

SCHEDULE D**PROCESSING SERVICES TERMS**

This Schedule D sets out additional terms (and modifications to terms in the General Terms and Conditions) that are applicable if Company is receiving certain Processing Services.

1. **Processing Services.** This Section 1 of Schedule D applies if Company is receiving Processing Services.
 - 1.1. **Company Compliance.** Company will not submit Transactions for processing to Elavon for any businesses, materially different products, or methods of selling other than those stated in the Company Application without Elavon's prior written consent.
 - 1.2. **Reserve Account.**
 - (a) **Establishment.** If a Reserve Event occurs, Elavon may establish a Reserve Account in the Reserve Amount to provide security and a source of funds to pay Elavon for all amounts that Company may owe under this Agreement. Elavon will have sole control of the Reserve Account, and, upon Company's delivery of funds to Elavon for creating credits in the Reserve Account (or Elavon's crediting the Reserve Account with amounts that otherwise would have been paid to Company), Company will have no further property interest in such funds (or rights to payment) other than with respect to a contingent right to payment from Elavon as described in this Agreement upon the termination of the Reserve Account.
 - (b) **Reserve Amount.** The "**Reserve Amount**" is equal to the aggregate dollar value of: [(average % credits to processing volume during the same period plus average % Chargebacks to processing volume during the same period) multiplied by four] multiplied by [average monthly processing volume] plus [one month's average fees] plus [number of days delayed delivery multiplied by the average day's processing volume]. For purposes of this calculation, the number of days delayed delivery means the number of days between the date on which the Cardholder's Payment Device is charged and the date the product is shipped to the Cardholder (if the goods are being shipped) or the date the Cardholder receives the product or service. Further, for purposes of this calculation, Elavon will determine the applicable period considering factors such as Company's Transaction volume and seasonality.
 - (c) **Reserve Event.** The following will constitute "**Reserve Events**":
 - (i) Fraudulent activity in any monthly period that equals or exceeds 1% of Company's average monthly volume over the preceding 12-month period;
 - (ii) Chargebacks in any monthly period that equal or exceed 1% of the total dollar value of incoming items to Elavon;
 - (iii) Elavon's reasonable belief that Company, if not approved by Elavon to engage in delayed delivery transactions, has accepted deposits but has not delivered the goods or services;
 - (iv) The commencement of a Bankruptcy Proceeding by or against Company;
 - (v) Termination of the Agreement for any reason or the occurrence of an event listed in Section 4.2 of the Agreement giving Elavon the right to terminate the Agreement;
 - (vi) Nonpayment of amounts owed by Company to Elavon;
 - (vii) Fines, assessments, or charges imposed or reasonably expected to be imposed by the Payment Networks;
 - (viii) The occurrence of a material adverse change in Company's financial condition;
 - (ix) Assignment of the Agreement by Company in violation of Section 18.5 of the Agreement; and
 - (x) Revocation, termination, expiration or non-renewal of any guaranty, indemnity agreement, letter of credit or any other Alternate Security provided in connection with the Agreement, if applicable.

- (d) **Funding.** Elavon may fund the Reserve Account up to the Reserve Amount by any of the following means:
 - (i) Elavon may require Company to transfer funds to Elavon for credit to the Reserve Account;
 - (ii) Elavon may debit the DDA and provide a corresponding credit to the Reserve Account; or
 - (iii) Elavon may credit to the Reserve Account amounts it would otherwise be obligated to credit to Company.
- (e) **Use of Funds in Reserve Account.** Elavon may apply credits in the Reserve Account against any outstanding amounts Company owes under the Agreement. Additionally, Elavon may debit the Reserve Account to exercise its rights under the Agreement, including its rights of set-off and recoupment to collect any amounts due to Elavon.
- (f) **Termination of Reserve Account.** Credits in the Reserve Account will remain in the Reserve Account, and will be used only to pay amounts due to Elavon, until Company has paid in full all amounts owing or that may be owed under the Agreement, including all Chargebacks, returns, adjustments, fees, fines, penalties, assessments and charges from the Payment Networks, and any other payments due under the Agreement. In no event will Company be entitled to a payment from Elavon in an amount equal to the credits remaining in the Reserve Account before 270 days following the effective date of termination of the Agreement. Notwithstanding the foregoing, if Elavon determines that the Reserve Event that gave rise to the establishment of the Reserve Account has been sufficiently cured, then Elavon may terminate the Reserve Account or release credits from the Reserve Account, or both, prior to the termination of the Agreement.
- (g) **Alternate Security.** In lieu of or in addition to establishing and crediting a Reserve Account, Elavon may accept an alternative form of security (“**Alternate Security**”) for the purpose of providing a source of funds to pay Elavon for all amounts owed by Company. Elavon may at any time reevaluate Alternate Security it previously accepted and require funding of a Reserve Account so that the amount of credits in a Reserve Account, taken together with amounts represented by any Alternate Security Elavon accepts, equals the Reserve Amount.

1.3. **Recoupment and Set-off.**

- (a) Elavon has the right of recoupment and set-off, and may offset any outstanding or uncollected amounts owed to it hereunder from:
 - (i) Any amounts it would otherwise be obligated to deposit into the DDA;
 - (ii) The Reserve Account by reducing the credits thereto; and
 - (iii) Any other amounts it may owe Company under the Agreement.
- (b) Company acknowledges that in the event of a Bankruptcy Proceeding, in order for Company to provide adequate protection under Bankruptcy Code Section 362 to Elavon hereunder, Elavon may require the creation of a Reserve Account and will have the right to offset against the Reserve Account for all obligations Company may owe to Elavon, without regard to whether the obligations relate to Transactions initiated or processed before or after the initiation of the Bankruptcy Proceeding.

- 1.4. **MATCHTM and Consortium Merchant Negative File.** Company acknowledges that Elavon may be required to report Company’s business name and the name of Company’s principals to the MATCHTM listing maintained by MasterCard and accessed by Visa, to the Consortium Merchant Negative File maintained by Discover, if applicable, or to any other negative or terminated merchant file of any other Payment Network, if applicable, pursuant to the requirements of the Payment Network Regulations. Company specifically consents to Elavon’s fulfillment of the obligations related to the listing of Company and Company information in such databases, and Company waives all claims and liabilities Company may have as a result of such reporting.

- 1.5. **Remedies Cumulative.** The rights conferred upon Elavon in this Schedule D, Section 1 are not intended to be exclusive of each other or of any other rights and remedies of Elavon under the Agreement, at law or in equity. Rather, each and every right of Elavon under the Agreement, at law or in equity, is cumulative and concurrent and in addition to every other right.
- 1.6. **Termination.** In addition to Elavon's termination rights in Section 4 of the Agreement, Elavon may terminate the Agreement:
- (a) If, after providing 30 days' written notice, either of the following conditions remain:
 - (i) Excessive Activity; or
 - (ii) The acceptance of Card Not Present or Convenience Fee Transactions without proper disclosure to Elavon in the Agreement (including in the Company Application) or an amendment to the Agreement.
 - (b) Immediately if any of the following occur:
 - (i) The levy, garnishment or attachment of the Alternate Security, the DDA, the Reserve Account, or any of Company's property in Elavon's possession;
 - (ii) Any change, not approved by Elavon, that constitutes a material change in the types of goods or services Company sells or in the methods by which Company sells them, or any change that results in Company's violation of Elavon's underwriting policy; or
 - (iii) Revocation, termination, expiration or non-renewal of any guaranty, indemnity agreement, letter of credit or other Alternate Security executed in connection with the Agreement.
- 1.7. **Member Responsibilities.** Member will facilitate ACH Transactions and comply with all ACH Rules as applicable to Member in providing Services under this Agreement. Member will have no liability to Company under this Agreement. Member is an entity governed by the Laws of the United States of America and as such, cannot provide any products or services to Company or its Customers that contravene the Laws of the United States of America, including the Laws promulgated by OFAC or any successor thereto.
- 1.8. **Company Information.**
- (a) **Authority.** Company authorizes Elavon to make, upon receipt of the Company Application and from time to time, any business credit or other inquiries it considers reasonably necessary to review the Company Application or continue to provide Services under the Agreement. Company also authorizes any person or credit reporting agency to compile information to answer those business credit inquiries and to furnish that information to Elavon.
 - (b) **Financial Information.** At Elavon's request, Company will provide Elavon audited financial statements prepared by an independent certified public accountant selected by Company. Within 120 days after the end of each fiscal year, Company will furnish Elavon, as requested, a financial statement of profit and loss for the fiscal year and a balance sheet as of the end of the fiscal year, each audited as provided above. Company also will provide Elavon such interim financial statements and other information as Elavon may request from time to time. Notwithstanding the requirements in this section, Company will not be obligated to provide financial statements or similar information required by this section other than those included in Company's filings with the Securities and Exchange Commission so long as Company remains registered and obligated to file financial statements (including annual reports on Form 10-K and quarterly reports on Form 10-Q) pursuant to the Securities Exchange Act of 1934, as amended.
- 1.9. **Company Data Incident.**
- (a) **Notice and Investigation.** Company acknowledges that Cardholder Data and bank account information it obtains in connection with any Transaction is the property of the financial institution that issued the Payment Device or holds the Customer's account. Company will notify Elavon within 24 hours (and if notice is given orally, it must be confirmed in writing within the same 24 hour period) if Company knows or suspects that

Cardholder Data, Customer information, or Transaction Information has been accessed or used without authorization from Company or systems within Company's control (a "**Data Incident**"). The notice must include:

- (i) A detailed written statement about the Data Incident including the contributing circumstances,
- (ii) The form, number and range of compromised account information,
- (iii) Specific account numbers compromised, and
- (iv) Details about the ensuing investigation and Company's security personnel who may be contacted in connection with the Data Incident.

Company will fully cooperate with the Payment Networks and Elavon in the forensic investigation of the Data Incident. Within 72 hours of becoming aware of the Data Incident, Company will engage the services of a data security firm acceptable to the Payment Networks and to Elavon to assess the vulnerability of the compromised data and related systems. Company will provide weekly written status reports to Elavon until the forensic audit is complete. Company will promptly furnish updated lists of potential or known compromised account numbers and other documentation or information that the Payment Networks or Elavon may request. In addition, Company will provide all audit reports to Elavon, and such audits must be completed to the satisfaction of the Payment Networks and of Elavon. If Company fails to supply the forensic audits or other information required by the Payment Networks or by Elavon, Company will allow Elavon to perform or have performed such audits at Company's expense.

- (b) **Preservation of Records.** If there is a Data Incident, Company will take immediate steps to preserve all business records, logs and electronic evidence relating to the Data Incident. Company will cooperate with Elavon to rectify, correct and resolve any issues that may result from the Data Incident, including providing Elavon with (and obtaining any necessary waivers for) all relevant information to verify Company's ability to prevent future data incidents in a manner consistent with the Agreement.
- (c) **Liability for Data Incident.** Without waiving any of Elavon's rights and remedies, Company is liable to the extent provided in the Payment Network Regulations for all fraudulent transactions related to any Data Incident and all costs Elavon incurs as a result of such Data Incident.

2. **Payment Navigator Services.** This Section 2 of Schedule D applies if Company is receiving Payment Navigator Services.

2.1. **Additional provisions.**

- (a) **Section 13.2. Indemnification By Company.** In addition to Company's indemnification obligations in Section 13.2, Company will indemnify and defend Elavon, its Affiliates, and their respective employees, officers, directors, and agents against all Losses in connection with Claims arising from alleged infringement of patent, copyright or other intellectual property right, or misappropriation of trade secrets, of any third party by Payment Navigator as modified or altered by Company, its partners, employees, agents or contractors, or the use of any data submitted by Company.
- (b) **Section 18.3. Exclusivity.** This section is amended by adding to the end of Section 18.3 of the Agreement:

"Notwithstanding the foregoing, this exclusivity provision will not apply to any Company point-of-sale location that does not interface or interact with the Payment Navigator Services. The parties intend that this Section only applies to Company's Affiliated Entities that interface with the Payment Navigator Services."

3. **Additional Definitions**

"**Alternate Security**" has the meaning stated in Schedule D, Section 1.2(g).

"**Card Not Present**" means the processing environment where the Payment Device is not physically presented to Company by the Cardholder as the form of payment at the time of the Transaction.

“Convenience Fee” means a fee charged by Company for an added convenience to the Cardholder for the use of a Payment Device in a Transaction in accordance with the Payment Network Regulations.

“Excessive Activity” means the occurrence, during any monthly period, of Chargebacks or Retrieval Requests in excess of 1% of the gross dollar amount of Company’s Transactions or returns in excess of 2.5% of the gross dollar amount of Company’s Transactions.

“Reserve Amount” means the amount established pursuant to the calculation stated in Schedule D, 1.2(b).

“Reserve Event” means the events designated in Schedule D, Section 1.2(c).

“Retrieval Request” means a request initiated by a Cardholder or Issuer that requires Company to produce a legible copy of the Cardholder’s signed Transaction Receipt within a specified period of time.