

MARKETING AGREEMENT

This Agreement ("Agreement") is entered into by and between Electronic Payment Systems, LLC (EPS) and _____ (Contractor) this _____ day of _____, 201__.

This Agreement is binding upon Contractor and its principals, owners, Affiliates, Affiliated entities, parent entities, agents, employees, Independent Contractors, subcontractors, successors and assigns, as well as all individuals who have signed the Agreement, their heirs, successors and assigns, (all referred to collectively as "Contractor"). It shall be the responsibility of Contractor to ensure that any and all agents, employees, Independent Contractors, or other representatives of Contractor comply fully, completely and unconditionally with the provisions of this Agreement.

RECITALS

WHEREAS, EPS is engaged in the business of marketing and selling a credit/debit card processing service, check guarantee/verification processing service, check conversion processing service, card and check processing equipment, business and personal Internet and web site development services including but not limited to credit/debit card processing on the World Wide Web, warranty programs and other related services (collectively, the "Processing Service") to retail entities, mail order and telephone order entities, Internet entities and others (collectively, the "Merchants"); and

WHEREAS, EPS wishes to hire Contractor as an Independent Contractor to assist in the selling and marketing of the Processing Service to Merchants; and

WHEREAS, EPS requests that Contractor enter into this agreement so that EPS may protect its legitimate interests through non-disclosure and other contractual provisions contained herein; and

WHEREAS, Contractor has agreed to enter into this Agreement and to be bound by the contractual provisions contained herein in order to receive the substantial benefits set forth herein and which EPS would not otherwise confer upon Contractor.

DEFINITIONS

As used in the Agreement, the following capitalized terms shall have the meanings set forth below:

"Affiliate or Affiliates" shall mean any entity that directly or indirectly controls, is controlled by, or is under common control with, the entity in question.

"Affiliated" shall refer to the relationship in which an entity is connected or associated with another entity.

"Applicable Laws and Regulations" shall mean all laws, rules, regulations, and regulatory policies of, or administered or enforced by, any local, state or federal agency or governmental or other body applicable to EPS, Contractor, Merchants, Merchant Accounts, account materials, Application Materials, Promotional Materials, any transactions contemplated by this Agreement, or any matter relating to any of the foregoing, including, without limitation, all rules and regulations promulgated by VISA and MasterCard and the laws administered by, and the rules, regulations, and regulatory policies of, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

"Application Materials" shall mean the application and all other developed materials that are prescribed by EPS and/or Provider to facilitate the establishment of accounts as they relate to or are a part of the Processing Service.

"Approved Merchant" shall mean any Eligible Merchant that is accepted by EPS and Provider for participation in the Processing Service and enters into an agreement for such service.

"EPS or Electronic Payment Systems, LLC" shall refer to and include Electronic Payment Systems, LLC, A Colorado limited liability company, as well as its successors and assigns.

"Eligible Merchant" shall mean a Merchant that meets the Program Approval Standards, is not doing business with EPS as of the date of application, and is solicited by Contractor to participate in the Processing Service.

"Good Standing" shall mean a Contractor that is in compliance with all representations, warranties, sections, covenants and provisions of this Agreement and providing proper levels of support and service to Merchants provided to EPS.

"Independent Contractor" shall mean a type of status or classification and is used to further define the relationship of the parties.

"Loss or Losses" shall mean any losses, damages, liabilities, judgments, order of restitution, cease and desist order, penalties (including civil monetary penalties and VISA and MasterCard fines and penalties), costs and expenses, including, without limitation, any attorneys' fees and court costs reasonably incurred by an indemnified party or other entity.

"MasterCard" shall mean MasterCard International Incorporated.

"Material" when used with reference to information, a fact or circumstance, a course of action, a decision-making process or other matter, shall be limited to information, facts and circumstances, courses of action, decision-making processes or other matters as to which there is a substantial likelihood that a reasonable person would attach importance in determining whether to enter into this Agreement or in the manner of conducting business under this Agreement.

"Merchant Account" shall mean the account relationship established between EPS, Provider and an Approved Merchant pursuant to a Merchant Processing Agreement.

"Merchant Application" shall mean the forms and Application Materials designated by EPS and required to enroll a Merchant in the requested Processing Service.

"Merchant Portfolio" shall mean a base or group of Approved Merchants participating in the Processing Service pursuant to Merchant Processing Agreements and this Agreement or otherwise made a part of the Processing Service.

"Merchant Processing Agreement" shall mean a written agreement among EPS, Provider and an Approved Merchant that governs the Approved Merchant's participation in the Processing Service, which agreement shall be acceptable to EPS and Provider.

"Program Approval Standards" shall mean a minimum standard by which a Merchant shall be evaluated and considered for participation in the Processing Service. These standards may include but will not be limited to: (I) a review of the principals' credit history, (II) confirmation that the business type is not one that is contained in the prohibited merchants list, (III) a review of previous processing statements if applicant has previous processing, and (IV) a review of all Application Materials and the Merchant Application.

"Promotional Materials" shall mean all verbal and written solicitations and advertisements and other communications (including telemarketing scripts) used to market, promote and solicit the establishment and/or enrollment of Merchants.

“**Provider**” shall mean an entity that makes available and/or provides a product, goods, or service that is part of the Processing Service or supports the Processing Service.

“**VISA**” shall mean VISA U. S. A., Inc.

NOW, THEREFORE, in consideration of the premises and mutual promises contained in this Agreement, the parties agree as follows:

1. CONTRACTOR OBLIGATIONS. Contractor shall assist EPS in marketing and selling the Processing Service by soliciting potential Merchants and calling on existing Merchants who are not at the time of solicitation Merchants of EPS upon the terms and conditions set forth below.

1.1 GUIDELINES. Contractor agrees to perform the duties hereunder in accordance with the written guidelines prepared by EPS and Contractor acknowledges receipt of such guidelines (guidelines contained in the document “Sales Standards and Procedures for Independent Sales Representatives”) and agrees to follow them. The EPS guidelines as they exist at the time the Agreement is executed are incorporated by reference. EPS may amend, supplement or otherwise modify the guidelines at any time and from time to time without the consent of Contractor. EPS shall deliver notice and a copy of such amended, supplemented or otherwise modified guidelines to Contractor as provided for herein. Unless Contractor objects in writing within TEN-(10) days of receipt of such changes Contractor shall be deemed to have waived any right to dispute the amended, supplemented or otherwise modified guidelines. At such time, the amended, supplemented or otherwise modified guidelines shall be incorporated by reference as if set out in full herein. EPS from time to time will also provide Contractor with EPS sales materials as EPS deems in its sole discretion to be requisite for Contractor to perform its duties hereunder.

1.2 USE OF LOGO’S, TRADEMARKS, MARKETING/PROMOTIONAL MATERIALS AND SCRIPTS. Contractor **SHALL NOT** use the Visa or MasterCard Logo’s or trademarks on business cards, stationery or any other media outside of the approved materials. Unless otherwise stated **ALL** marketing/promotional materials and scripts must be **PREAPPROVED BY EPS PRIOR TO USE** and/or distribution. Contractor shall submit all proposed advertisements to EPS in advance for its review and approval.

1.3 DUTIES. Using the EPS Guidelines, Contractor shall, during the term of this Agreement or subsequent renewal terms, market and sell the Processing Service for EPS, make presentations of the Processing Service, and other related services to potential Merchants, complete market survey and/or

_____ initials
_____ initials
_____ initials

Merchant Application paperwork, instruct Merchants on deposit or other bank related requirements of the Processing Service as EPS may, from time to time designate. Contractor may perform such duties at such times and at such locations within the designated territories, if any, as Contractor may determine. Contractor shall forward any and all paperwork within Contractor's care directly, exclusively and without exception, in a timely manner without delay, to EPS or such other entity or place as EPS may, from time to time designate.

- 1.4 TELEMARKETING AND "NO CALL" LISTS. If Contractor utilizes telemarketing in the course of operating their business Contractor agrees to abide by all Applicable Laws and Regulations and required procedures for the area of the country they are located in or conducting business in. If a "NO CALL" list is in force in the area of the country Contractor is operating from or in, Contractor shall abide and comply with the requests of the call recipient and follow all guidelines as they relate to the laws, rules and/or regulations.
- 1.5 TRAINING. EPS shall provide no training to Contractor, inasmuch as Contractor already possess the skills needed to perform the work required under this Agreement.
- 1.6 GOOD FAITH. Contractor and all representatives of Contractor shall act honestly and in good faith in all dealings. Contractor shall notify EPS immediately of any action or omission by Contractor or Merchant of which Contractor is aware which could result in any Loss or liability to EPS or any of its Affiliates, contractors or Providers or financing entities. Merchants who do not meet the established credit policy of EPS and/or Providers, both written and in practical application shall not be solicited by Contractor or induced into paying application fees to Contractor.
- 1.7 REPRESENTATIONS TO MERCHANTS. Contractor may not state or imply that the approval of EPS is guaranteed or unnecessary. EPS, in its sole and absolute discretion, shall make final determination as to whether or not to accept any prospective Merchant. EPS shall have the right, in its sole and absolute discretion, to terminate any contract between EPS and a Merchant without notice to or consultation with Contractor.
- 1.8 LIMITATIONS OF AUTHORITY. Contractor shall have no authority whatsoever (I) to bind EPS and/or Provider to any contract or any agreement or to incur any obligation on behalf of EPS and/or Provider, (II) to release, assign or transfer an EPS or Provider agreement, claim, security or any other asset or interest belonging to or in the control of EPS and/or Provider, (III) to borrow any money in the name of EPS and/or Provider or lend any money belonging to EPS and/or Provider, (IV) to represent EPS and/or Provider in any way other than as described herein or in the EPS Guidelines or sales standards and procedures provided to Contractor, or (V) to

submit any claim or liability related to the Processing Service to arbitration or confess a judgment against EPS and/or Provider. Contractor specifically agrees the terms and conditions of any contractual agreement between a Merchant and EPS and/or the Provider, will be established, from time to time, by EPS and/or the Provider, and that Contractor has no authority to make any representations, warranties, agreements or guarantees with respect to such contracts. Contractor will, at all times, use, without modification or change, the forms of the agreement between Merchant and EPS and/or Provider as are furnished to Contractor by EPS and/or Provider.

1.9 RELATIONSHIP TO PROVIDERS. Notwithstanding any of the rights contained in the agreements between Providers and Merchants, Contractor shall afford the same rights, privileges and protections afforded EPS in this Agreement to all Providers and/or product vendors covered under this Agreement.

1.10 INDEPENDENT CONTRACTOR. Contractor understands, represents and warrants that they are an independent contractor and not an employee, agent, officer or representative of EPS or joint venturer with EPS. Contractor further understands that EPS will not (I) exercise any behavioral control over Contractor, (II) provide any training outside of answering rudimentary questions of process, policy and procedure, (III) furnish any work materials to Contractor other than those set forth herein and in the EPS Guidelines, (IV) furnish a work place, telephone, automobile or any other equipment to Contractor, or (V) reimburse Contractor for business expenses or any cost whatsoever incurred by Contractor in the course of its solicitation of Merchants for Processing Service.

1.10.1 **Contractor understands and agrees that Contractor is solely responsible and must pay his or her own federal, state, and local income taxes and is not entitled to unemployment benefits. Contractor further understands and agrees that this Agreement DOES NOT establish any employee/employer relationship. Contractor also understands and agrees that EPS shall not obtain any workers' compensation insurance as a result of this Agreement. Contractor shall comply with workers' compensation laws of their state concerning Contractor and employees of Contractor, if any.**

1.11 TAXES. Contractor agrees to be responsible for and pay all applicable taxes required by any and all governing bodies or agencies including but not

limited to; Town, Township, City, County, State and Federal authorities for the specific area of the country in which they are located or conduct business. This requirement extends not only to income taxes but also shall include and not be limited to; sales, withholding, personal property, real estate, use and self employment taxes. Contractor acknowledges that they will at all times stay current with the above obligations. If at any time Contractor fails to maintain a current status with any tax obligation they will advise EPS in written form of such delinquency immediately.

1.12 RESPONSIBILITY FOR COMPLIANCE. Contractor understands and agrees that the obligations contained herein are reasonable and necessary to protect the interests of EPS and Providers. Contractor further understands that a lack of compliance with the obligations or breach thereof by Contractor shall constitute a Material breach of this Agreement. Contractor accepts the responsibility of maintaining compliance with all the obligations, agreements, covenants and provisions of this Agreement.

2. FIRST RIGHT OF REFUSAL. As a consideration of EPS entering into this Agreement with Contractor, Contractor agrees to submit all applications for processing services to EPS on a "First Right Of Refusal" basis. This is a consideration and not an exclusivity provision. Contractor has the option to send applications elsewhere in the event of one of the following circumstances or occurrences but in no others: (I) any application that is declined by EPS, (II) any merchant type that is on the prohibited merchants list, (III) any application that is in the possession of EPS for a period of THREE-(3) business days that does not receive an approval regardless if it is approved at a later time or date, and (IV) an acceptable platform to transact the type or method of business the merchant intends to perform is not available through EPS.

3. COMPENSATION. Compensation shall be earned and paid in accordance with the terms and provisions of the Schedule A attached hereto and incorporated herein by reference. This compensation shall be subject to all applicable governmental standards, taxes, assessments or other requirements. Contractor shall not be entitled to any benefits, vacation, compensation or reimbursement for their services except as expressly provided herein. In the event this Agreement terminates for any reason other than the satisfactory completion of the initial term or a subsequent renewal term, EPS shall have no obligation to continue with any form of compensation. Upon the completion and expiration of the initial term or any subsequent renewal term Contractor shall receive compensation as contained herein and subject to any vesting requirements.

3.1 VESTING (VESTED INTEREST). Based on requirements contained herein and the distribution specified in the Schedule A, Contractor may obtain a vested

interest in the merchants provided to the Merchant Portfolio as follows: (I) The net value of the merchants Contractor provides to EPS in the event of a sale of the subject merchants, (II) The residual income stream those merchants generate up until the event of a sale of the subject merchants, or (III) The net value of the merchants Contractor provides to EPS in the event of a sale and the residual stream those merchants generate up until the event of a sale of the subject merchants. Any vested interest or vesting is considered compensation and subject to the requirements contained in section 3 COMPENSATION and section 1 CONTRACTOR OBLIGATIONS and all applicable sub-sections thereof of this Agreement. In general, Contractor attaining a vested interest shall be entitled to received agreed compensation from the residual income stream without volume requirement and, until and in the event of a sale, to the agreed percentage outlined in the Schedule A attached hereto of the net proceeds of a sale of the merchant portfolio. EPS shall have no obligation to pay any proceeds of any sale until EPS has received all compensation due EPS and EPS has had a reasonable amount of time (not to exceed NINETY (90) days from the date of receipt of final proceeds) to assign necessary costs, expenses, fees, deconversion and/or conversion expense, transfer expense and consider all tax ramifications related to the sale to establish the net proceeds of the sale.

4. EQUIPMENT AND SUPPLIES PURCHASE REQUIREMENT. As a requirement of purchasing equipment and/or supplies from EPS Contractor hereby unconditionally agrees to be liable for and pay for any and all items received. If Contractor fails to dispute the validity of any debt for equipment and/or supplies in writing within SIXTY (60) calendar days of receipt, Contractor shall be deemed to have waived any right to dispute the debt or the amount of such debt. To protect and perfect their obligation herein Contractor hereby pledges any and all income due or to become due Contractor as a result of marketing and selling the Processing Service. In addition to the foregoing Contractor further pledges any personal assets, accounts or holdings in their possession or that come into their possession. In the event Contractor does not fully satisfy any obligation under this provision within SIXTY (60) calendar days of the occurrence of such liability Contractor will be considered in default of this section of this Agreement. In the event of a default, Contractor shall reimburse EPS for reasonable collection and attorney fees expended on the part of EPS to collect such debt.
5. TERM. This Agreement shall be effective from the date hereof and shall remain in full force and effect for a period of THREE (3) years as an initial term, unless sooner terminated as set forth herein. Upon the completion of the initial term, unless EPS or Contractor furnishes written notice of non-renewal at least SIX (6) months prior to completion of the then existing term, this Agreement shall renew automatically for additional THREE (3) terms in perpetuity unless canceled in accordance with the provisions contained in the Agreement.

6. ASSIGNMENT Contractor shall not assign its rights nor delegate its duties under this Agreement nor grant or permit to exist a lien or security interest with respect to such rights without the advance written consent of EPS. EPS has the right to assign, transfer, or delegate its duties without notice and/or consent of Contractor.
7. REPRESENTATIONS, WARRANTIES AND COVENANTS.
- 7.1 REPRESENTATIONS TO MERCHANTS. Contractor shall not make any representations to a Merchant or prospective Merchant other than those set forth in the contracts between EPS, its affiliated banks and financing entities, and the Merchant. Contractor shall not conceal any material facts from the Merchant or prospective Merchant.
- 7.2 REPRESENTATIONS OF CONTRACTOR ABOUT MERCHANTS. By submitting a Merchant Application to EPS Contractor represents and warrants (I) that they have performed a SITE SURVEY REPORT in accordance with the MERCHANT PROCESSING AGREEMENT; and (II) that this Merchant is deserving of a Merchant Account. Contractor understands and acknowledges that, based on the forgoing representations and warranties made by Contractor an account may be established for Merchant.
- 7.3 POLICIES AND PROCEDURES. Contractor shall abide by the policies and procedures of EPS. These policies and procedures may be changed by EPS from time to time in the sole discretion of EPS. Contractor shall be responsible for complying with the policies and procedures in effect at any given time. Policies of all Providers as they relate to offering of the Processing Service shall be strictly adhered to by Contractor without exception.
- 7.4 DECEPTIVE ACTS. Contractor shall not engage in any illegal, fraudulent or deceptive acts or practices in the course of performing their duties hereunder or undertake any actions or inaction, which is against the best interest and expectations of EPS and/or Provider entities or in violation of any Applicable Laws and Regulations.
- 7.5 RESPONSIBILITY FOR COMPLIANCE. Contractor understands and agrees that the stated representations, warranties and covenants contained herein are reasonable and necessary to protect the interests of EPS and Providers. Contractor further understands that a lack of compliance with the stated representations, warranties and covenants or breach thereof by Contractor shall constitute a Material breach of this Agreement. Contractor accepts the responsibility of maintaining compliance with all stated representations, warranties and covenants of this Agreement.

8. INDEMNIFICATION.

- 8.1 INDEMNIFICATION AND HOLD HARMLESS. Contractor hereby agrees to indemnify EPS and hold EPS harmless from and against any and all claims, Losses, damages, liabilities, fines, penalties and expenses including but not limited to attorney's fees and litigation costs, arising from or related to (I) any act, actions or omissions by Contractor including but not limited to, any intentional or negligent tort, (II) any deceptive trade practice, or (III) any fraud in connection with Contractor selling and marketing of the Processing Service, (IV) any breach by Contractor of the covenants and agreements made by it in this Agreement, and (V) any fine or penalty imposed upon or Losses suffered by EPS. This Agreement by Contractor to indemnify shall continue and survive the expiration or termination of this Agreement.
- 8.2 LITIGATION AGAINST EPS BASED ON ACTIONS OF CONTRACTOR. In the event of any suit or the threat of suit against EPS for actions of Contractor it shall be the responsibility of Contractor to provide for the representation and/or defense of EPS. The selection of legal counsel shall be at the sole and absolute discretion of EPS. All reasonable efforts will be made by EPS to choose such counsel based on knowledge of and experience in the industry, billable rates, and other relevant factors. If a settlement is proposed, provided Contractor is maintaining their obligation herein to pay for representation and/or defense, said settlement will be discussed with Contractor. EPS shall, in its sole and absolute discretion, make all decisions as they relate to proposing, accepting or rejecting any settlement issues. Furthermore, any judgment, monetary decision of the court and/or arbitrator against EPS, fine, penalty and/or Loss of any sort shall be the financial responsibility of Contractor. To protect and perfect their obligation herein Contractor hereby pledges any and all income due or to become due Contractor as a result of marketing and selling the Processing Service. In addition to the foregoing Contractor further pledges any personal assets, accounts or holdings in their possession or that come into their possession. In the event Contractor does not fully satisfy any obligation under this provision within THIRTY (30) calendar days of the occurrence of such liability Contractor will be considered in default of this section of this Agreement. In the event of a default, Contractor shall reimburse EPS for reasonable collection and attorney fees expended on the part of EPS to collect such debt.
- 8.3 NON-LIABILITY. Notwithstanding any representations, statements or acts by Contractor, neither EPS nor any Provider shall have any liability or obligation to Contractor, or any other person, firm or entity for any debt, contract, agreement, obligation or liability of Contractor incurred inside or outside the

scope of this Agreement. In particular, and without limitation, neither EPS nor any Provider shall have any liability on any agreement entered into by Contractor or debt incurred by Contractor in the name of EPS, Provider or otherwise. Under no circumstance shall either EPS or any Provider be liable to the Contractor for damages incurred by Contractor in the performance of its duties hereunder, including any special, indirect, consequential or exemplary damages of any kind.

9. CONFIDENTIAL INFORMATION. Contractor acknowledges that all information related to the Processing Service, including but not limited to fees, rates, charges, sales data, operational procedures, memoranda, sales kits, lists of Merchants and lists of potential Merchants have been prepared and maintained by EPS at significant cost and expense, that such information represents a method of business operation unique to the business of EPS being made available to Contractor pursuant to the terms of this Agreement, and that EPS deems such material confidential and that EPS has a proprietary interest therein. Contractor agrees it shall treat all confidential information as strictly confidential and proprietary to EPS, except to the extent that disclosure thereof is necessary in the fulfillment of Contractor's obligations under this Agreement. All confidential information is and at all times shall be the property of EPS, it being agreed that such information is confidential and that EPS has a proprietary interest therein. Contractor agrees that during the term of this Agreement and thereafter, it will not, directly or indirectly, either individually or as an employee, contractor, partner, shareholder, consultant or in any other capacity, use or disclose, or cause to be used or disclosed, any confidential information, regardless of whether Contractor may have participated in the development of any such confidential information, except to the extent that use or disclosure thereof is necessary in fulfilling Contractor's obligation's under this Agreement. The promises made in this paragraph by Contractor shall be construed independently of any other provisions contained in this Agreement and shall be enforceable in both law and equity, including by temporary restraining orders or preliminary or permanent injunction. This Agreement by Contractor not to use or disclose shall continue and survive the expiration, termination and/or term of this Agreement.
10. TRADE SECRETS. "Trade Secrets" include but are not limited to, the whole or any portion or phase of any design, process, procedure, formula, improvement, confidential business or financial information, listing of names, addresses, or telephone numbers, or other information relating to any business or profession which is secret and of value. EPS has taken measures to prevent its Trade Secrets from becoming available to persons other than those selected by EPS to have access thereto for limited purposes. Contractor acknowledges that all information related to Trade Secrets has been prepared and maintained by EPS at significant cost and expense, that such information represents a method of business operation unique to the business of EPS being made available to Contractor pursuant to the

terms of this Agreement, and that EPS deems such material confidential and that EPS has a proprietary interest therein. Contractor agrees it shall treat all Trade Secrets as strictly confidential and proprietary to EPS, except to the extent that disclosure thereof is necessary in the fulfillment of Contractor's obligations under this Agreement. All Trade Secrets are and at all times shall be the property of EPS, it being agreed that such information is confidential and that EPS has a proprietary interest therein. Contractor agrees that during the term of this Agreement and thereafter, they will not, directly or indirectly, either individually or as an employee, contractor, partner, shareholder, consultant or in any other capacity, use or disclose, or cause to be used or disclosed, any confidential information, regardless of whether Contractor may have participated in the development of any such Trade Secret, except to the extent that use or disclosure thereof is necessary in fulfilling Contractor's obligation's under this Agreement. Contractor acknowledges that the restrictions herein are reasonable and necessary in order to protect legitimate and proprietary interests of EPS and that any violation thereof would result in irreparable injury and damage to EPS to such a point that there would be no remedy at law sufficient to compensate for such. The promises made in this paragraph by Contractor shall be construed independently of any other provisions contained in this Agreement and shall be enforceable in both law and equity, including by temporary restraining orders, preliminary and permanent injunctions. This Agreement by Contractor not to use or disclose Trade Secrets shall continue and survive the expiration or termination of this Agreement.

11. UNAUTHORIZED MERCHANT ROLLOVER OR ALTERNATE BANK PLACEMENT. Contractor agrees and acknowledges that to the extent permitted by applicable laws, rules and regulations, all interests in a Merchant or a Merchant's use of the Processing Service, other than the right of Contractor to receive compensation as provided herein, are the sole and exclusive property of and belong to EPS. A business, individual, firm or entity, regardless of the form of such entity used to conduct business is considered a Merchant if they are currently, were at one time or, during the term of this agreement and any renewal thereof, become a customer of EPS using the Processing Service. If, at any time after a merchant enters into an agreement for the Processing Service through a bank designated by EPS, Contractor contacts the Merchant and solicits, recommends or otherwise suggests in any way or form that the merchant obtain Processing Services through another processing bank or service provider, or if as a result of the efforts of the Contractor a merchant ceases to use the processing bank designated by EPS and commences to use a different processing bank, Contractor agrees to pay to EPS as compensation for such change as liquidated damages the sum of One Thousand Five Hundred Dollars (\$1,500.00) per merchant. The parties recognize that it may be difficult to measure the actual damages suffered by EPS as a result of such conduct by Contractor. Therefore, Contractor agrees to pay the aforementioned liquidated damages in lieu of actual damages caused by Contractor to EPS. This provision for liquidated damages in lieu of actual damages, shall not preclude EPS

from pursuing additional amounts as special, consequential or exemplary damages. To secure such payment, the Contractor agrees to and hereby assigns to EPS any and all rights the Contractor obtains to receive residual income or other payment or compensation of any kind as a result of the Merchant using the Processing Services of the bank other than the processing bank designated by EPS. Contractor further agrees to provide written notification of this assignment to the new processing bank and in the event the Contractor fails to do so, Contractor consents to EPS providing notification of such assignment to the new processing bank. To protect and perfect their obligation Contractor pledges any and all income due or to become due Contractor as a result of marketing and selling the Processing Service. In addition to the foregoing Contractor further pledges any personal assets, accounts or holdings in their possession or that come into their possession.

12. CONTRACTOR ACKNOWLEDGEMENT. Contractor acknowledges that the restrictions herein are reasonable and necessary in order to protect legitimate and proprietary interests of EPS and that any violation thereof would result in irreparable injury and damage to EPS to such a point that there would be no adequate remedy at law.

13. TERMINATION OF AGREEMENT. EPS may terminate this Agreement at any time, for any reason upon thirty (30) days' written notice to Contractor. In the event of such termination, Contractor shall be entitled to receive all accrued but unpaid compensation to the effective date of such termination and shall be entitled to all interests that have vested as of the date of termination. Upon expiration or termination of this Agreement, Contractor promptly shall surrender all items developed by Contractor pursuant to this Agreement and related to the Processing Service. Notwithstanding anything to the contrary contained herein, if Contractor breaches any representation, warranty or covenant set forth herein or is in default of any section, covenant or provision of this Agreement EPS may terminate this Agreement immediately, without notice. Contractor acknowledges that the requirements herein are reasonable and necessary in order to protect legitimate and proprietary interests of EPS and that any failure to perform thereof would result in irreparable injury and damage to EPS to such a point that there would be no remedy at law sufficient to compensate for such.

13.1 RETURN OF DOCUMENTATION UPON TERMINATION OR EXPIRATION. Upon the expiration or termination of this Agreement, Contractor shall immediately surrender to EPS all materials provided by EPS or developed as a result or product of this Agreement, including all originals, copies and/or duplications of such in any form, and these items shall include but are not limited to: the EPS Guidelines, EPS Sales Standards and Procedures for Independent Sales representatives, lists of Merchants, lists of Potential Merchants, all files related to Merchants, forms, supplies, manuals, any information in any form that would be considered confidential or a Trade Secret as defined and outlined in this agreement, any other written,

recorded, or taped information, any electronic media containing any of the listed items herein along with written assurance from Contractor that those items have been removed from their prior resident location and no other copies exist and, any property afforded Contractor by EPS. Contractor shall further return any materials that contain proprietary or confidential information or Trade Secrets IN ANY FORM. If there is any question of whether materials are confidential, proprietary or a Trade Secret they SHALL be considered to be so and returned to EPS immediately.

14. WAIVER. The failure of either EPS or Contractor to insist, in any one or more instance, upon performance of the terms or conditions of this Agreement, shall not be construed as a waiver or a relinquishment of any right granted hereunder or in the further performance of any such term, covenant or condition.
15. NOTICES. Any and all notices, requests, demands, and other communications which are required or may be given under or in connection with this Agreement shall be in writing and shall be deemed given when delivered in person or by telecopy or, if mailed, seventy-two (72) hours after being deposited in the United States mail, certified or registered, postage and certification or registry fee prepaid, addressed to the party to whom it is to be given at the address hereinafter specified. Change of address for notices must be submitted in writing and delivered as described herein thirty (30) days prior to any such change. The current address for notices is as follows:

IF TO EPS, INC.:

Electronic Payment Systems, LLC
6472 South Quebec Street
Englewood, Colorado 80111

IF TO CONTRACTOR

16. LEASE FUNDING PROVISION. As a provision of accepting Lease Funding through EPS, Contractor hereby unconditionally agrees to be liable for and pay for any and all charge-back and/or recourse action or other Losses as a result of Lease Funding to Contractor including but not limited to (I) lease defaults regardless of reason during the liability period (unless otherwise noted herein the liability period shall be 1 monthly Automated Clearing House Payment [ACH] on leases graded P, A, B or C

and 2 monthly Automated Clearing House Payments [ACH] on leases graded D or lower), (II) defaults as a result of fraud, misrepresentation, forgery or document alteration, (III) interference with contract between Merchant and lessor by Contractor, (IV) improper repossession of leased equipment by Contractor, and (V) acceptance by Contractor of returned leased equipment from lessee. To protect and perfect their obligation herein Contractor hereby pledges any and all income due or to become due Contractor as a result of marketing and selling the Processing Service. In addition to the foregoing Contractor further pledges any personal assets, accounts or holdings in their possession or that come into their possession. In the event Contractor does not fully satisfy any obligation under this provision within THIRTY-(30) calendar days of the occurrence of such liability Contractor will be considered in default of this section of this Agreement. In the event of a default, Contractor shall reimburse EPS for reasonable collection and attorney fees expended on the part of EPS to collect such debt.

17. MISCELLANEOUS.

- (a) This is the entire agreement between Contractor and EPS, with respect to the subject matter hereof, and supersedes any prior agreement or discussions or correspondence, oral or written, between Contractor and EPS. The schedule attached hereto and the EPS Guidelines are incorporated herein by reference as if set out in full herein.
- (b) THIS AGREEMENT AND ALL QUESTIONS ARISING IN CONNECTION HERewith SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF COLORADO, AND ALL SUITS HEREUNDER OR IN RESPECT HERETO BY EITHER PARTY SHALL BE INSTITUTED IN THE COLORADO COURTS. FURTHERMORE, CONTRACTOR HEREBY SUBMITS TO THE JURISDICTION AND VENUE OF THE COUNTY COURT OF ARAPAHOE COUNTY, COLORADO, THE DISTRICT COURT OF ARAPAHOE COUNTY, COLORADO, OR IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO, AND HEREBY CONSENTS TO SERVICE OF PROCESS AT CONTRACTOR'S ADDRESS SET FORTH ABOVE.
- (c) EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING IN ANY MANNER TO THIS AGREEMENT AND THE TRANSACTIONS IT CONTEMPLATES. THE PARTIES AGREE THAT ANY DISPUTE SHALL BE TRIED TO A JUDGE WITHOUT A JURY. THIS WAIVER APPLIES TO ANY ACTION OR LEGAL PROCEEDING WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. EACH PARTY ACKNOWLEDGES THAT IT HAS RECEIVED THE ADVICE OF COUNSEL TO THE EXTENT IT DESIRES TO DO SO.

- (d) The section headings contained in this Agreement are for convenient reference only, and shall not in any way affect the meaning or interpretation of this Agreement.
- (e) In the event that more than one Contractor claims to have recommended a Merchant in connection with this Agreement or similar agreements, EPS shall determine in its sole discretion, which approved Contractor shall receive compensation therefor.
- (f) Nothing contained in this Agreement shall be construed to constitute a joint venture or partnership between or among any persons or entities referred to herein.
- (g) If any provision of this Agreement is at any time adjudged invalid or unenforceable to any extent by any court of competent jurisdiction, such provision shall be deemed modified to the extent necessary to render it valid and enforceable and such invalidity or unenforceability shall not affect any other provision of this Agreement.
- (h) CONTRACTOR ACKNOWLEDGES THAT THIS IS A LEGAL DOCUMENT AFFECTING CONTRACTOR'S RIGHTS AND OBLIGATIONS. CONTRACTOR FURTHER ACKNOWLEDGES THAT IT HAS BEEN ENCOURAGED TO HAVE THIS AGREEMENT REVIEWED BY COUNSEL OF CONTRACTOR'S CHOOSING PRIOR TO ENTERING INTO THIS AGREEMENT AND THAT CONTRACTOR HAS CONSULTED WITH SUCH COUNSEL TO THE EXTENT IT DESIRES TO DO SO. Contractor acknowledges that they are entering into a legal and binding agreement and are fully aware of all ramifications therein.
- (i) By affixing their signature(s) hereto on behalf of the Contractor, the undersigned individual(s) represent and affirm that they are binding themselves personally and further that Contractor has the power and authority to enter into this Agreement and the execution and delivery of the Agreement and the performance of Contractor's obligations hereunder have been duly authorized by all necessary corporate or company action.
- (j) Contractor represents and affirms that neither the execution or performance of this Agreement by Contractor will conflict with, or result in a breach of, or give rise to a right of termination of, or accelerate the performance required by the terms of any judgment, court order or consent decree, or any agreement, including without limitation, a restrictive covenant or covenant against competition, or other instrument to which Contractor is a party, or constitute a default thereunder.

18. OFFSET. EPS reserves the right to offset any amounts owed by Contractor against any earned income of Contractor, regardless of source, without prior notice,

including but not limited to Lease Chargebacks, Equipment Purchases, and Supplies Purchases.

19. CREDIT REPORT AUTHORIZATION. Contractor authorizes EPS to obtain an investigative and/or consumer credit report, personal and/or commercial in nature, in connection with this Agreement.

IN WITNESS WHEREOF, The undersigned have executed this Agreement as of the date first written above.

CONTRACTOR	
_____ CONTRACTOR SIGNATURE	_____ CONTRACTOR SIGNATURE
_____ PRINT NAME	_____ PRINT NAME
_____ TITLE	_____ TITLE

ELECTRONIC PAYMENT SYSTEMS, LLC	
_____ EPS APPROVAL	_____ EPS APPROVAL
_____ PRINT NAME	_____ PRINT NAME
_____ TITLE	_____ TITLE