii) the magnetic stripe reading terminal location code or city and state;
 - (iv) the amount of the Transaction;
 - (v) the Transaction date.
 - (i) Whenever the imprinted account number cannot be read from the magnetic stripe, Merchant shall follow normal authorization procedures and complete the approved Transaction using a manual imprinter.

1.6 Multiple Transaction Records, Partial Consideration

- (a) Merchant must include on one Transaction record the entire amount due for the Transaction except in the following instances:
 - (i) the Transaction involves purchases made in separate departments of a multipoint-of-sale store;
 - (ii) the Transaction involves delayed or amended charges for a vehicle rental Transaction in which:
 - (A) the cardholder consented to be liable for such charges;
 - (B) such charges consist of ancillary or corrected charges, such as taxes or fuel fees, and not charges for loss, theft, damage, or traffic violations; and
 - (C) Merchant sends the cardholder a copy of the amended or add-on-sales drafts (sales drafts for such delayed or amended charges may be deposited without the cardholder's signature provided that Merchant has cardholder's signature on file, and the words "Signature on File" are entered onto the signature panel of the sales draft);
 - (iii) the customer pays a portion of the Transaction amount in cash, by check, with any other draft, or any combination of such payments at the time of the Transaction, and further provided that Merchant obtains authorization for that part of the Transaction affected with a Card;
- (b) If all or a portion of the goods or services are to be delivered or performed at a later date and the customer signs two separate sales slips, one of which represents a deposit and the second of which represents payment of the balance, and the balance sales slip is completed only upon delivery of the goods or performance of the services, in which case Merchant agrees:
 - (A) to note on the sales slips the word "deposit" or "balance" as appropriate and the words "Delayed Delivery";
 - (B) if the total amount of the two slips exceeds the applicable floor limit, to obtain prior authorization and note the authorization date and approval code on the sales slips; and
- (c) not to present the "balance" sales slip until all goods are delivered or all the services are performed; or
- (d) the cardholder is using the installment payment option offered in accordance with Section 1.7.

- (a) Merchant agrees not to divide a single Transaction into two or more Transaction records to avoid obtaining an authorization.
- (b) For sales processed at electronic P.O.S. terminals, multiple items individually billed to the same account will not be considered a violation of this Agreement if separate authorizations are obtained for each item.

1.7 Telephone Order, Mail Orders, eCommerce, Preauthorized Orders and Installment Orders

- (a) If a Transaction is made by telephone order (TO), mail order (MO), eCommerce or preauthorized order (PO), the sales slip may be completed without a customer's signature or a Card imprint, but Merchant shall:
 - (i) except in the event of an eCommerce Transaction, print legibly on the sales slip sufficient information to identify the Card issuer, Merchant and the cardholder, including Merchant's name and address, the Card issuer's name or trade style, ICA-number and bank initials (if any), the account number, the expiration date and any effective date on the Card, the cardholder's name, and any company name; and
 - (ii) except in the event of an eCommerce Transaction, print legibly on the signature line of the sales slip the letter "TO", "MO" or "PO" ("Recurring Transaction" for Visa Transactions), as appropriate.
- (b) obtain authorization for every sale for MO, TO and eCommerce Transactions (which authorization must be obtained no more than seven calendar days prior to the Transaction date), and attempt to obtain the expiration date of the Card as part of the authorization inquiry.
- (c) In any non-imprint Transaction (and whenever an expired Card is presented, regardless of whether it is imprinted), Merchant shall be deemed to warrant the customer's true identity as an authorized user of the Card, whether or not authorization is obtained, unless Merchant obtains and notes legibly on the sales slip evidence of the customer's true identity.
- (d) In connection with a recurring Transaction (or preauthorized order) pursuant to which goods or services are delivered to or performed for a cardholder periodically, Merchant agrees to the following conditions:
 - (i) Merchant must obtain a written request from the cardholder that the recurring Transaction be charged to the cardholder's account.
 - (ii) The written request must specify the amount of the recurring Transaction (or allow space for cardholder to specify a minimum and maximum amount) if the recurring Transactions are to be for varying amounts, the frequency of the recurring charges, and the length of time for which the preauthorized order is to remain in effect.
 - (iii) Before renewing a preauthorized order, Merchant must obtain a subsequent written request from the cardholder containing the information listed above.
 - (iv) Merchant must retain the cardholder's written authorization for as long as the preauthorized order is in effect and must provide a copy to Acquirer upon request.
 - (v) Merchant must not deliver goods or perform services covered by a preauthorized order after being advised that the preauthorization has been canceled or that the Card is not to be honored.
- (e) Except as provided in Section 1.6, a recurring Transaction may not include partial payments to Merchant for goods or services purchased in a single Transaction, or for periodic payments of goods or services on which Merchant assesses additional finance charges.
- (f) Merchant must inform the cardholder that he or she has the right to receive, at least 10 days prior to each scheduled Transaction date, written notice of the amount and date of the next charge. Cardholder may elect to receive the notice:
 - (A) for every charge;
 - (B) only when the Transaction amount does not fall within the specified range shown on the order form; or
 - (C) only when the Transaction amount is less than the most recent charge by more than an agreed-upon amount.
- (g) Merchant may offer cardholders an installment payment option for its mail/telephone order merchandise subject to the following conditions:
 - (i) Merchant's promotional material must clearly disclose the installment terms, including but not limited to:
 - (A) whether the plan offers items for only selected items or for the total amount of any order; and
 - (B) the shipping and handling charges and applicable taxes will be billed. The material also must advise cardholders who are not billed in the Transaction currency of Merchant that the installment billing amounts may vary due to fluctuations in the currency conversion rates.
 - (ii) No finance charges may be added by Merchant. The sum of the installment Transactions may not exceed the total sales price of the merchandise on a single Transaction basis.
- (h) Authorization is required for each installment Transaction. Merchant's floor limit is zero.
- (i) Merchant may not deposit the first installment Transaction with Acquirer until the merchandise is shipped. Subsequent installment Transactions must be deposited:
 - (A) at intervals of 30 days or more; or
 - (B) on the anniversary date of the Transaction (i.e. the same date each month).
- (j) In addition to Merchant's name, an appropriate installment Transaction descriptor (e.g. "one of five," "two of five," etc.) must be included in the Merchant name field of the clearing record.
- (k) Except in the event of an eCommerce Transaction, an imprint of the Card is required whenever the Card is present.

1.8 Vehicle Rental Transactions

Regardless of the terms and conditions of any written preauthorization form, the sales slip amount for any vehicle rental Transaction shall include only that portion of the Transaction, including any applicable taxes, entailing a bona fide renting of personal property by Merchant to a customer and shall not include any consequential charges. Nothing herein is intended to restrict Merchant from enforcing the terms and conditions of its preauthorization form through means other than a Transaction.

1.9 Returns and Adjustments, Credit Slips

- (a) If, with respect to any Transaction, any merchandise is accepted for return or any services are terminated or canceled, or any price adjustment is allowed by Merchant (other than involuntary refund or adjustment of applicable tariffs and other charges otherwise required by law or governmental regulations), Merchant shall not make any cash refund to the cardholder but shall deliver promptly to Acquirer a credit slip evidencing such refund or adjustments.
- (b) Each credit slip shall be signed and dated by Merchant and include the Transaction date, a description of the goods returned, services canceled or adjustment made and the amount of the credit. It shall be sufficient detail to identify the Transaction and the amount of the credit debited from the Card and Merchant's imprint plate.
- (c) The refund or adjustment shall be indicated on a credit slip and may not exceed the original Transaction amount.
- (d) The Merchant may limit its return, adjustment, refund or exchange policies provided that proper disclosure is made and purchased goods or services are delivered to the cardholder at the time of the Transaction.
- (e) Proper disclosure by the Merchant must be given at the time of the Transaction by printing the following words or similar wording on all copies of the sales slip or invoice being presented to the cardholder for signature in letters approximately 1/4 inches high and in close proximity to the space provided for the cardholder's signature:
 - (i) "NO REFUND OR EXCHANGE ONLY" for a Merchant that only accepts merchandise in immediate exchange for similar merchandise of a price equal to the amount of the original Transaction;
 - (ii) "EXCHANGE ONLY" for a Merchant that only accepts merchandise in immediate exchange for similar merchandise of a price equal to the amount of the original Transaction.
- (f) "RESTORE CREDIT ONLY" for a Merchant that accepts merchandise, and delivers to the cardholder an in-store credit for the full value of the merchandise returned which may be used only in the Merchant's place(s) of business.
- (g) A Merchant may, if permitted by applicable law, stipulate special circumstances agreed to by the cardholder (e.g. late delivery, delivery charges or insurance charges) as terms of the Transaction, but under no circumstance shall a surcharge be assessed for the use of a Card. The wording to appear on the sales slip shall be any special terms of the Transaction(s).
- (h) Merchant must deliver to the cardholder a true and complete copy of the credit slip at the time of the credit transaction. Merchant shall not process a credit slip without having completed the Transaction with the cardholder. In no event may the credit exceed the amount of the original Transaction.

1.10 Cash Payments, Factoring, Split Sales

- (a) Merchant shall not receive any payments from a customer for charges included on any Transaction record resulting from the use of any Card, nor receive any payments from a cardholder to prepare and present a credit slip for the purpose of affecting a refund to the cardholder's account.
- (b) Factoring in the act of processing a Transaction that is not the result of goods or services provided or sold by the Merchant and for the benefit of others. This includes any Transaction that may generate a fee to Merchant for this service. These and any like Transactions are PROHIBITED under this Agreement.
- (c) Split Sales are Transactions that utilize the same Card, at the same time in incremental amounts to achieve a desired authorization amount. If one Card is used, it must be for the full amount of the sale. This does not apply to Installment Orders as described in Section 1.7 above.

1.11 Cash Advances

- Merchant agrees not to make any cash advance to a cardholder or take any cash advances for themselves, their employees, family members or their company, either directly or by deposit to the cardholder's account. Money orders sent by wire, contribution to charitable and political organizations, tax payments, insurance premium payments for (1) one quarter year or less, alimony and child support payments, and court costs and fines shall not be considered cash advances or withdrawals.

1.12 Transactions Affecting This Agreement

Notwithstanding any other Sections, conditions, covenants or requirements contained herein, Merchant is approved to accept Transactions, as outlined in this Agreement in the normal course of Merchant's business that are germane to Merchant's business and within the "approved" average ticket and volumes for Merchant. Transactions should be based on the reasonable care of the information provided by Merchant at the time of application and conform to the standards established by S. I. C. (Standard Industry Code) that identifies Merchant's business.

1.13 Prohibited Transactions

- Merchant shall not do any of the following:
- (a) Obtain an authorization for the purpose of setting aside the cardholder's credit line for use in future sales;
 - (b) Extend credit for or defer the time of payment of the total cash price in any Transaction;
 - (c) Honor a Card exchange in a Transaction where a total cash price is due and payable in a Transaction;
 - (d) Make any special charge to or extract any special agreement or security from any Cardholder in connection with any Transaction;
 - (e) Transfer or accept payment for any Transaction that was not originated directly between Merchant and a cardholder for the sale or lease of goods or the performance of services of the type indicated in the Merchant Application form to which this Agreement is attached;
 - (f) Honor or accept a Card as payment for any legal services or expenses arising out of or related to:
 - (i) the defense of any crime other than a traffic violation;
 - (ii) any domestic relations matter in which such services or expenses are furnished to a person whose name is not embossed on a Card; or
 - (iii) any bankruptcy, insolvency, compromise, composition or other process affecting cardholder's creditors;
 - (g) Use Merchant's own Card, or one to which Merchant has access, to process a Transaction for the purpose of obtaining credit for Merchant's own benefit;
 - (h) Re-process any Transaction that was previously charged back to Bank and subsequently returned to Merchant, irrespective of cardholder approval;
 - (i) Initiate a Transaction credit without a preceding debit equal to the credit;
 - (j) Initiate a Transaction credit without a balance in the Operating Account at least equal to the credit;
 - (k) Use any equipment related to Transactions or any data received thereon for any other purpose other than for determining whether or not Merchant should accept checks or Cards in connection with a current sale or lease of goods or services;
 - (l) Use any equipment related to Transactions or any data received thereon for any other purpose other than for determining whether or not Merchant should accept checks or Cards in connection with a current sale or lease of goods or services;
 - (m) Draw or convey any inference concerning a person's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living when any Card or check is processed as non-accepted;
 - (n) Disclose any information obtained through any equipment related to Transactions to any person except for necessary disclosures to affected cardholders, Acquirer and/or financial institutions in connection with this Agreement;
 - (o) Disclose funds in the form of travelers checks, if the sole purpose is to allow the cardholder to make a cash purchase of goods or services from Merchant;
 - (p) Disclose funds in the form of cash;
 - (q) Accept a Card to obtain or advance an existing debt (whether originally owed to Merchant or otherwise);
 - (r) Issue a Transaction credit in respect of goods or services acquired in a cash Transaction which are returned;
 - (s) Make any cash refund to a cardholder who has made a purchase with a Card (all Transaction credits shall be issued to the same Card account number used in the sale);
 - (t) Require a cardholder to complete a postcard or similar device that includes the cardholder's account number, Card expiration date, signature or any other Card account data in plain view when mailed;
 - (u) Process a Transaction that represents collection of a dishonored check;
 - (v) Accept a Card for the purchase of S corp (as defined by applicable VISA regulations);
 - (w) Accept any payment directly from a cardholder for previous Card charges incurred and processed by Merchant;
 - (x) Request or use any Card number for any purpose other than as payment for goods or services offered or sold by Merchant.

1.14 Disclosure and Storage or Cardholder Account Information

- (a) Except as otherwise required by law, Merchant shall not sell, purchase, provide, or otherwise disclose the cardholder's account information or other cardholder information to any third party other than Acquirer.
- (b) Merchant and any agent of Merchant shall store in an area limited to selected personnel and, prior to discarding, shall mutilate in a manner rendering data unreadable, all records containing cardholder account numbers including but not limited to Card imprints, such as sales slips and credit slips, card rental agreements and signed, all records.
- (c) Neither Merchant nor any agent of Merchant shall retain or store magnetic stripe data subsequent to the authorization of a Transaction.
- (d) Merchant will be responsible for maintaining all records of all Transactions, including but not limited to original sales slips, signed sales drafts, signed credit drafts, work orders, and all other documents pertaining to the sales for which a Card was used as a form of or partial payment of the subject Transaction for a minimum of thirty-six (36) months from the date of the original Transaction.

1.15 Deposits

- Notwithstanding any other Sections, conditions, covenants or requirements herein, Merchant may accept deposits for goods and/or services to be performed in a timely manner. A deposit shall not be used as a payment to Merchant and is not to be used as interim financing or a "Cash Advance" as outlined in Section 1.11 above. Deposits, when identified by Acquirer, may be held in a reserve account until satisfactory completion of services and/or delivery of goods can be verified.
- Merchant shall maintain a record of all deposits made by customers. Merchant shall make financial representations in this "Merchant Application and Processing Agreement" that Merchant is asking Acquirer to rely upon to evaluate, underwrite, and approve this Agreement. Acquirer evaluation and underwriting process includes but is not limited to a Risk and Reward analysis based on the financial representations of Merchant. If Merchant fails to honor and meet the representations made it may subject Acquirer to undue financial exposure and possibly harm to material value in the Merchant's volume representations on this "Merchant Application and Processing Agreement" may result in a re-evaluation of the Agreement including but not limited acceptance of Merchant for Processing.
- (a) Acquirer entered into this Agreement to provide services based in part on the fee income the account would generate. Failure of Merchant to meet the financial representations made in this "Merchant Application and Processing Agreement" would deprive Acquirer of the fee income they negotiated for and Merchant agreed to pay. Acquirer would suffer damages for the loss of fee income. To calculate the damages Acquirer will compute the fee income that would have been generated on a monthly basis based on the Merchant's volume representations on this "Merchant Application and Processing Agreement" including all fees that would be earned on the sales based on the "Pricing Schedule A" and Acquirer will be entitled to collect the fee income otherwise deprived. Merchant acknowledges that the damages noted herein are not a punitive act but represent a reasonable calculation of the financial harm caused by Merchant for failures to meet the financial representations made by Merchant.

ARTICLE II-PRESENTMENT, PAYMENT AND CHARGE BACK

2.1 Presentment of Transaction Records to Acquirer

- (a) Merchant may designate a third party that does not have a direct agreement with Acquirer) as its agent for the purpose of delivering Transactions data-captured at the point of sale by such agent if Merchant elects to use such third party as its agent for the direct delivery of data-captured Transactions. Merchant agrees to the following conditions (for the purposes of this Section 2.1, "Merchant" includes any agent designated by Merchant as permitted under this Section):
 - (i) Merchant must provide mandatory notice to Acquirer that Merchant chooses to exercise the option specified above;
 - (ii) The obligation of Acquirer to reimburse Merchant for Transactions is limited to the amount (less the appropriate discount fee) delivered by Merchant's designated agent; and

Merchant is responsible for any failure by its agent to comply with all applicable rules and regulation of the Card Associations, including, but not limited to, any violation resulting in a charge back.

- (b) Merchant shall present all sales data relevant to a Transaction to Acquirer within the lesser of three (3) bank business days or five (5) calendar days after the date of the Transaction, except that:
 - (i) Merchant shall present no sales data until goods have been shipped or the services have been performed and Merchant has otherwise performed all of its principal obligations to the customer in connection with the Transaction unless the cardholder agreed to a delayed delivery of goods or proper disclosures were made at the time of the Transaction;
 - (ii) When Merchant requests and receives authorization for delayed presentment and legibly prints on the sales slip the authorization number and the words "Delayed Presentment", Merchant must present the sales data within the period permitted for delayed presentment (not to exceed thirty (30) calendar days);
 - (iii) If Merchant is unable to deliver a sales slip or return it to a buyer upon timely cancellation, Merchant must present the sales data within ten (10) bank business days after the date of the Transaction; and
 - (iv) When Merchant has multiple locations or offices and accumulates Transaction records at a central facility, Merchant must present the Transaction records to Acquirer within (20) calendar days after the date of the Transaction. If Merchant has multiple locations, Merchant must deliver the Transaction records in such a manner that Acquirer is able to identify the Transactions originating at each location.
- (c) Merchant shall deliver all credit data to Acquirer within three (3) bank business days after the credit Transaction date, except that if Merchant has multiple locations as described in subsection (b) above, Merchant may deliver the credit data to Acquirer within seven (7) business days after the Transaction date.
- (d) Merchant shall not present to Acquirer, directly or indirectly, a Transaction record that Merchant knows or should have known to be fraudulent or not authorized by the cardholder, that results from a Transaction outside Merchant's normal course of business, that results from a Transaction not involving Merchant, that contains the account number of a Card account that is not the result of a Transaction, or that contains information that is not the result of a Transaction.
- (e) If the transmission of sales data or credit data from Merchant to Acquirer is in the form of magnetic tape or electronic data, Merchant shall preserve a copy of the sales and credit slips as per Section 3.3.
- (f) Merchant is prohibited from re-depositing any Transaction which has previously been charged back and subsequently returned to Merchant. This prohibition applies with or without the cardholder's consent or the Merchant's action. Merchant may, at its option, pursue payment from the customer in such event through means other than a Transaction.

2.2 Operating Account and Reconciliation

- (a) Prior to accepting any Cards, Merchant will establish a demand deposit account at Acquirer, or at a financial institution approved by Acquirer (the "Operating Account"), through which fees, charges and credits due in accordance with this Agreement may be processed. Merchant authorizes Acquirer to debit all amounts Merchant owes Acquirer or EPS hereunder from the Operating Account, whether maintained at Acquirer or another financial institution, at times deemed appropriate by Acquirer or EPS, through the ACH Banking Network or by a manual debit of the Operating Account. Merchant waives any and all claims for loss or damage arising out of any such charges or debits to the Operating Account.
- (b) Acquirer will collect and disburse all Transaction-related settlement funds to Merchant. Transactions with respect to which Acquirer receives payment from or through the Card Associations will be settled on a daily basis, and Acquirer will deliver payment to Merchant in connection with such Transactions as soon after receiving such payment as practicable by effecting a credit to the Operating Account equal to the reconciled and paid summary Transaction total of all of Merchant's total paid summary Transactions since the previous credit. No late discount, electronic funds transfer or other discounts shall be applied to the Operating Account in connection with any Transaction prior to the point in time Acquirer receives payment in connection therewith from or through the Card Associations. In either case, Acquirer may, if necessary or appropriate, reduce any credit made to the Operating Account by, and/or Acquirer may require that Merchant pay to Acquirer an amount equal to:
 - (i) the sum of all cardholder charges denied, refused or charged back;
 - (ii) all refunds processed on account of cardholders during same period;
 - (iii) the rates, fees, charges, including chargebacks, Merchant owes Acquirer or EPS hereunder;
 - (iv) all taxes, penalties, charges, fees and other amounts incurred by Acquirer that are attributable pursuant to this Agreement; and
 - (v) any amount Acquirer previously credited to the Operating Account for which Merchant has not received payment in good faith, was incorrectly so credited.
- (c) Merchant will reconcile each settled Transaction within fifteen (15) days after the date on which such Transaction is submitted to Acquirer for payment, and will notify Acquirer and EPS immediately of any discrepancies or errors Merchant notes as the result of such reconciliation. Neither Acquirer nor EPS will have any responsibility or liability for Transaction-related errors or omissions that are brought to their attention more than thirty (30) days after the date on which the Transaction to which such error or omission relates is first presented to Acquirer for settlement.
- (d) Any credits to the Operating Account are provisional only and subject to revocation by Acquirer until such time that the Transaction is final and no longer subject to chargeback by the relevant issuing bank, cardholder or Card Associations. Acquirer may withhold payment for a Transaction to Merchant, for any reason, until such time as the Transaction has been verified as legitimate by the relevant issuing bank, or Acquirer and/or EPS receive adequate supporting documentation from Merchant to authenticate the Transaction and mitigate chargeback risk.

2.3 Insolvency

- (a) Notwithstanding Section 2.2, Acquirer may withhold payment to Merchant or prohibit Merchant's withdrawal of funds then on deposit in the Operating Account for any of the following reasons:
 - (i) Acquirer is suspicious of any Transaction records;
 - (ii) Merchant's volume of sales exceeds a stipulated amount or amounts that are typically generated during a particular period;
 - (iii) Merchant's average ticket amount exceeds a stipulated amount;
 - (iv) Merchant does not print swipe Cards through electronic terminals;
 - (v) Merchant fails to authorize any relevant Transaction;
 - (vi) Acquirer receives excessive retrieval requests against Merchant's account as prior activity;
 - (vii) Excessive chargebacks are debited against Merchant's account as prior activity; or
 - (viii) If for any other reason Acquirer reasonably determines that withholding funds or preventing the withdrawal of funds previously deposited into the Operating Account is necessary to cover anticipated charges from Card activities;
- (b) A debt by Acquirer to Merchant's Operating Account is returned unpaid for any reason.
- (c) Upon, or at any time after, execution of this Agreement, Acquirer may establish a reserve account at Acquirer ("Reserve Account"), for all future indebtedness of Merchant to Acquirer or EPS that may arise out of or relate to the obligations of Merchant under this Agreement, including, but not limited to, chargebacks and fees, in such amount as Acquirer from time to time may determine in its sole discretion. Acquirer may deduct amounts from payments due to Merchant by effecting a charge against Merchant's Operating Account or against any of Merchant's accounts at Acquirer, or by demanding payment from Merchant (which payment Merchant shall make within ten (10) days after receipt of any such demand). The Reserve Account will be maintained for a minimum of six months after the date on which this Agreement terminates or until such time as Acquirer determines that the release of the funds in the Reserve Account is prudent, in the best interest of Acquirer, and commercial reason, and that Merchant's account with Acquirer is fully resolved. Upon expiration of this six-month period, any balance remaining in the Reserve Account will be paid to Merchant.



By Initialling Here You Are Confirming Acceptance and Receipt of This Agreement and a Copy Thereof

X By Initialling Here You Are Confirming Acceptance and Receipt of This Agreement and a Copy Thereof



Electronic Payment Systems, LLC
6472 South Quebec Street
Englewood, CO 80111
800-863-5995

EQUIPMENT LEASE AGREEMENT

Merchant ID _____

Sales Rep. Name _____

Sales ID _____

MERCHANT INFORMATION

Corporate Business Name				DBA Name	
Business Address	City	County	State	Zip Code	Business Phone Number
Type of Business			Years in Business		<u>Business Type</u> <input type="checkbox"/> CORPORATION <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> PROPRIETORSHIP <input type="checkbox"/> NON-PROFIT
Billing Address (if different than above)		City	State	Zip Code	
Bank Name	Routing Number	Account Number	(Provide copy of Void Check)		

EQUIPMENT SUPPLIER

DESCRIPTION OF LEASED EQUIPMENT

First Data Merchant Services Corp.
1307 Walt Whitman Road
Melville, New York 11747

<u>Equipment Type</u>	<u>Quantity</u>	<u>Unit price without tax</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

SCHEDULE OF PAYMENTS

Payable at Lease Signing (amounts include tax)	<input checked="" type="checkbox"/> Equipment Service Program	Lease Term: _____ (in months)
<input type="checkbox"/> Advance Payments \$ _____		Monthly Lease Charge: \$ _____
<input type="checkbox"/> Security Deposit \$ _____		(total unit price without tax)
<input type="checkbox"/> _____ \$ _____		PLUS additional monthly charges: \$ _____
TOTAL \$ _____		Total Monthly Charges:* \$ _____

**All charges subject to applicable tax*

LEASE ACCEPTANCE

Undersigned agrees to all terms and conditions contained in this Equipment Lease Agreement. Lessee authorizes First Data Merchant Services Corp. or its agents, to request and obtain from a consumer reporting agency personal and business consumer reports. If the Application is approved, each of the undersigned authorizes us to obtain subsequent consumer reports in connection with the maintenance, updating, renewal or extension of the Agreement. Each of the undersigned furthermore agrees that all references, including banks and consumer reporting agencies, may release any and all personal and business credit financial information to us.

THIS IS A NON-CANCELABLE LEASE FOR THE FULL TERM INDICATED HEREIN.

X _____
Lessee Signature Title Print Name Date

PERSONAL GUARANTY

Undersigned unconditionally guarantees performance of this Equipment Lease Agreement by Lessee and payment of all sums due hereunder in the event of default, hereby waiving any modification, amendment or extension and notice thereof, and further agrees to the terms of this Equipment Lease Agreement insofar as they apply to the undersigned as guarantor.

X _____, An Individual
Personal Guarantor's Signature (No Title Allowed) Print Name Home Phone Number Date
Home Address City State Zip Code Social Security #

DO NOT WRITE IN THIS SPACE

Lessor Acceptance:

X
Name (please print or type) Title Signature Date

This Equipment Lease Agreement ("Agreement") is being entered into by and between Electronic Payment Systems, LLC and the Lessee identified in the signature panel of this Agreement. In this Agreement, the words "we", "our" and "us" refer to Electronic Payment Systems, LLC and its successors and assigns and the words "you" and "your" refer to Lessee and its permitted successors and assigns.

Lessee hereby authorizes us or our designees, successors or assigns (hereinafter "Lessor") to withdraw any amounts including any and all sales taxes now due or hereinafter imposed, owed by Lessee in conjunction with this Equipment Lease Agreement by initiating debit entries to Lessee's account at the bank named above (hereinafter "Bank"), or such other bank as the Lessee may from time to time use. In the event of default of Lessee's obligation hereunder, Lessee authorizes debit of its account for the full amount due under this Agreement. Further, Lessee authorizes Bank to accept and to charge any debit entries initiated by Lessor to Lessee's account. In the event that Lessor withdraws funds erroneously from Lessee's account, Lessee authorizes Lessor to credit Lessee's account for an amount not to exceed the original amount of the debit. This authorization is to remain in full force and effect until Lessor and Bank have received written notice from Lessee of its termination in such time and in such manner as to afford Lessor and Bank a reasonable opportunity to act.

1. **Equipment.** We agree to lease to you and you agree to lease from us the equipment identified on the cover page of this Agreement or such other comparable equipment we provide you (the "Equipment"), according to the terms and conditions of this Agreement. We are providing the Equipment to you "as is" and make no representations or warranties of any kind as to the suitability of the Equipment for any particular purpose.

2. **Effective Date, Term and Interim Rent.**

(a) This Lease Agreement becomes effective on the earlier of the date we deliver any piece of Equipment to you (the "Delivery Date") or acceptance by us. This Lease Agreement remains in effect until all of your obligations and all of our obligations under it have been satisfied. We will deliver the Equipment to the site designated by you.

(b) The term of this Lease Agreement begins on a date designated by us after receipt of all required documentation and acceptance by us (the "Commencement Date"), and continues for the number of months indicated on the Equipment Lease Agreement. THIS IS A NON-CANCELABLE LEASE FOR THE TERM INDICATED.

(c) You agree to pay an Interim Lease Payment in the amount of one-thirtieth (1/30th) of the monthly lease charge for each day from and including the Delivery Date until the date preceding the Commencement Date.

(d) YOU ACKNOWLEDGE THAT THE EQUIPMENT AND/OR SOFTWARE YOU LEASE UNDER THIS LEASE AGREEMENT MAY NOT BE COMPATIBLE WITH ANOTHER PROCESSOR'S SYSTEMS AND THAT WE DO NOT HAVE ANY OBLIGATION TO MAKE SUCH SOFTWARE AND/OR EQUIPMENT COMPATIBLE IN THE EVENT THAT YOU ELECT TO USE ANOTHER SERVICE PROVIDER. UPON TERMINATION OF YOUR MERCHANT PROCESSING AGREEMENT, YOU ACKNOWLEDGE THAT YOU MAY NOT BE ABLE TO USE THE EQUIPMENT AND/OR SOFTWARE LEASED UNDER THIS LEASE AGREEMENT WITH SAID SERVICE PROVIDER.

3. **Site Preparation.** You will prepare the installation site(s) for the Equipment, including but not limited to the power supply circuits and phone lines, in conformance with the manufacturer's and our specifications and will make the site(s) available to us by the confirmed shipping date.

4. **Payment of Amounts Due.**

(a) The monthly lease charge is due and payable on the same day of each successive month thereafter of the lease period for each piece of lease equipment, except that the first payment of the monthly lease charge for each piece of Equipment is due and payable upon acceptance of the Equipment by you. You agree to pay all assessed costs for delivery and installation of Equipment.

(b) In addition to the monthly lease charge, you shall pay, or reimburse us for, amounts equal to any taxes or assessments on or arising out of this Agreement or the Equipment, and related supplies or any services, use or activities hereunder, including without limitation, state and local sales, use, property, privilege and excise tax, exclusive, however, of taxes based on our net income. Reimbursement of property tax calculation is based on an average tax rate.

(c) Your lease payments will be due despite dissatisfaction with the Equipment for any reason.

(d) Whenever any payment is not made by you in full when due, you shall pay us as a late charge, an amount equal to ten percent of the amount due but no less than \$5.00 for each month during which it remains unpaid (prorated for any partial month), but in no event more than the maximum amount permitted by law. You shall also pay to us an administrative charge of \$10.00 for any debit we attempt to make against your bank account that is rejected, but in no event more than the maximum amount permitted by law.

(e) In the event your account is placed into collections for past due lease amounts, you agree that we can recover a collection expense charge of \$50 for each aggregate payment requiring a collection effort, but in no event more than the maximum amount permitted by law.

5. **Use and Return of Equipment; Insurance.**

(a) You shall cause the Equipment to be operated by competent and qualified personnel in accordance with any operating instructions furnished by us or the manufacturer. You shall maintain the Equipment in good operating condition and protect it from deterioration, normal wear and tear excepted.

(b) You shall not permit any physical alteration or modification of the Equipment, or change the installation site of the Equipment, without our prior written consent.

(c) You shall not create, incur, assume or allow to exist any consensually or judicially imposed liens or encumbrances on, or part with possession of, or sublease the Equipment without our prior written consent.

(d) You shall comply with all governmental laws, rules and regulations relating to the use of the Equipment. You are also responsible for obtaining all permits required to operate the Equipment at your facility.

(e) We or our representatives may, at any time, enter your premises for purposes of inspecting, examining or repairing the Equipment.

(f) The Equipment shall remain our personal property and shall not under any circumstances be considered to be a fixture affixed to your real estate. You shall permit us to affix suitable labels or stencils to the Equipment evidencing our ownership.

(g) You shall keep the Equipment adequately insured against loss by fire, theft, and all other hazards and you shall provide proof of insurance. **The loss, destruction, theft or damage of or to the Equipment shall not relieve you from your obligation to pay the full purchase price or total monthly lease charges hereunder.**

(h) You may choose not to insure the Equipment and participate in the Equipment Service Program. The Equipment Service Program provides a replacement of the Equipment for as long as you participate in the Program during the Lease Term. The Equipment Service Program includes (i) free comparable replacement terminal (new or refurbished) in the event of a defect or malfunction (terminal defects or malfunctions caused by acts of God are not covered by this Program), (ii) free shipping and handling on both the replacement terminal and return of defective terminal, (iii) free overnight shipping and handling on replacement terminal if requested by 3:00 pm ET (Monday - Thursday). If you don't return your damaged equipment, you will be charged the full purchase price of the replacement equipment sent to you. The monthly fee of \$4.95 for the optional Equipment Service Program is a per terminal fee. You can choose to insure the Equipment and terminate your participation in the program at any time by calling our Customer Service department.

6. **Title to Equipment.** We at all times retain title to the Equipment unless we agree otherwise in writing. You agree to execute and deliver to us any statement or instrument that we may request to confirm or evidence our ownership of the Equipment, and you irrevocably appoint us as your attorney-in-fact to execute and file the same in your name and on your behalf. If a court determines that the leasing transaction contemplated by this Agreement does not constitute a financing and is not a lease of the Equipment, then we shall be deemed to have a first lien security interest on the Equipment as of the date of this Agreement, and you will execute such documentation as we may request to evidence such security interest.

7. **Return or Purchase of Equipment at End of Lease Period.** Upon the completion of your lease term or any extension thereof, you will have the option to (a) return the Equipment to us; (b) purchase the Equipment from us for its then fair market value, calculated as a percentage of the aggregate lease payments in accordance with the following: If the term of this Lease is forty-eight (48) months or more, the buyout option as a percentage of the aggregate lease payments shall be ten percent (10%). If the term of this lease is thirty-six (36) to forty-seven (47) months, the buyout option as a percentage of the aggregate lease payments shall be fifteen percent (15%). If the term of this lease is twenty-four (24) to thirty-five (35) months, the buyout option as a percentage of the aggregate lease payments shall be twenty percent (20%); or (c) after the final lease payment has been received by FDGL, the Agreement will revert to a month by month rental at the existing monthly lease payment. If Client does not want to continue to rent the Equipment, then Client will

be obligated to provide FDGL with 30 day written notice to terminate and return the equipment to FDGL. If we terminate the lease pursuant to Section 11(b) due to a default by you, then you shall immediately return the Equipment to us no later than the tenth business day after termination, or remit to us the fair market value of the Equipment as determined in good faith by us. We may collect any amounts due to us under this Section 7 by debiting your bank account, and to the extent we are unable to obtain full satisfaction in this manner, you agree to pay the amounts owed to us promptly upon our request.

8. **Software License.** We retain all ownership and copyright interest in and to all computer software, related documentation, technology, know-how and processes embodied in or provided in connection with the Equipment other than those owned or licensed by the manufacturer of the Equipment (collectively "Software"), and you shall have only a nonexclusive license to use the Software in your operation of the Equipment.

9. **Limitation on Liability.** We are not liable for any loss, damage or expense of any kind or nature caused directly or indirectly by the Equipment, including any damage or injury to persons or property caused by the Equipment. We are not liable for the use or maintenance of the Equipment, its failure to operate, any repairs or service to it, or by any interruption of service or loss of use of the Equipment or resulting loss of business. Our liability arising out of or in any way connected with this Agreement shall not exceed the aggregate lease amount paid to us for the particular Equipment involved. In no event shall we be liable for any indirect, incidental, special or consequential damages. The remedies available to you under this Agreement are your sole and exclusive remedies.

10. **Warranties.**

(a) All warranties express or implied, made to you or any other person are hereby disclaimed including without limitation, any warranties regarding quality, suitability, merchantability, fitness for a particular use, quiet enjoyment, or infringement.

(b) You warrant that you will only use the Equipment for commercial purposes and will not use the Equipment for any household or personal purposes.

11. **Indemnification.** You shall indemnify and hold us harmless from and against any and all losses, liabilities, damages and expenses, (including attorneys' fees) resulting from (a) the operation, use, condition, liens against, or return of the Equipment or (b) any breach by you of any of your obligations hereunder, except to the extent any losses, liabilities, damages or expenses result from our gross negligence or willful misconduct.

12. **Default; Remedies.**

(a) If any debit of your bank account initiated by us is rejected when due, or if you otherwise fail to pay us any amounts due hereunder when due, or if you default in any material respect in the performance or observance of any obligation or provision of this Agreement or any agreement with any of our affiliates, alliances or joint ventures, any such event shall be a default hereunder. Without limiting the foregoing, any default by you under a Merchant Processing Agreement ("MPA") with us or with an Alliance or joint venture to which we are a party will be treated as a default under this agreement. Such a default would include a default resulting from early termination of the MPA, if applicable.

(b) Upon the occurrence of any default, we may at our option, effective immediately without notice, either (i) terminate this lease and our future obligations under this Agreement, repossess the Equipment and proceed in any lawful manner against you for collection of all charges that have accrued and are due and payable, or (ii) accelerate and declare immediately due and payable all monthly lease charges for the remainder of the applicable lease period together with the fair market value of the Equipment (as determined by us), not as a penalty but as liquidated damages for our loss of the bargain. Upon any such termination for default, we may proceed in any lawful manner to obtain satisfaction of the amounts owed to us and, if applicable, our recovery of the Equipment, including entering onto your premises to recover the Equipment. In any case, you shall also be responsible for our costs of collection, court costs and reasonable attorneys' fees, as well as applicable shipping, repair and refurbishing costs of recovered Equipment. You agree that we shall be entitled to recover any amounts due to us under this Agreement by charging your bank account or any other funds of yours that come into our possession or control, or within the possession or control of our affiliates, alliances or joint ventures, or by setting off amounts that you owe to us against any amounts we may owe to you, in any case without notifying you prior to doing so. Without limiting the foregoing, you agree that we are entitled to recover amounts owed to us under this Agreement by obtaining directly from an alliance or joint venture to which we are a party and with which you have entered into an MPA any funds held or available as security for payment under the terms of the MPA, including funds available under the "Reserve Account; Security Interest" section of the MPA, if applicable.

13. **Assignment.** You may not assign or transfer this Agreement, by operation of law or otherwise, without our prior written consent. For purposes of this Agreement, any transfer of voting control of you or your parent shall be considered an assignment or transfer hereof. We may assign or transfer this Agreement and our rights and obligations hereunder, in whole or in part, to any third party without the necessity of obtaining your consent. We will assign this Lease Agreement after its execution, to First Data Global Leasing (FDGL), a business unit of First Data Merchant Services Corporation. After such assignment, Electronic Payment Systems, LLC shall have no further obligations under this Lease Agreement."

14. **Lease Guaranty.** No guarantor shall have any right of subrogation to any of our rights in the Equipment or this Lease or against you, and any such right of subrogation is hereby waived and released. All indebtedness that exists now or arises after the execution of this Agreement between you and any guarantor is hereby subordinated to all of your present and future obligations, and those of your guarantor, to us, and no payment shall be made or accepted on such indebtedness due to you from a guarantor until the obligations due to us are paid and satisfied in full.

15. **Governing Law; Miscellaneous.** This Agreement shall be governed by and will be construed in accordance with the laws of the State of New York (without applying its conflicts of laws principles). If any part of this Agreement is not enforceable, the remaining provisions will remain valid and enforceable.

16. **Dispute Resolution 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, any 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, except that equitable relief may also be sought in any court of competent jurisdiction.

17. **Notices.** All notices must be in writing, if to you at your address appearing on the cover page of this Agreement and if to us at 4000 Coral Ridge Drive, Coral Springs, Florida, 33065. Attn: Lease Department, 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, if to you at the address appearing on the cover page of this Agreement or by any electronic means, including but not limited to the email address you have provided on the cover page of the Agreement. Notices sent to the Merchant's last known address, as indicated in our records, shall constitute effective notice to the Merchant under this Agreement. Customer Service toll free number 1-877-257-2094.

18. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties with respect to its subject matter, supersedes any previous agreements and understandings and can be changed only by a written agreement signed by all parties. This Agreement may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement.

Client Initials:

LEASE VERIFICATION AND STATEMENT OF UNDERSTANDING

Congratulations on your decision to increase your business with the use of the programs and processing equipment provided under the attached EQUIPMENT LEASE AGREEMENT and MERCHANT AGREEMENTS. In the spirit of full disclosure we would like you as the lessee to verify that you have been informed of some of the important points of the products and the lease agreement.

_____ I am entering these Agreements of my own free will with the intent to use the products and services to increase my business sales/revenue. I have not been guaranteed any increase in business by anyone but I do understand the power of the products and services I am taking on. Everything I am relying on to make this decision is covered in the written Agreements.

_____ I understand/agree that the lease is for 48 months, is NON-CANCELLABLE, and the payment is \$_____. I also understand that the aforementioned payment amount does not include the applicable tax amount for my locale and it does not include the insurance waiver if I do not have the leasing company on my business insurance policy as a loss-payee.

_____ I understand/agree that I have multiple Agreements and they are from SEPARATE COMPANIES. I know I can always contact my Agent or Electronic Payment Systems (EPS) directly for any service or support issues I have, but the leasing company is separate from the service providers.

_____ I understand/agree that my first and last payments will be debited electronically from my account within TEN (10) days from today, and my first regular payment will be withdrawn roughly 30 days from today.

IF YOU HAVE THE EPS90 EZ-PAYMENT PROGRAM

_____ I understand/agree that I will be paid within 72 hours of the date designated by myself and my customer for the electronic debit to the customers' account and that I will receive no money from EZ Payment Plan in advance of the electronic debits.

_____ I understand/agree that EZ Payment Plan will cover electronic debits that do not clear as long as I follow all of the instructions, terms, and conditions of the Agreements and my percentage of bad debits does not exceed 10%.

I have not been offered any "trial period," incentive, rebate, buy-out, repurchase, bailout, alternate/offsetting compensation, or promise of return as an inducement to accept the above noted Agreements. I am relying solely on the Agreements to make my decision and I have received copies of all Agreements that are part of this transaction. Furthermore, I am comfortable with the product and its suitability/usability in my business.

COMPANY NAME

GUARANTOR/LESEE

DATE

Lease V & U – Version XI



WE NEED A FEW MORE DOCUMENTS!



A copy of the merchant's **Business License**



A copy of the merchant's **Drivers License**



A copy of one months **Credit Card Statement**



WE NEED TO KNOW WHERE TO PUT YOUR MONEY FROM THE CREDIT CARD SALES!

Write **VOID** across a check from the account you would like the funds to be deposited in! Do not use a starter check or a bank deposit ticket, it must be a check with your name and address on it.

YOUR MONEY WILL BE DEPOSITED DIRECTLY INTO THIS ACCOUNT!

ATTACH VOIDED CHECK HERE

Part 3b. Merchant Acknowledgement

<i>Signature of Merchant Executive Officer</i> ↑	<i>Date</i> ↑
<i>Merchant Executive Officer Name</i> ↑	<i>Title</i> ↑
<i>Merchant Company Represented</i> ↑	



Establishment Services

AMERICAN EXPRESS® CARD ACCEPTANCE APPLICATION

The Shaded Box Will Be Completed By The Sales Agent

ESA Corporate Name: _____		Sales Agent ID # _____	
Please check one of the following:			
<input type="checkbox"/> American Express Discount Rate* EDC <input type="text"/> <input type="text"/> <input type="text"/> %	<input type="checkbox"/> Paper <input type="text"/> <input type="text"/> <input type="text"/> %	<input type="checkbox"/> Monthly Gross Pay (+ .03% if \$100K +)	
<i>or</i>	<input type="checkbox"/> Home Based	<input type="checkbox"/> Daily Gross Pay	
<input type="checkbox"/> American Express Monthly Flat Fee - \$5.00*	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Estimated \$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	Estimated \$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	Pay <input type="checkbox"/> 3 Day <input type="checkbox"/> 15 Day <input type="checkbox"/> 30 Day	
Annual American Express Charge Volume	Average Ticket	Frequency	
Franchise Name: _____		Franchise CAP #: <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
* Applies to online statements. Paper statements may be subject to additional fees.			

What Is Your Name & Address? Please Complete The Following. If You Have Any Questions
Call 1-800-528-5200

FULL LEGAL NAME of Corporation, Partnership or Proprietorship	
<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
Doing Business As (DBA, Trade Name)	
<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
Address	
<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
City	State Zip Code
<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Federal Tax ID (TIN/EIN)	ACH ABA#
<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
DDA#	
<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
URL	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
E-mail	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Signer Information	
Name: _____	Title: _____
Social Security Number: _____	
Home Address: _____	
City: _____	State: _____ Zip: _____
Have You Previously Had An American Express Merchant Account #: <input type="checkbox"/> Yes <input type="checkbox"/> No	
If Yes, Merchant #: _____	
By signing below, I represent that the information I have provided on the Application is complete and accurate and I authorize American Express Travel Related Services Company, Inc. ("American Express") to verify the information on this Application and to receive and exchange information about me, including, requesting reports from consumer reporting agencies. If I ask American Express whether or not a consumer report was requested, American Express will tell me, and if American Express received a report, American Express will give me the name and address of the agency that furnished it. I understand that upon American Express' approval of the business entity indicated above to accept the American Express Card, the Terms and Conditions for American Express® Card Acceptance ("Terms and Conditions") will be sent to such business entity along with a Welcome Letter. By accepting the American Express Card for the purchase of goods and/or services, you agree to be bound by the Terms and Conditions.	
Please Sign Here X _____	Date: _____

MARGINALS

** Completion of all fields is required.
Denote N/A if necessary

Exhibit D Delivery and Acknowledgement Form

Relationship code _____

Quote or App number _____

Merchant Number _____ Sales Rep _____

Principal/Principal Guarantor Name: _____

Merchant Business phone _____ Merchant Contact Phone _____

Term _____ Payment _____ Total # of assets _____ Equipment Description _____

Merchant Name _____

Location of Equipment:

Street address _____ County _____ City _____ State _____ Zip _____

Equipment information:

Make/model _____ Serial Number _____ Delivery Date _____

Make/model _____ Serial Number _____ Delivery Date _____

Make/model _____ Serial Number _____ Delievery Date _____

- You will receive a welcome letter by mail detailing your first payment due date
- Payments are collected via ACH debit each month. You will not receive a monthly bill
- A one-time interim rent charge will be assessed for each day from the day you received the equipment to the first payment date
- By your signature on this document, it confirms that you have received the equipment and that you are accepting the terms - We will activate your lease

I HEREBY CERTIFY THAT:

Merchant initials required and clear legible driver license, state ID or passport required

_____ The equipment I have requested to lease has been delivered to my business location

_____ I have received a copy of my Equipment Lease Agreement

_____ I have read and understand the terms and conditions of the Equipment Lease Agreement

_____ I understand that this lease is NON-CANCELABLE for the full term

_____ My business lease payments will be automatically deducted from my designated business checking account on the same day each month during the term of the equipment lease

_____ I agree to the total number of pieces of equipment contained within the Equipment Lease Agreement

Lessee Signature

Title

Acknowledgment Date

** Please note that FDGL reserves the right to perform verbal verification calls at our discretion for quality assurance purposes.