

Merchant Application

Please fill out the application completely.

Public Sector Merchant Information

Legal Name		Primary Contact Name	
Address 1		Primary Phone Number	
Address 2		Website URL	
City		Primary Email	
State		Tax Id	
Zip			

Processing Information

Annual Sale Volume (\$)	1000000	High Sale Amount	5000
MCC Code, If Known	9399		
Description of Products/Services	Misc Payments		

Banking Information

Bank Name			
Routing Number		Confirm Routing Number	
Account Number		Confirm Account Number	

Fees

3.75% for Card Transactions

Authorized Signer

Full Name		Title	
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I declare that I have signing authority for the business named on this application and that the details furnished are true and correct to the best of my knowledge and belief and I undertake to inform you of any changes therein, immediately.

Signature _____

Date _____

Printed Name _____

PAYMENT PROCESSING AGREEMENT FOR SUB-MERCHANTS

This Payment Processing Agreement for Government Sub-merchants (“Agreement”) sets forth the terms and conditions that govern the Merchant Services to be provided by i3 Verticals, LLC dba BIS (“Provider”) to its registered sub-merchants (“Sub-merchant”). Merchant Services include payment processing services provided by Provider as an agent of WorldPay, LLC (“Processor”)), 8500 Governors Hill Dr. Cincinnati, OH 45249, Provider and Fifth Third Bank (as such bank may change from time to time, the “Member Bank”) pursuant to a Payment Facilitator Merchant Agreement (“Processing Agreement”) and payment gateway services. Processor and Member Bank are collectively referred to as “Acquirer”. Provider is required to enter into this Agreement with its customers, who are “Sub-merchants” for purposes of this Agreement and the Processing Agreement. *Sub-merchant has registered to receive the Merchant Services more fully described at www.i3verticals.com or www.bisonline.com (collectively, the “Website”).*

Sub-merchant has submitted an Application, the terms of which are incorporated herein. By its acceptance of the Application, Provider agrees to provide Sub-merchant with certain payment processing services (“Services”) in accordance with the terms of this Agreement to facilitate Sub-merchant’s acceptance of credit and debit card payments for goods and services provided to Cardholders. In consideration of Sub-merchant’s receipt of credit or debit card funded payments, and participation in programs affiliated with MasterCard International Inc. (“MasterCard”), VISA U.S.A. Inc (“VISA”), Discover Financial Services, LLC (“Discover”), and Other Networks (defined below) (collectively, “Associations”), Sub-merchant is required to comply with the Operating Regulations (defined below) as they pertain to applicable credit and debit card payments.

Provider and Sub-merchant agree as follows:

1. **Definitions.** Unless otherwise defined above, all capitalized terms used in this Agreement shall have the meanings given to them herein or in Appendix A attached to this Agreement.
2. **Services.** Provider is a registered PSP and Payment Facilitator as provided for in the Operating Regulations. Pursuant to the Processing Agreement, Provider has arranged for Processor to acquire, process and settle payment for transactions initiated by Sub-merchant’s Payors, by means of Instruction Based Funding. Such acquiring, processing, and settlement shall be made in accordance with the Operating Regulations using the channels set forth in the Application, which include: credit/debit card and EFT (electronic funds transfer) payments through the Website, (collectively “Payments”). Subject to processing delays and risk holds, Provider has made arrangements as a Payment Facilitator to cause Payments to be made to Sub-merchant. Processor will periodically transfer Payments to Sub-merchant’s Account based upon instructions provided by Provider via Instruction Based Funding.
3. **Authorization.** Sub-merchant hereby authorizes Provider to facilitate the crediting and debiting of the bank account described in its Application (“Bank Account”), for purposes of depositing Payments to Sub-merchant’s Bank Account, debiting for chargebacks, refunds and reversals, and performing underwriting and screening of its Application, including checks of Sub-merchant’s background, credit, or banking information, as necessary, and agrees that all information obtained under this Agreement may be shared with an Association. We reserve the right to suspend or terminate provision of Services to you at any time if we determine that your activities (a) violate our Underwriting Policies or this Agreement; (b) are listed on the Restricted Businesses List; or (c) otherwise reflect negatively on the brand or reputation of i3, Processor or Member Bank. Sub-merchant hereby authorizes Provider to facilitate the debiting and crediting of the bank account described in its Application (“Bank Account”), for purposes of depositing Payments to Sub-merchant’s Bank Account. Sub-merchant agrees keep this bank information up-to- date with Provider at all times. Failure to do so may result in Payments being misdirected, withheld, or returned to its Payors. Provider shall in no event be liable for any damages directly or indirectly resulting from incorrect bank information.
4. **Sub-merchant Responsibilities.**
 - 4.1. Sub-merchant agrees to execute a direct processing agreement with Processor, in the form of the Merchant Services Agreement for Sub-merchants provided by Processor, as a supplement to this Agreement, and will provide Provider with a copy of such agreement upon request. In the event that more than \$1,000,000 in Visa transactions and/or \$1,000,000 in MasterCard transactions (or such other amount provided by the Operating Regulations) is processed through and on behalf of Sub-merchant in any 12-month period, Sub-merchant will automatically be deemed to have accepted, and will be bound by, the Direct Merchant Processing Agreement attached hereto as Appendix B.
 - 4.2. Sub-merchant will permit Provider to perform risk monitoring functions as required by the Operating Regulations and Rules Summary.
 - 4.3. Sub-merchant will notify Provider immediately of any Payor disputes or other matters that require escalation to Processor and immediately forward any notices received by Sub-merchant concerning a disputed payment transaction.
 - 4.4. Sub-merchant will assure that only sales transactions produced as the direct result of bona fide sales to Payors for such identified products and/or services are completed and delivered to Provider for processing.
 - 4.5. Sub-merchant will restrict access to ID’s and passwords to access the Services and will disclose such IDs and passwords to its employees and agents on an as-needed basis, only as necessary for the use of the Services.
 - 4.6. Sub-merchant will promptly notify Provider in the event Sub-merchant becomes aware of any unusual or suspicious activity regarding its customers and will cooperate with Processor, Provider, Member Bank and the Associations, as applicable, in connection with any investigation of its customers’ background or activity.
 - 4.7. Sub-merchant is solely responsible for the security of data residing on the servers owned, controlled or operated by Sub-merchant. Sub-merchant will comply with all state and federal laws, including without limitation laws regarding disclosure to customers on how and why personal information and financial information is collected and used. Sub-merchant agrees

4.8. not to use, disclose, sell or disseminate any cardholder information obtained in a card transaction except for purposes of authorizing, completing and settling card transactions and resolving chargebacks, retrieval requests or similar issues involving card transactions. Sub-merchant acknowledges that neither Provider or Processor shall be liable for any improperly processed transaction or illegal or fraudulent access to Sub-merchant's account, Sub-merchant's IDs and passwords, any end-user data or transaction data.

4.8 Sub-merchant acknowledges and agrees that it is responsible for its employees' actions, it will notify Provider of any third party that will have access to cardholder data, and it will immediately report all instances of a data breach to Provider immediately after it identifies an incident.

4.9 Sub-merchant will establish and maintain its Bank Account with a financial institution to credit the payments and fees Sub-merchant charges its customers. Sub-merchant authorizes Processor and Member Bank to initiate and make transfers to the Bank Account to effect the transactions contemplated by this Agreement ("Payments"). Sub-merchant and Provider will mutually agree upon the provision of reporting and exchange of data as may be required by Provider to monitor and manage the activity relative to the Bank Account including any transfers to and from the Bank Account.

5. Sub-merchant Prohibitions. Sub-merchant acknowledges and agrees that the prohibited actions described below ("Prohibited Actions") are actions which may mislead, disadvantage, defraud or damage any, or all of, the following entities: (a) a Payor; (b) the issuing bank; (c) the settlement bank; (d) the Associations; (e) Provider; (f) Processor; or (g) the Member Bank. Sub-merchant agrees that it must take all available steps and precautions to prevent fraud, theft, or misappropriation of Payor data. Sub-merchant agrees that it will not take any of the following Prohibited Actions and it will not permit a third party under its control to take the actions described in this Section 5 in any situation where it has knowledge of such actions. Sub-merchant is deemed to be responsible for and to control the conduct of its employees, contractors, customers, and representatives and ensure their compliance with applicable laws and the Operating Regulations, including the ownership and use of Association Marks.

5.1. Sale Transactions. Sub-merchant will not submit any sales transaction to Processor: (a) that adds any surcharge to the transaction, except to the extent authorized by the Operating Regulations or Applicable Law; (b) that adds any tax to the transaction, unless Applicable Law expressly allows for the customer to impose a tax. Any tax amount, if allowed, must be included in the transaction amount and not collected separately; (c) that represents the refinancing or transfer of an existing Payor obligation that is deemed to be uncollectible or arises from the dishonor of a Payor's personal check or from the acceptance of a Card at a terminal that dispenses scrip; (d) that Sub-merchant knows or should have known to be fraudulent or not authorized by the Payor, or that it knows or should have known to be authorized by a customer colluding with Sub-merchant for a fraudulent purpose; (e) until after the services are performed, and/or Sub-merchant has completed the transaction, unless Sub-merchant has obtained Payor consent for a recurring transaction; (f) where a valid authorization was required but not obtained; (g) where multiple authorizations for amounts less than the total sale amount have been obtained; (h) which results in a disbursement of cash or cash equivalent to a Payor; (i) that establishes a maximum dollar sale transaction amount, except to the extent authorized by the Operating Regulations; (j) for any purposes related to pornography or any activity that is illegal in either the Sub-Merchant's or Provider's jurisdiction, including but not limited to money-laundering or financing of terrorist activities; (k) that was previously charged back to the Acquirer and subsequently returned to the Sub-merchant, irrespective of Cardholder approval; (l) request a Card Verification Value 2 ("CVV2") for a card-present transaction, nor retain or store any portion of the magnetic-stripe data subsequent to the authorization of a sales transaction, nor any other data prohibited by the Operating Regulations and/or the Payment Facilitator Agreement between Processor and Provider, including CVV2.

5.2. Minimum and Maximum Transaction Amounts.

(a) A Sub-merchant may set a minimum transaction amount to accept a Card that provides access to a credit account, provided the minimum transaction amount does not (1) differentiate between Issuers, (ii) differentiate between Mastercard and another acceptance brand; and (iii) exceed USD 10 (or any higher amount established by the Federal Reserve by regulation).

(b) A Sub-merchant may set a maximum transaction amount to accept a Card that provides access to a credit account, under the following conditions: (i) the Sub-merchant is a department, agency or instrumentality of the U.S. Government, a corporation owned or controlled by the U.S. Government, or whose primary business is reflected by MCC 8220 (Colleges, Universities, Professional Schools, Junior Colleges), 8244 (Schools, Business and Secretarial) or 8249 (Schools, Trade and Vocational); and (ii) the maximum transaction amount does not differentiate between Issuers or between Mastercard and another acceptance brand.

5.3. Refund Transactions. Sub-merchant will not submit any refund transaction to Processor: (a) that does not correlate to an original sales transaction from the Payor; (b) that exceeds the amount shown as the total on the original sale transaction; (c) more than three (3) business days following either: (i) a regulatory requirement granting a Payor's right to a refund; or (ii) a non-disputed Payor request.

5.4. Other Prohibited Activities. Sub-merchant will not: (a) use any Payor data or other transaction data for any purpose not authorized by this Agreement; (b) disclose any Payor data or other transaction data to any entity except for necessary disclosures to affected Payors, and through Processor to affected Association entities (c) provide to Processor or Provider any inaccurate, incomplete, or misleading information; (d) fail to provide Provider with timely notification of events that have caused or could cause material changes in the Sub-merchant's ability to fulfill its obligations under this Agreement, including but not limited to (i) adverse changes in Sub-merchant's financial health; (ii) adverse changes in Sub-merchant's business conditions or environment; (iii) actions by governmental or non-governmental agencies; (e) transfer or attempt to transfer its financial liability by asking or requiring Payors to waive their dispute rights; (f) submit transactions on behalf of another entity that the Associations would consider a sub-ISO, Payment Service Provider (PSP), Provider, or any third party payment provider; (g) submit transactions for entities that do not have their principal places of business in the United States; (h) 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; (i) request or use an Account Number for any purpose other than as payment for its goods or services; (j) disburse funds in the form of travelers cheques, if the sole purpose is to allow the Cardholder to make a cash purchase of goods or services from the Sub-merchant; (k) disburse funds in the form of cash, unless the Sub-merchant is participating in full compliance with a program supported by an Association for such cash disbursements or such disbursement is in the form of travelers cheque, TravelMoney

cards, or foreign currency, in which case, the Transaction amount is limited to the value of the travelers cheques, TravelMoney cards, or foreign currency plus any commission or fee charged by the Sub-merchant or (ii) the Sub-merchant is participating in the Cash Back service; (l) deposit an electronic or paper record of a transaction (or a copy), generated at the point-of-transaction that does not result from an act between the Cardholder and the Sub-merchant; (m) interchange any transaction receipt for a transaction that was previously charged back to the Acquirer and subsequently returned to the Sub-merchant, irrespective of Cardholder approval. or (n) bill or collect from any Cardmember for any purchase or payment on the Card unless Chargeback has been exercised, the Sub-merchant has fully paid for such Charge, and it otherwise has the right to do so.

6. Parties to the Agreement; Entire Agreement. This Agreement constitutes the agreement required by the Processing Agreement between Provider and its sub-merchants. In addition, the Sub-merchant may be required under the Processing Agreement to enter into a direct processing agreement with Processor ("Direct Processing Agreement") as set forth in Section 4.1 of this Agreement. This Agreement and the Direct Processing Agreement, if applicable, shall constitute the entire agreement between the parties concerning the subject matter hereof. This Agreement shall not be superseded or replaced by the Direct Processing Agreement. In the event of a conflict between the terms of this Agreement and the Direct Processing Agreement, the terms of the Direct Processing Agreement shall control.
7. Representations and Warranties; Authorization. Sub-merchant hereby represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized by all necessary appropriate authorizing actions of Sub-merchant; that the execution, delivery and performance of this Agreement will not contravene any applicable by-law, corporate charter, partnership or joint venture agreement, law, regulation, order or judgment involving Sub-merchant; that the execution, delivery and performance of the Agreement will not contravene any provision or constitute a default under any other agreement, license or contract which Sub-merchant is bound; that the Agreement is valid and enforceable in accordance with its terms against Sub-merchant as if each Sub-merchant had signed the Agreement; and that Sub-merchant will be bound by any amendments and modifications to the Agreement agreed to by Provider.
8. Data Security and Privacy. Sub-merchant agrees to comply, and to cause third parties acting as Sub-merchant's agent ("Agents") to comply, with the Operating Regulations, the Payment Card Industry Data Security Standards ("PCI-DSS"), the VISA Cardholder Information Security Program ("CISP"), the MasterCard Site Data Protection Program ("SDP"), and (where applicable), the PCI Security Standards Council, Visa, and MasterCard PA-DSS ("Payment Application Data Security Standards") (collectively, the "Security Guidelines"). Sub-merchant may review the VISA, MasterCard, American Express and Discover websites for a copy of the Visa, MasterCard and Discover regulations. The websites are: <http://usa.visa.com/customers/> and www.mastercard.com/us/Sub-merchant/ and www.americanexpress.com/merchantopguide and www.discovernetwork.com/customers/. Sub-merchant will comply with the Card acceptance and website requirements set forth in the Operating Regulations. Without limiting the foregoing, Sub-merchant agrees that it will fully comply with any and all anti-money laundering laws and regulations, including but not limited to the Bank Secrecy Act, the US Treasury's Office of foreign Assets control ("OFAC") and the Federal Trade Commission. For purposes of this section, Agents include, but are not limited to, Sub-merchant's software providers and/or equipment providers. Sub-merchant represents to Provider that it does not have access to Card information (such as the Cardholder's account number, expiration date, and CVV2) and will not request access to such Card information from Provider. In the event that Sub-merchant receives such Card or other personal information of its customers in connection with the processing services provided under this Agreement, Sub-merchant agrees that it will not use it for any fraudulent purpose or in violation of any Card Organization Rules, including but not limited to PCI-DSS or Applicable Laws. If at any time Sub-merchant believes that customer personal information has been compromised, Sub-merchant must notify us promptly and assist in providing notification to the proper parties. Sub-merchant must ensure compliance by itself and any third party service provider utilized by Sub-merchant, with all security standards and guidelines that are applicable to Sub-merchant and published from time to time. Provider will not be responsible for unauthorized use or access to customer's personal information or financial data by Sub-merchant, Sub-merchant's employees, or any other party associated with Sub-merchant, except to the extent such use or access is due to Provider' fault or negligence. If any Card Organization requires an audit of Sub-merchant due to a data security compromise event or suspected event, Sub-merchant agrees to cooperate with such audit. Sub-merchant may not use any Card information other than for the sole purpose of completing the transaction authorized by the customer for which the information was provided to Sub-merchant, or as specifically allowed by Card Organization Rules, Operating Regulations, or as required by law. Provider may use any and all information gathered in the performance of the Services or the operation of the Website in accordance with its Privacy Policy. In addition, Sub-merchant agrees that Provider may use such information for any lawful purpose including marketing and deriving statistics regarding its Website and the Services.
9. Modification of this Agreement or the Services. Provider may from time to time without prior notice amend or modify this Agreement or the Services and Website, including without limitation a change to the pricing, terms or products offered; provided, however, that Provider will not modify the Services in a manner that would, in its sole discretion, significantly adversely affect Sub-merchant's use thereof, without providing at least ten days' prior notice to Provider of any such modification. Such notice may be made by means of email or a posting on the Website. Sub-merchant's continued use of the Services following notification of any change or amendment to this Agreement or the Services shall be evidence of its consent and agreement to the modification and/or amendment. Posting notice of any modification or amendment on the Website shall be deemed adequate notification.
10. Fees. Sub-merchant shall pay the fees as described and in the amounts set forth in the Application, if any. Customers of Sub-merchant may be required to pay fees in order to make online Payments, if provided for in the enrollment documentation for the Services. Sub-merchant is responsible for disclosing all customer-paid fees to customers. If a dispute arises related to non-disclosure of customer-paid fees, Sub-merchant shall be liable to Provider for the full transaction amount including fees or charges for facilitating the payment of amounts due to Sub-merchant, as Provider may determine in its sole discretion. Provider may grant or deny to customers the ability to use the Provider Services for any reason in its sole discretion. Provider reserves the right to modify and amend all fees payable for the Services upon ten days' notice to Sub-merchant.

11. Term and Termination.

11.1. This Agreement shall commence on the Effective Date and shall continue until terminated as set forth below.

11.2. Notwithstanding the foregoing, Provider may immediately cease providing Services and/or terminate this Agreement without notice if: (i) Sub-merchant fails to pay any amount to Provider or Processor when due, (ii) Provider has received a request from Processor, Member Bank, or the Associations to terminate this Agreement; (iii) Provider believes that the provision of a service to Sub-merchant may be a violation of the Operating Regulations or any Applicable Laws; (iv) Provider believes that Sub-merchant has violated or is likely to violate the Operating Regulations or Applicable Law; (v) Provider determines that Sub-merchant poses a financial or regulatory risk to Provider or an Association, (vi) the Processing Agreement is terminated for any reason; (vii) any Association deregisters Provider; (viii) Processor or Member Bank ceases to be a member of or to participate in programs affiliated with the Associations that permit them to offer the Services; (ix) Provider fails to have the required licenses or registrations, or is the subject of any regulatory enforcement action in connection with any Applicable Law.

12. Disclaimer, Limitation of Liability.

12.1. Sub-merchant agrees to notify Provider by a written communication with Provider of any alleged breach by Processor of this Agreement, which notice will specifically detail such alleged breach, within thirty (30) days of the date on which the alleged breach first occurred. Failure to so provide notice shall be deemed an acceptance by Sub-merchant and a waiver of any and all rights to dispute such breach. Sub-merchant hereby authorizes Provider to assert any such claim against Processor on its behalf, and to take all steps deemed necessary or appropriate in connection with such claim.

12.2. EXCEPT FOR THOSE EXPRESS WARRANTIES MADE IN THIS AGREEMENT, PROVIDER DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OF SUB-MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Sub-merchant's sole and exclusive remedy for any and all claims against Provider arising out of or in any way related to the transactions contemplated herein shall be termination of this Agreement. Neither Processor, Sub-merchant Bank, nor Provider shall be deemed to be in default under this Agreement or liable for any delay or loss in the performance, failure to perform, or interruption of any Services resulting, directly or indirectly, from a Force Majeure Event. Upon such an occurrence, performance by Processor, Member Bank and Provider shall be excused until the cause for the delay has been removed and Processor, Sub-merchant Bank, and Provider have had a reasonable time to again provide the Services. No cause of action, regardless of form, shall be brought by either party more than 1 year after the cause of action arose, other than one for the nonpayment of fees and amounts due Provide under this Agreement. Any restriction on Provider' liability under this Agreement shall apply in the same manner to Processor and Member Bank.

12.3. Sub-merchant acknowledges and agrees that: (i) Sub-merchant's receipt of Payments are transactions between Sub-merchant and the relevant Payor who is a customer of Sub-merchant and not with Provider or any of Provider' affiliates; (ii) Provider is a Payment Facilitator for Sub-merchant and is not a party to any transaction; and (iii) funds processed by Processor or its service providers (including any bank service providers) in connection with the processing of Payments are not deposit obligations and are not insured for Sub-merchant's benefit by any governmental agency.

13. Modification of this Agreement or the Services. Provider may from time to time without prior notice amend or modify this Agreement or the Services and Website, including without limitation a change to the pricing, terms or products offered; provided, however, that Provider will not modify the Services in a manner that would, in its sole discretion, significantly adversely affect Sub-merchant's use thereof, without providing at least ten days' prior notice to Sub-merchant of any such modification. Such notice may be made by means of email or a posting on the Website. Sub-merchant's continued use of the Services following notification of any change or amendment to this Agreement or the Services shall be evidence of its consent and agreement to the modification and/or amendment. Posting notice of any modification or amendment on the Website shall be deemed adequate notification.

14. Miscellaneous. At any reasonable time upon reasonable notice to Sub-merchant, Sub-merchant shall allow auditors, including the auditors of Provider, any Association or any third party designated by Provider, Processor or the applicable Association, to review the files held and the procedures followed by Sub-merchant at any or all of Sub-merchant's offices or places of business relating to this Agreement. Provider may amend this Agreement upon notice to Sub-merchant in accordance with Provider' standard operating procedures. This Agreement is entered into, governed by, and construed pursuant to the laws of the State of Tennessee without regard to conflicts of law provisions. This Agreement may not be assigned by Sub-merchant without the prior written consent of Provider. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, transferees and assignees. This Agreement is for the benefit of, and may be enforced only by, Provider and Sub-merchant and is not for the benefit of, and may not be enforced by, any other party. If any provision of this Agreement is determined to be illegal or invalid, such illegality or invalidity of that provisions will not affect any of the remaining provisions and this Agreement will be construed as if such provision is not contained in the Agreement. "Member Bank" as used in this Agreement shall mean a member of VISA, MasterCard and/or Discover, as applicable, that provides sponsorship services in connection with this Agreement. As of the commencement of this Agreement, Member Bank shall be Fifth Third Bank, an Ohio banking corporation, located in Cincinnati, Ohio. The Member Bank may be changed, and its rights and obligations assigned to another party by Processor at any time without notice to Provider or Sub-merchant.

Sub-merchant:

By: _____

Name: _____

Title: _____

Provider:

By: _____

Name: Paul Maple

Title: General Counsel & Secretary

APPENDIX A DEFINITIONS

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

“Application” means the application for the Services, Credit Card Processing Form, or other documentation required by Provider and completed and delivered by Sub-merchant as a prerequisite for participating in the Services.

“Applicable Laws” shall mean all applicable state, federal, and local laws, rules and regulations, including without limitation, the Bank Secrecy Act, the implementing regulations issued by the U.S. Treasury’s Office of Foreign Assets Control (OFAC) and the Federal Trade Commission, as well as any and all other federal and state anti-money laundering laws and regulations.

“Bank Account” shall mean the Sub-merchant’s bank account identified in its Application or other documentation provided to Provider to set up the Services.

“Cardholder” shall mean any person authorized to use a Card or the accounts established in connection with a Card.

“Cards” shall mean MasterCard, VISA, Discover and Other Network cards, account numbers assigned to a Cardholder or other forms of payment accepted by Processor, for which pricing is set forth in the account opening documentation.

“Force Majeure Event” shall mean errors in data provided by Sub-merchant or others, labor disputes, fire, weather or other casualty, power outages, and funding delays, however caused, governmental orders or regulations, or any other cause, whether similar or dissimilar to the foregoing, beyond Processor’s, Member Bank’s, or Provider’s reasonable control.

“Gateway Services” means the delivery of payment transaction authorization and settlement data to and from Merchants and transaction processors, and related services provided by Reseller.

“Instruction Based Funding” shall mean the process for funding Sub-merchant’s transactions, as more fully described in Attachment A.

“Sub-merchant Supplier” shall mean a third party other than Processor used by Sub-merchant or a Provider in connection with the Services received hereunder, including but not limited to, Sub-merchant’s software providers, equipment providers, and/or third party processors.

“Operating Regulations” shall mean the by-laws, operating regulations and/or all other rules, guidelines, policies and procedures of VISA, MasterCard, Discover, and/or Other Networks, and all other applicable rules, regulations and requirements of Processor, Member Bank, Provider, banks, institutions, organizations, associations, or networks which govern or affect any services provided under this Agreement, and all state and federal laws, rules and regulations which govern or otherwise affect the activities of Provider, including, but not limited to, those of the National Automated Clearing House Association (“NACHA”) and the Federal Trade Commission (“FTC”), as any or all of the foregoing may be amended and in effect from time to time.

“Other Network” shall mean any funds transfer network, including without limitation the network operated by NACHA, or card association other than VISA, MasterCard, or Discover that is identified in the Price Schedule or any subsequent amendment to this Agreement and in which Provider participates pursuant to the Processing Agreement.

“Payments” shall mean payments initiated by Payors using a Card or by means of ACH transfer.

“Payment Facilitator” shall have the meaning given that term in the Operating Regulations.

“Payment Processing” shall mean the process for funding Sub-merchant’s customer’s sales transactions, as more fully described in Attachment A.

“Payor” shall mean any customer of Sub-merchant who authorizes a payment to Sub-merchant, or who authorizes Sub-merchant to initiate a payment to the credit of Sub-merchant’s account, and for purposes hereof, “Payor” shall include a Cardholder.

“PSP” shall mean Payment Service Provider, as defined in the Operating Regulations.

“Rules Summary” shall mean the Processor’s Bank Card Sub-merchant Rules and Regulations, as amended from time to time, which are at all times consistent with the Operating Regulations.

“Services” shall mean any and all services described in, and provided by Provider to Sub-merchant in support of Sub-merchant’s role as a Provider or PSP, as defined in the Operating Regulations.

ATTACHMENT A PAYMENT PROCESSING

A. Sub-merchant agrees that it will take all steps necessary to assist Provider in complying with its obligations under the Operating Regulations and Applicable Laws related to the settlement of sales transactions, including but not limited to filing of quarterly or other reports required under the Operating Regulations.

The Associations make excerpts of their Operating Regulations available online, including via:

<https://www.mastercard.us/en-us/business/overview/support/rules.html>

<https://usa.visa.com/support/consumer/visa-rules.html>

<https://www.americanexpress.com/merchanttopguide>

https://www.discoverglobalnetwork.com/content/dam/discover/en_us/dgn/pdfs/MIT-Implementation-Guide.pdf

Each applicable Association's complete Operating Regulations are incorporated by reference into this Agreement and will control with respect to any conflict in terms between this Agreement and such Operating Regulations. Sub-merchant will not discriminate against Cards or Issuers (e.g., limited acceptance options) except in full compliance with the Operating Regulations and will comply with all Operating Regulations, applicable laws, and regulations related to its business operations, PCI-DSS obligations, the use of an Association's marks, and each transaction acquired hereunder. Sub-merchant expressly agrees that it will accept Cards and protect, utilize, or restrict transaction data, including the magnetic stripe and CVV2, in accordance with the terms of this Agreement, applicable law or regulation, and the Operating Regulations and will cooperate with any audit requested by an Association until such audit is completed.

In addition to complying with each Association's obligations or prohibitions related to acceptance, disbursement, or resubmission of a transaction, Sub-merchant may not submit any illegal, fraudulent, or unauthorized transaction and shall only submit transactions for the sale of its own goods or services, and not any other person or company, and may not receive payment on behalf of or, unless authorized by law, redirect payments to any other party. Sub-merchant covenants that it is not a third-party beneficiary under any agreement with an Association, however, an Association may be a third-party beneficiary of this Agreement and shall have the rights, but not any obligation, necessary to fully enforce the terms of this Agreement against the Sub-merchant.

B. Sub-merchant will establish and maintain its Bank Account with a financial institution to credit the payments and fees Sub-merchant charges its customers. Sub-merchant authorizes Processor and Member Bank to initiate and make transfers to the Bank Account to effect the transactions contemplated by this Agreement ("Payments").

C. During the term of this Agreement and for no less than one year thereafter, Sub-merchant will maintain a positive balance in the Bank Account at all times sufficient to accommodate all funding required by this Agreement. If at any time a deficit balance exists in the Bank Account, Provider shall give Sub-merchant written notice of such deficit and Sub-merchant shall have two (2) business days to cure such deficit and Provider reserves the right to require that Sub-merchant maintain a minimum balance in the Bank Account in an amount to be reasonably determined by Provider. Any fees, interest expenses or other expenses with respect to the Bank Account will be the sole responsibility of Sub-merchant and will be paid directly by Sub-merchant.

D. Processor may limit Sub-merchant's eCheck activity under this Agreement if necessary to maintain such limit. Sub-merchant acknowledges and agrees that Provider may at any time determine to restrict the amount or type of transactions Provider or Processor is willing to accept based on standards established and administered by Processor in its sole discretion. Processor and/or Member Bank may reject any ACH entry ("Entry") which does not comply with the requirements of this Agreement, the NACHA Operating Regulations, Applicable Law or Member Bank's or Processor's requirements and specifications.

E. The terms of this Attachment A do not modify Sub-merchant's due diligence obligations, including, without limitation, Sub-merchant's responsibility to satisfy all applicable anti-money laundering (AML) policies. Sub-merchant will ensure that each customer authorizes Processor to initiate credit and debit ACH entries to the customer's Bank Account.

F. Each time Sub-merchant transmits an Entry to Processor or Member Bank, Sub-merchant represents and warrants to Processor and Member Bank that:

- (1) The Originator has authorized Sub-merchant to transmit Entries to Processor and Member Bank on behalf of Sub-merchant, in a manner that complies with the NACHA Operating Regulations, for processing and transmittal by Processor and Member Bank through the ACH system, which authorization has not been terminated and is in full force and effect, and Sub-merchant has agreed to make payment for any credit Entries originated and for any debit Entries returned by the RDFI;
- (2) Sub-merchant agrees to be bound by the NACHA Operating Regulations and to not initiate transactions in violation of United States law, and agrees to assume the responsibilities and perform the obligations of an Originator under the NACHA Operating Regulations;
- (3) Each Receiver of an Entry has authorized, in a manner that complies with the requirements of the Operating Regulations, Sub-merchant, or an agent of Sub-merchant, to initiate the Entry, and no such authorization has been revoked;
- (4) Sub-merchant has no knowledge of the revocation of the Receiver's authorization or the termination

- (5) of the agreement between the RDFI and the Receiver concerning the Entry; and
The Entry accurately reflects the entry data furnished to Sub-merchant and does not violate any agreement between Originator and Sub-merchant.

G. In the event the Sub-merchant accepts American Express, Sub-merchant agrees:

- (1) To comply with, and accept Cards in accordance with, the terms of its Provider Merchant Agreement and the American Express Merchant Operating Guide, as such terms may be amended from time to time.
- (2) That the American Express Merchant Operating Guide is incorporated by reference into the Provider Merchant Agreement. (available here: https://icm.aexp-static.com/content/dam/gms/en_us/optblue/us-mog.pdf). Sub-merchant expressly authorizes payment facilitator to submit transactions to, and receive settlement from, American Express on behalf of the Sub-merchant.
- (3) To American Express disclosures and consents necessary for (i) Provider to collect and disclose Transaction Data, Sub-merchant Data, and other information about the Sub-merchant to American Express; and (ii) American Express to use such information to perform its responsibilities in connection with the Program, promote the American Express Network, perform analytics and create reports, and for any other lawful business purposes, including commercial marketing communication purposes within the parameters of the Program Agreement, and important transactional or relationship communications from American Express.
- (4) To provide a marketing opt-out mechanism for Sub-merchants. Such mechanism should contain a clear disclosure to Sub-merchant that opting-out of marketing messages will not preclude them from receiving important transactional or relationship communications from American Express.
- (5) It may be converted from the Program to a direct Card acceptance relationship with American Express if and when it becomes a High CV Merchant in accordance with Section 10.5, "High CV Merchant Conversions".
- (6) That, upon conversion, (i) the Sub-merchant will be bound by American Express' then-current Card Acceptance Agreement; and (ii) American Express will set pricing and other fees payable by the Sub-merchant for Card acceptance.
- (7) It shall not assign to any third party any payments due to it under their respective Provider Merchant Agreement, and all indebtedness arising from Charges will be for bona fide sales of goods and services (or both) at its establishments and free of liens, claims, and encumbrances other than ordinary sales taxes; provided, however, that the Sub-merchant may sell and assign future Transaction receivables to payment facilitator, its affiliated entities and/ or any other cash advance funding source that partners with payment facilitator or its affiliated entities, without consent of American Express.
- (8) American Express is an intended third-party beneficiary of the rights, but not obligations, of the Provider Merchant Agreement and that American Express may directly enforce the terms of the Provider Merchant Agreement against the Sub-merchant.
- (9) Sub-merchant may opt out of accepting Cards at any time without directly or indirectly affecting its rights to accept Other Payment Products.
- (10) Provider has the right to terminate the Sub-merchant's right to accept Cards if it breaches any of the provisions in this Section or the American Express Merchant Operating Guide.
- (11) Provider has the right to immediately terminate a Sub-merchant for cause or fraudulent or other activity, or upon American Express' request.
- (12) To maintain refund policies for purchases on the Card must that are at least as favorable as its refund policy for purchases on any Other Payment Products, and the refund policy be disclosed to Cardmembers at the time of purchase and in compliance with Applicable Law.

- NOTE: American Express may use the information obtained in the Sub-merchant application at the time of setup to screen, communicate, and/or monitor Sub-merchant in connection with Card marketing and administrative purposes.



APPENDIX B
DIRECT MERCHANT PROCESSING AGREEMENT

MERCHANT SERVICES AGREEMENT FOR SUB-MERCHANTS

This MERCHANT SERVICES AGREEMENT FOR SUB-MERCHANTS ("Agreement") is made among WORLDPAY, LLC, having its principal office at 8500 Governors Hill Drive, Symmes Township, OH 45249-1384 and its designated Member Bank (collectively "Acquirer") and _____ ("Sub-merchant") in connection with the agreement between Sub-merchant and _____ ("Provider"). Acquirer will provide Sub-merchant with certain payment processing services ("Services") in accordance with the terms of this Agreement. In consideration of Sub-merchant's receipt of credit or debit card funded payments, and participation in programs affiliated with MasterCard International Inc. ("MasterCard"), VISA U.S.A. Inc. ("VISA"), Discover ("Discover"), and certain similar entities (collectively, "Associations"), Sub-merchant is required to comply with the Operating Regulations (defined below) as they pertain to applicable credit and debit card payments. In addition, if Sub-merchant meets certain requirements under the Operating Regulations or an Association or the Operating Regulations otherwise require, Sub-merchant may be required to enter into a direct relationship with an entity that is a member of the Associations. By executing this Agreement, Sub-merchant has fulfilled such requirement. However, Acquirer understands that Sub-merchant may have contracted with Provider to obtain certain processing services and that Provider may have agreed to be responsible to Sub-merchant for all or part of Sub-merchant's obligations contained herein.

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises contained herein, the parties agree as follows:

- 1. Certain Sub-merchant Responsibilities.** Sub-merchant agrees to comply, and to cause third parties acting as Sub-merchant's agent ("Agents") to comply, with the Association's and other payment network's by-laws, operating regulations and/or all other rules, policies and procedures, including but not limited to the Payment Card Industry Data Security Standard, the VISA Cardholder Information Security Program, the MasterCard Site Data Protection Program, and any other program or requirement that may be published and/or mandated by the Associations or payment networks (collectively "Operating Regulations"). Sub-merchant may review the VISA, MasterCard, and Discover websites for a copy of the Visa, MasterCard and Discover regulations. The websites are: <https://usa.visa.com/support/small-business/regulations-fees.html> and <http://www.mastercard.com/us/merchant/> and <http://www.discovernetwork.com/merchants/>. Sub-merchant also agrees to comply with all applicable state, federal, and local laws, rules, and regulations ("Laws"). Without limiting the foregoing, Sub-merchant agrees that it will fully comply with any and all anti-money laundering laws and regulations, including but not limited to the Bank Secrecy Act, the US Treasury's Office of Foreign Assets Control (OFAC) and the Federal Trade Commission. For purposes of this section, Agents include, but are not limited to, Sub-merchant's software providers and/or equipment providers.

If appropriately indicated in Sub-merchant's agreement with Provider, Sub-merchant may be a limited-acceptance merchant, which means that Sub-merchant has elected to accept only certain Visa and MasterCard card types (i.e., consumer credit, consumer debit, and commercial cards) and must display appropriate signage to indicate the same. Acquirer has no obligation other than those expressly provided under the Operating Regulations and applicable law as they may relate to limited acceptance. Sub-merchant, and not Acquirer, will be solely responsible for the implementation of its decision for limited acceptance, including but not limited to policing the card type(s) accepted at the point of sale.

Sub-merchant shall only complete sales transactions produced as the direct result of bona fide sales made by Sub-merchant to cardholders, and is expressly prohibited from presenting sales transactions which are produced as a result of sales made by any person or entity other than Sub-merchant, or for any purposes related to any illegal or prohibited activity, including but not limited to money-laundering or financing of terrorist activities.

Sub-merchant may set a minimum transaction amount to accept a card that provides access to a credit account, under the following conditions: i) the minimum transaction amount does not differentiate between card issuers; ii) the minimum transaction amount does not differentiate between MasterCard, Visa, or any other acceptance brand; and iii) the minimum transaction amount does not exceed ten dollars (or any higher amount established by the Federal Reserve). Sub-merchant may set a maximum transaction amount to accept a card that provides access to a credit account, under the following conditions: Sub-merchant is a i) department, agency or instrumentality of the U.S. government; ii) corporation owned or controlled by the U.S. government; or iii) Sub-merchant whose primary business is reflected by one of the following MCCs: 8220, 8244, 8249 –Schools, Trade or Vocational; and the maximum transaction amount does not differentiate between MasterCard, Visa, or any other acceptance brand.

- 2. Sub-merchant Prohibitions.** Sub-merchant must not i) 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, ii) add any tax to transactions, unless applicable law expressly requires that a Sub-merchant impose a tax (any tax amount, if allowed, must be included in the transaction amount and not collected separately), iii) request or use an account number for any purpose other than as payment for its goods or services, iv) disburse 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 Sub-merchant, v) disburse funds in the form of cash unless Sub-merchant is dispensing funds in the form of travelers checks, TravelMoney cards, or foreign currency (in such case, the transaction amount is limited to the value of the travelers checks, TravelMoney cards, or foreign currency, plus any commission or fee charged by the Sub-merchant), or Sub-merchant is participating in a cash back service, vi) submit any transaction receipt for a transaction that was previously charged back to the Acquirer and subsequently returned to Sub-merchant, irrespective of cardholder approval, vii) accept a Visa consumer credit card or commercial Visa product issued by a U.S. issuer to collect or refinance an existing debt, viii) accept a card to collect or refinance an existing debt that has been deemed uncollectable, or ix) submit a transaction that represents collection of a dishonored check. Sub-merchant further agrees that, under no circumstance, will Sub-merchant store cardholder data in violation of the Laws or the Operating Regulations including but not limited to the storage of track-2 data. Neither Sub-merchant nor its Agent shall retain or store magnetic-stripe data subsequent to the authorization of a sales transaction.

3. **Settlement.** Upon receipt of Sub-merchant's sales data for card transactions, Acquirer will process Sub-merchant's sales data to facilitate the funds transfer between the various Associations and Sub-merchant. After Acquirer receives credit for such sales data, subject to the terms set forth herein, Acquirer will fund Sub-merchant, either directly to the Sub-merchant-Owned Designated Account or through Provider to an account designated by Provider ("Provider Designated Account"), at Acquirer's discretion, for such card transactions. Sub-merchant agrees that the deposit of funds to the Provider Designated Account shall discharge Acquirer of its settlement obligation to Sub-merchant, and that any dispute regarding the receipt or amount of settlement shall be between Provider and Sub-merchant. Acquirer will debit the Provider Designated Account for funds owed to Acquirer as a result of the Services provided hereunder, provided that Acquirer may also debit Sub-merchant's designated demand deposit account ("Sub-merchant-Owned Designated Account") upon receipt of such account information from Sub-merchant or Provider, or if Acquirer deposits settlement funds into the Sub-merchant-Owned Designated Account. Further, if a cardholder disputes a transaction, if a transaction is charged back for any reason, or if Acquirer reasonably believes a transaction is unauthorized or otherwise unacceptable, the amount of such transaction may be charged back and debited from Sub-merchant or Provider.

4. **Term and Termination.** This Agreement shall be binding upon Sub-merchant upon Sub-merchant's execution. The term of this Agreement shall begin, and the terms of the Agreement shall be deemed accepted and binding upon Acquirer, on the date Acquirer accepts this Agreement by issuing a merchant identification number, and shall be coterminous with Provider's agreement with Sub-merchant.

Notwithstanding the foregoing, Acquirer may immediately cease providing Services and/or terminate this Agreement without notice if (i) Sub-merchant or Provider fails to pay any amount to Acquirer when due, (ii) in Acquirer's opinion, provision of a service to Sub-merchant or Provider may be a violation of the Operating Regulations or any Laws, (iii) Acquirer believes that Sub-merchant has violated or is likely to violate the Operating Regulations or the Laws, (iv) Acquirer determines Sub-merchant poses a financial or regulatory risk to Acquirer or an Association, (v) Acquirer's agreement with Provider terminates, (vi) any Association deregisters Provider, (vii) Acquirer ceases to be a member of the Associations or fails to have the required licenses, or (viii) Acquirer is required to do so by any of the Associations.

5. **Limits of Liability.** Sub-merchant agrees to provide Acquirer, via a communication with Provider, with written notice of any alleged breach by Acquirer of this Agreement, which notice will specifically detail such alleged breach, within thirty (30) days of the date on which the alleged breach first occurred. Failure to so provide notice shall be deemed an acceptance by Sub-merchant and a waiver of any and all rights to dispute such breach.

EXCEPT FOR THOSE EXPRESS WARRANTIES MADE IN THIS AGREEMENT, ACQUIRER DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Sub-merchant's sole and exclusive remedy for any and all claims against Acquirer arising out of or in any way related to the transactions contemplated herein shall be termination of this Agreement. In the event that Sub-merchant has any claim arising in connection with the Services, rights, and/or obligations defined in this Agreement, Sub-merchant shall proceed against Provider and not against Acquirer, unless otherwise specifically set forth in the Operating Regulations. In no event shall Acquirer have any liability to Sub-merchant with respect to this Agreement or the Services. Sub-merchant acknowledges Acquirer is only providing this Agreement to assist in Provider's processing relationship with Sub-merchant, that Acquirer is not liable for any action or failure to act by Provider, and that Acquirer shall have no liability whatsoever in connection with any products or services provided to Sub-merchant by Provider. If Provider is unable to provide its services to Sub-merchant in connection with this Agreement and Acquirer elects to provide those services directly, Sub-merchant acknowledges and agrees that the provisions of this Agreement will no longer apply and the terms of Acquirer's then current Bank Card Merchant Agreement, which would be provided to Sub-merchant, will govern Acquirer's relationship with Sub-merchant. If Provider subsequently provides its services to Sub-merchant in connection with this Agreement, Acquirer will cease to provide such services after receipt of notice from Provider and this Agreement will govern Acquirer's relationship with Sub-merchant.

6. **Miscellaneous.** This Agreement is entered into, governed by, and construed pursuant to the laws of the State of Ohio without regard to conflicts of law provisions. This Agreement may not be assigned by Sub-merchant without the prior written consent of Acquirer. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, transferees and assignees. This Agreement is for the benefit of, and may be enforced only by, Acquirer and Sub-merchant and is not for the benefit of, and may not be enforced by, any other party. Acquirer may amend this Agreement upon notice to Sub-merchant in accordance with Acquirer's standard operating procedure. If any provision of this Agreement is determined to be illegal or invalid, such illegality or invalidity of that provision will not affect any of the remaining provisions and this Agreement will be construed as if such provision is not contained in the Agreement "Member Bank" as used in this Agreement shall mean a member of VISA, MasterCard and/or Discover, as applicable, that provides sponsorship services in connection with this Agreement. As of the commencement of this Agreement, Member Bank shall be Fifth Third Bank, an Ohio Banking Corporation, located in Cincinnati, OH 45263. The Member Bank is a party to this Agreement. The Member Bank may be changed, and its rights and obligations assigned to another party by Acquirer at any time without notice to Sub-merchant.

IN WITNESS WHEREOF, this Agreement has been executed by Sub-merchant's authorized officer as of the date set forth below.

SUB-MERCHANT: _____

By: _____

Name: _____

Title: _____

Date: _____

Address: _____
