

Merchant Additional Location Form

Business Information	
Merchant's DBA Name/Outlet Name: City of Pembroke Pines	Merchant's Legal Name: City of Pembroke Pines
Physical Street Address (No P.O. Box): 601 City Center Way	Legal Address: 601 City Center Way
City, State, Zip: Pembroke Pines, FL 33025	City, State, Zip: Pembroke Pines, FL 33025
DBA Phone: (954) 450-1060	Fax:
Contact Name at this Address: Oniel Garcia	E-Mail: ogarcia@ppines.com
Customer Service Phone # (Required for MOTO and Internet merchants only): (954) 450-1060	Website Address (Required for Internet merchants): https://www.ppines.com/

Merchant Profile	
Ticker Symbol	Market Type:
Type of Ownership: <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> LLC <input type="checkbox"/> Professional Assoc <input type="checkbox"/> Tax Exempt Org (501C: <input type="checkbox"/> 3, <input type="checkbox"/> 4, <input type="checkbox"/> 10) <input checked="" type="checkbox"/> Government/Municipality	<input type="checkbox"/> Retail <input type="checkbox"/> Supermarket <input type="checkbox"/> Restaurant <input type="checkbox"/> Emerging Market <input type="checkbox"/> Lodging <input type="checkbox"/> Public Sector <input type="checkbox"/> MO/TO <input type="checkbox"/> Auto Rental <input type="checkbox"/> P-card <input type="checkbox"/> Cash Advance <input checked="" type="checkbox"/> E-commerce <input type="checkbox"/> Other
Type of Goods or Services Sold: Municipal Services and Parks & ...	SIC Code: 9399
Years in business under current ownership: 80	Federal Tax ID# 5 9 0 9 0 8 1 0 6

Do you currently accept Amex/Visa/MasterCard/Discover? ☒ Yes ☐ No

Does merchant accept transactions before the customer receives product or service? ☐ Yes ☒ No

How long does customer wait before product is received? _____ % of sales in this category _____

% cost that is prepayment? _____ Duration of extended service or benefit (in weeks) _____

Does merchant offer warranties, dues, subscriptions, memberships or other extended services? ☐ Yes ☒ No

Annual Amex/Visa/MC/Discover Sales: \$60,000,000 Average Ticket: \$131 Total Amex/Visa/MC/Discover Sales (multiple locations only): _____

Credit/Debit Card Services and Fee Schedule*						
Plan Type	New	Existing	Existing Merchant No.	Discount Rate	Per Item	Per Auth.
<input checked="" type="checkbox"/> VISA Credit	<input checked="" type="checkbox"/>	N/A	N/A	2.6000 %	\$ 0.0000	\$ 0.0000
<input checked="" type="checkbox"/> VISA Bus. Card	<input checked="" type="checkbox"/>	N/A	N/A	2.6000 %	\$ 0.0000	\$ 0.0000
<input checked="" type="checkbox"/> VISA Check	<input checked="" type="checkbox"/>	N/A	N/A	2.6000 %	\$ 0.0000	\$ 0.0000
<input checked="" type="checkbox"/> MasterCard Credit	<input checked="" type="checkbox"/>	N/A	N/A	2.6000 %	\$ 0.0000	\$ 0.0000
<input checked="" type="checkbox"/> MasterCard Bus. Card	<input checked="" type="checkbox"/>	N/A	N/A	2.6000 %	\$ 0.0000	\$ 0.0000
<input checked="" type="checkbox"/> Debit MasterCard	<input checked="" type="checkbox"/>	N/A	N/A	2.6000 %	\$ 0.0000	\$ 0.0000
<input checked="" type="checkbox"/> Discover Credit	<input checked="" type="checkbox"/>	<input type="checkbox"/>	N/A	2.6000 %	\$ 0.0000	\$ 0.0000
<input checked="" type="checkbox"/> Discover Bus. Card	<input checked="" type="checkbox"/>	<input type="checkbox"/>	N/A	2.6000 %	\$ 0.0000	\$ 0.0000
<input checked="" type="checkbox"/> Discover Check	<input checked="" type="checkbox"/>	<input type="checkbox"/>	N/A	2.6000 %	\$ 0.0000	\$ 0.0000
<input checked="" type="checkbox"/> PayPal Credit (card present)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	N/A	2.6000 %	\$ 0.0000	\$ 0.0000
<input checked="" type="checkbox"/> Diners Club, China UnionPay, JCB	<input type="checkbox"/>	<input type="checkbox"/>		2.8500 %	\$ 0.1500	\$ 0.0000
<input checked="" type="checkbox"/> Debit (other than Visa or MC)	<input checked="" type="checkbox"/>	<input type="checkbox"/>			\$ 0.2900	\$ 0.0000
<input checked="" type="checkbox"/> EBT	<input checked="" type="checkbox"/>	<input type="checkbox"/>			\$ 0.3500	\$ 0.0000
<input checked="" type="checkbox"/> American Express	<input checked="" type="checkbox"/>	<input type="checkbox"/>		2.6000 %	\$ 0.0000	\$ 0.0000
<input checked="" type="checkbox"/> American Express Prepaid	<input checked="" type="checkbox"/>	<input type="checkbox"/>		2.6000 %	\$ 0.0000	\$ 0.0000

Surcharges: ☒ Tiered ☐ Pass-Through Plus ☐ Interchange Plus

0.00% Rewards Discount ☐ Pass-Through Plus

0.00% Mid-Qualified Discount

0.00% Non-Qualified Discount

Other Fees: *****Fees from the original application also apply to the additional location*****

\$ 0.00 X-CHARGE SUPPORT \$ 0.00 Monthly Statment Fee \$ 0.00 Other: Regulatory Compliance Fee \$ 0.00 PCI ASSURE Monthly Fee

\$ 0.00 Virtual Site Survey Fee \$ 5.00 Other: Monthly Minimum \$ 0.00 Other: Batch Fee \$ 39.00 PCI ASSURE Non-Compliance Fee (monthly)

\$ 0.00% Amex Access Fee \$ 0.00% Amex Card Not Swiped Fee % Amex System Processing Fee \$ Non-Refundable Application Fee

\$ Annual Assoc Tech Fee \$ Monthly Debit Membership Fee \$ Gateway Monthly Fee \$ Gateway Setup Fee

\$ Global Transport VT (Rec Billing) Monthly Fee \$ Global Transport VT (Rec Billing) Setup Fee \$ Global Transport VT (Rec Billing) Transaction Fee

\$ 0.00 CE Suite Base Amount

Acceptance of Merchant Application and Terms & Conditions / Merchant Authorization			
<p>You have previously entered into a Card Services Agreement (the "Card Services Agreement"), including terms and conditions, with Global Payments Direct, Inc. ("Global Direct") and the Member named below ("Member"). Member is a member of Visa, USA, Inc. ("Visa") and MasterCard International, Inc. ("MasterCard"); Global Direct is a registered independent sales organization of Visa, a member service provider of MasterCard and a registered acquirer for Discover Financial Services, LLC. ("Discover") and a registered Program Participant of American Express Travel Related Services Company, Inc. ("American Express"). Please sign below to signify your acknowledgement and agreement that the additional merchant location identified above is subject to such Card Services Agreement. If this additional location is accepted for card services, Merchant agrees to comply with Card Services Agreement as it may be modified or amended in the future. If you disagree with any of the above, do not sign this form.</p> <p>IF MERCHANT SUBMITS A TRANSACTION TO GLOBAL DIRECT HEREUNDER FROM THIS ADDITIONAL MERCHANT LOCATION, MERCHANT WILL BE DEEMED TO HAVE AGREED THAT THE ADDITIONAL MERCHANT LOCATION IS SUBJECT TO THE CARD SERVICES AGREEMENT.</p> <p>By your signature below on behalf of Merchant, you certify that all information provided in this additional location form is true and accurate and you authorize Global Direct, and Global Direct on Member's behalf, to initiate debit entries to Merchant's checking account(s) in accordance with the Card Services Agreement and order a consumer credit report on Merchant and you.</p>			
Merchant's Signature:  Signing for Global Payments Direct, Inc.: X Signing for Member: X	Name (printed): Charles F Dodge Name (printed): Name (printed): 	Title: City Manager Title: Name of Member (printed): Wells Fargo Bank	Date: 2/23/21 Date: Date:

Bank Information (Attach Voided Check or Bank Letter):

Bank 1	0	6	7	0	1	4	8	2	2	DDA/Checking Account#: 7600489127	Deposit <input checked="" type="checkbox"/>	Discount <input checked="" type="checkbox"/>	Chargebacks <input checked="" type="checkbox"/>	Equipment <input checked="" type="checkbox"/>	Supplies <input checked="" type="checkbox"/>	Misc. Fees <input checked="" type="checkbox"/>
Bank 2											<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Amex annual volume < \$1,000,000 ☒ YES ☐ NO

Amex Acceptance ☒ YES ☐ NO

Amex Marketing ☒ YES ☐ NO

American Express ESA Program

By signing below, I represent that I have read and am authorized to sign and submit this application for the above entity, which agrees to be bound by the American Express® Card Acceptance Agreement ("Agreement"), and that all information provided herein is true, complete, and accurate. I authorize Global Direct and American Express Travel Related Services Company, Inc. ("American Express") and American Express's agents and Affiliates to verify the information in this application and receive and exchange information about me personally, including by requesting reports from consumer reporting agencies from time to time, and disclose such information to their agent, subcontractors, Affiliates and other parties for any purpose permitted by law. I authorize and direct Global Direct and American Express and American Express's agents and Affiliates to inform me directly, or inform the entity above, about the contents of reports about me that they have requested from consumer reporting agencies. Such information will include the name and address of the agency furnishing the report. I also authorize American Express to use the reports on me from consumer reporting agencies for marketing and administrative purposes. I am able to read and understand the English language. Please read the American Express Privacy Statement at <http://www.americanexpress.com/privacy> to learn more about how American Express protects your privacy and how American Express uses your information. I understand that I may opt out of marketing communications by visiting this website or contacting American Express at 1-(800)-528-5200. I understand that upon American Express's approval of the application, the entity will be provided with the Agreement and materials welcoming it to American Express's Card acceptance program.

Merchant's Signature

X

Name (printed):

Charles F Dodge

Title:

City Manager

Date:

Hardware

Process Method: ☒ EDC ☐ Touchtone ☐ Paper

Platform: ☒ East ☐ Central

Imprinter: ☒ Own ☐ Purchase

Purchase Price per Unit: \$ _____

Purchase Quantity - Standard: _____

Purchase Quantity - Handheld: _____

Total Regular Plates Needed: 1

Total Amex Plates Needed: 1

Total Plastic Cards Needed: 1

Global to schedule download? ☒ Yes ☐ No

Global to train? ☒ Yes ☐ No

☒ Own/Reprogram ☐ Purchase ☐ Lease ☐ Rental

Terminal Type: _____

Pinpad Type: _____

Printer Type: _____

Check Reader: _____

Terminal Application / PC Software Type: _____

Primary Third Party: _____

Secondary Third Party: _____

Number of TIDS: 1 Product: X-Charge

Term type: XC2 ☐ Terminal ☒ Host

Global PC Software: ☐ Own ☐ Purchase

If purchase, price \$ _____ # of payments: _____

Qty	Hardware Device	Rental/Purchase	Unit Price
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Special Instructions:
N (M)

Cardholder Data Storage Compliance

As required under the Payment Card Industry Data Security Standard (PCI DSS), I do hereby declare and confirm the following:

Merchant will maintain full PCI DSS compliance at all times and will notify Global Payments when it changes its point of sale software, system, application or vendor	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Do your transactions process through any other Third Parties (i.e. web hosting companies, gateways, corporate office)?	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Merchant utilizes the services of a PCI SSC Qualified Integrator Reseller (QIR) when POS payment applications are utilized.	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
The signing merchant listed below has experienced an account data compromise.	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
The signing merchant listed below is storing Sensitive Authentication Data* (even if encrypted) after the transaction has been authorized.	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Merchant utilizes an EMV enabled terminal	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>

Merchant Application

Business Information	
Merchant's DBA Name/Outlet Name: City of Pembroke Pines	Merchant's Legal Name: City of Pembroke Pines
Physical Street Address (No P.O. Box): 601 City Center Way	Legal Address: 601 City Center Way
City, State, Zip: Pembroke Pines, FL 33025	City, State, Zip: Pembroke Pines, FL 33025
DBA Phone: (954) 450-1060	Fax: (954) 450-1060
Contact Name at this Address: Oniel Garcia	Contact Name at this Address: Oniel Garcia
E-Mail: ogarcia@ppines.com	E-Mail: ogarcia@ppines.com
Customer Service Phone # (Required for MOTO and Internet merchants only): (954) 450-1060	
Website Address (Required for Internet merchants):	

Merchant Profile											
Ticker Symbol: Type of Ownership: <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> LLC <input type="checkbox"/> Professional Assoc. <input type="checkbox"/> Tax Exempt Org (501C: <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 10) <input checked="" type="checkbox"/> Government/Municipality Type of Goods or Services Sold: Utilities SIC Code: 4900 Years in Business Under Current Ownership: 80 Federal Tax ID #: 590908106	Market Type: <input checked="" type="checkbox"/> Retail <input type="checkbox"/> Supermarket <input type="checkbox"/> Restaurant <input type="checkbox"/> Emerging Market <input type="checkbox"/> Lodging <input type="checkbox"/> Public Sector <input type="checkbox"/> MO/TO <input type="checkbox"/> Auto Rental <input type="checkbox"/> P-Card <input type="checkbox"/> Cash Advance <input type="checkbox"/> E-Commerce <input type="checkbox"/> Other Sales Profile (Must equal 100%) <table style="width: 100%;"> <tr> <td>Card Swiped</td> <td style="text-align: right;">97%</td> </tr> <tr> <td>Manual Keyed with Imprint</td> <td style="text-align: right;">0%</td> </tr> <tr> <td>Mail Order/Telephone</td> <td style="text-align: right;">3%</td> </tr> <tr> <td>Internet</td> <td style="text-align: right;">0%</td> </tr> <tr> <td style="text-align: right;">Total</td> <td style="text-align: right;">100%</td> </tr> </table>	Card Swiped	97%	Manual Keyed with Imprint	0%	Mail Order/Telephone	3%	Internet	0%	Total	100%
Card Swiped	97%										
Manual Keyed with Imprint	0%										
Mail Order/Telephone	3%										
Internet	0%										
Total	100%										

Do you currently accept AMEX/Visa/MasterCard/Discover? ☒ Yes ☐ No

Does merchant accept transactions before the customer receives product or service? ☐ Yes ☒ No If yes:

How long does customer wait before product is received? day(s) % of sales in this category
 % cost that is prepayment?

Does merchant offer warranties, dues, subscriptions, memberships or other extended services? ☐ Yes ☒ No If yes:

Duration of extended service or benefit (in weeks):

Annual Amex/Visa/MC/Discover Sales: \$20,000,000.00 Average Ticket: \$131.00 Total Amex/Visa/MC/Discover Sales (multiple locations only):

Member Bank (Acquirer) Information

Wells Fargo Bank, P.O. Box 6079 – Concord, CA 94524 – (844) 284-6834

Important Member Bank (Acquirer) Responsibilities

1. A Visa Member is the only entity approved to extend acceptance of Visa products directly to a merchant.
2. A Visa Member must be a principal (signer) to the Card Services Agreement.
3. The Visa Member is responsible for and must provide settlement funds to the Merchant.
4. The Visa Member is responsible for all funds held in reserve that are derived from settlement.
5. The Visa Member is responsible for educating Merchants on pertinent Visa International Operating Regulations with which Merchants must comply.

Merchant Resources

You may download "Visa Regulations" from Visa at:
<https://usa.visa.com/dam/VCOM/download/about-visa/visa-rules-public.pdf>
 You may download "MasterCard Rules" from MasterCard at:
<http://www.mastercard.us/en-us/about-mastercard/what-we-do/rules.html>
 You may download additional Merchant information from Discover at:
<http://www.discovernetwork.com/merchants/index.html>
 You may download "American Express Merchant Operating Guide" at:
https://icm.aexp-static.com/content/dam/gms/en_us/optblue/us-mog.pdf

Important Merchant Responsibilities

1. Ensure compliance with cardholder data security and storage requirements.
2. Maintain fraud and chargebacks below thresholds.
3. Review and understand the terms of the Card Services Agreement.
4. Comply with Visa International Operating Regulations.

The responsibilities listed above do not supersede terms of the Card Services Agreement and are provided to ensure the Merchant understands some important obligations of each party and that the Visa member (acquirer) is the ultimate authority should the Merchant have any problems.

Merchant's Signature:




Name (printed):

Charles F Dodge

Title:

City Manager

Date

 2/23/21

For questions regarding Card Services, contact: Customer Service within 60 days of the date of the statement and/or notice. Global Payments Direct Inc. – 3550 Lenox Road NE, Suite 3000, Atlanta, GA 30326 or call: 1-800-367-2638.

Note: Billing disputes must be forwarded, in writing, to Customer Service within 60 days of the date of the statement and/or notice.

Credit/Debit Card Services and Fee Schedule*

Plan Type	New	Existing	Existing Merchant #	Discount Rate	Per Item	Per Auth
<input checked="" type="checkbox"/> VISA Credit	<input checked="" type="checkbox"/>	N/A	N/A	2.6000%	\$0.0000	\$0.0000
<input checked="" type="checkbox"/> VISA Check	<input checked="" type="checkbox"/>	N/A	N/A	2.6000%	\$0.0000	\$0.0000
<input checked="" type="checkbox"/> MasterCard Credit	<input checked="" type="checkbox"/>	N/A	N/A	2.6000%	\$0.0000	\$0.0000
<input checked="" type="checkbox"/> Debit MasterCard	<input checked="" type="checkbox"/>	N/A	N/A	2.6000%	\$0.0000	\$0.0000
<input checked="" type="checkbox"/> Discover Credit	<input checked="" type="checkbox"/>	<input type="checkbox"/>	N/A	2.6000%	\$0.0000	\$0.0000
<input checked="" type="checkbox"/> Discover Check	<input checked="" type="checkbox"/>	<input type="checkbox"/>		2.6000%	\$0.0000	\$0.0000
<input checked="" type="checkbox"/> PayPal Credit (card present)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	N/A	2.6000%	\$0.0000	\$0.0000
<input checked="" type="checkbox"/> Diners Club, China Union Pay, JCB	<input type="checkbox"/>	<input type="checkbox"/>		2.8500%	\$0.1500	
<input checked="" type="checkbox"/> Debit (other than Visa or MC)	<input checked="" type="checkbox"/>	<input type="checkbox"/>			\$0.2900	
<input checked="" type="checkbox"/> EBT	<input checked="" type="checkbox"/>	<input type="checkbox"/>			\$0.3500	
<input checked="" type="checkbox"/> American Express	<input type="checkbox"/>	<input type="checkbox"/>		2.6000%	\$0.0000	\$0.0000
<input checked="" type="checkbox"/> American Express Prepaid	<input type="checkbox"/>	<input type="checkbox"/>		2.6000%	\$0.0000	\$0.0000

Merchant FNS# _____

Cash Benefits: ☐ YES ☐ NO

Daily Discount: ☐ YES ☒ NO

Surcharges: (Non-Qualified surcharges are marked "NQ" and are per-occurrence)

Surcharges:

☒ Tiered

0.00% Rewards Discount
0.00% Mid-Qualified Discount
0.00% Non-Qualified Discount

☐ Pass-Through Plus

Pass-Through Plus

☐ Interchange Plus

A list of additional fees/rates can be found on pages 2 and 4 of this Card Services Agreement contract under the headings "Other Fees" and "Association Fees and Assessments."

The foregoing discount rate, per item and authorization fees are based upon Merchant's complying with all processing requirements as established by the applicable governing authority of the payment type which qualifies Merchant for the most favorable interchange rates available for such payment type. Transactions that do not qualify for the most favorable interchange rates will be subject to the surcharges up to 3.00% in addition to the rate quoted. See "Other Fees" section of this Card Services Agreement and Section 34 of the Card Services Terms and Conditions for more information regarding non-qualifying surcharges. Discount rates and other percentage fees are calculated by multiplying the rates or fees and the Merchant's applicable transaction volume. Per item and per authorization fees are calculated per transaction or authorization, as applicable. See Section 13 of the Card Services Terms and Conditions for information regarding the early termination fee. In addition to the per item fee, all Debit Transactions include fees assessed by the applicable network organization.

Other Fees (Per occurrence fees marked with a *)

Non-Refundable Application Fee *	Virtual Site Survey Fee *	\$15.00 Chargeback Fee *
\$0.00 Membership Fee	\$2.50 Retrieval Fee *	Monthly Debit Card Membership Fee
\$0.00 Monthly Regulatory Compliance Fee	\$5.00 Minimum Monthly Discount	Global Transport VT (Recurring Billing)
Annual Association Technology Fee	\$0.05 Voice AVS Fee *	Setup Fee *
Global Access @dVantage Monthly Fee	PCI ASSURE Monthly Fee	Global Transport VT (Recurring Billing)
\$0.60 Voice Authorization Fee *	\$39.00 PCI ASSURE Non-Compliance	Monthly Fee
\$0.00 Batch/ACH Fee *	Fee (monthly)	Global Transport VT (Recurring Billing)
\$15.00 Non-Sufficient Fund *	Data Monitoring Fee *	Transaction Fee *
\$0.00 Account Maintenance Fee	Other: _____	\$0.00 Customer Engagement Suite (Monthly)
Gateway Monthly Fee	Gateway Setup Fee	

Association Fees and Assessments (Per occurrence fees marked with a *)

0.0000% GP Fee - DISC Assessments *	\$0.0000 GP Fee - MC Acct Status Inquiry *
0.0000% GP Fee - DISC Intl Processing *	\$0.0000 GP Fee - MC Data Integrity *
0.0000% GP Fee - DISC Intl Service *	\$0.0000 GP Fee - MC CVC2 *
\$0.0000 GP Fee - DISC Program Integrity Fee *	0.0000% GP Fee - MC Assessments *
0.0000% GP Fee - PayPal Assessment *	0.0000% GP Fee - MC Assessments Lg Tkt *
\$0.0000 GP Fee - PayPal Participation *	0.0000% GP Fee - MC Acceptance & Licensing *
0.0000% GP Fee - VISA Assessments-Credit *	0.0000% GP Fee - MC Cross Bdr Domestic *
0.0000% GP Fee - VISA Assessments-Debit *	0.0000% GP Fee - MC Cross Bdr Foreign *
0.0000% GP Fee - VISA Intl Svc Assessment-Purchase *	0.0000% GP Fee - MC Acq Program Support *
0.0000% GP Fee - VISA Intl Svc Assessment *	0.0000% GP Fee - MC Digital Enablement *
0.0000% GP Fee - VISA Intl Acquiring *	\$0.0000 GP Fee - MC Monthly Fee
\$0.0000 GP Fee - VISA Trans Integrity *	0.0000% GP Fee - MC Integrity - Final Auth (Max) *
\$0.0000 GP Fee - VISA APF - Credit *	\$0.0000 GP Fee - MC Integrity - Final Auth (Min) per Auth PI *
\$0.0000 GP Fee - VISA APF - Debit *	\$0.0000 GP Fee - MC Integrity - Pre Auth/Undefined per Auth PI *
\$0.0000 GP Fee - VISA APF Intl - Credit *	0.0000% GP Fee - AMEX Inbound *
\$0.0000 GP Fee - VISA APF Intl - Debit *	0.0000% GP Fee - AMEX Network *
\$0.0000 GP Fee - VISA AVS Only *	0.0000% GP Fee - AMEX CNP *
\$0.0000 GP Fee - VISA Misuse of Auth *	0.0000% GP Fee - AMEX Access *
\$0.0000 GP Fee - VISA Account Verification Fee Credit *	0.0000% GP Fee - Settlement Funding Fee *
\$0.0000 GP Fee - VISA Account Verification Fee Debit *	\$0.0000 GP Fee - Settlement Funding Fee PI
\$0.0000 GP Fee - VISA Account Verification Fee Intl *	0.0000% GP Fee - Risk Assessment Fee
\$0.0000 GP Fee - VISA Kilobyte Fee	\$0.0000 GP Fee - Risk Assessment Fee PI

Personal Guaranty

I/We hereby irrevocably guarantee to Global Direct and Member, their successors and assigns, the full, prompt, and complete performance of Merchant and all of Merchant's obligations under the Card Services Agreement, including but not limited to all monetary obligations arising out of Merchant's performance or non-performance under the Card Services Agreement, whether arising before or after termination of the Card Services Agreement. This guaranty shall not be discharged or otherwise affected by any waiver, indulgence, compromise, settlement, extension of credit, or variation of terms of the Card Services Agreement made by or agreed to by Global Direct, Member, and/or Merchant. I/We hereby waive any notice of acceptance of this guaranty, notice of nonpayment or nonperformance of any provision of the Card Services Agreement by Merchant, and all other notices or demands regarding the Card Services Agreement. I/We agree to promptly provide to Global Direct and Member any information requested by any of them from time to time concerning my/our financial condition(s), business history, business relationships, and employment information. I/We agree that Global Direct and Global Direct (on behalf of Member) may order a consumer credit report on me, Merchant and each of Merchant's officers, partners, and/or owners, as well as subsequent consumer credit reports, which may be required or used in conjunction with the maintenance, updating, renewal or extension of the services provided hereunder, or in conjunction with reviewing, taking collection action on, or other legitimate purposes associated with the Merchant account. I/We have read, understand, and agree to be bound by the Card Services Terms & Conditions provided to Merchant and those terms and conditions contained in this Merchant Application.

Signature of Guarantor (please sign below)

Name (printed):

X _____, an individual

Signature of Guarantor (please sign below)

Name (printed):

X _____, an individual

Owner/Officer Information

Complete Owner/Officer Information must be present for all Equity Owners with 25% or greater equity in the business and for any person(s) with authority or control. An owner or person with control listed, must be the one to accept the agreement at the end of this application.

Name: Charles F Dodge	Title: City Manager	Equity Owned: 0%	Date of Birth (mm/dd/yyyy): 09/09/1999	Social Security #: 999-99-9999	Home Phone #: (954) 450-1060
Home Address: 601 City Center Way	City: Pembroke Pines	State: FL	Zip Code: 33025	Years There: 20	
Former Address (if less than 1 year at current address):	City:	State:	Zip Code:	Years There:	

Name:	Title:	Equity Owned:	Date of Birth (mm/dd/yyyy):	Social Security #:	Home Phone #:
Home Address:	City:	State:	Zip Code:	Years There:	
Former Address (if less than 1 year at current address):	City:	State:	Zip Code:	Years There:	

Name	Title:	Equity Owned:	Date of Birth (mm/dd/yyyy):	Social Security #:	Home Phone #:
Home Address:	City:	State:	Zip Code:	Years There:	
Former Address (if less than 1 year at current address):	City:	State:	Zip Code:	Years There:	

Name	Title:	Equity Owned:	Date of Birth (mm/dd/yyyy):	Social Security #:	Home Phone #:
Home Address:	City:	State:	Zip Code:	Years There:	
Former Address (if less than 1 year at current address):	City:	State:	Zip Code:	Years There:	

Is any owner, officer, director, employee, or agent a current or former official in the executive, legislative, administrative, military, or judicial branch of any government (elected or not); a senior official of a major political party; an executive of a government-owned commercial enterprise; a family member of any of the foregoing officials; or a close personal or professional associate of any of the foregoing officials? ☐ No ☒ Yes If "Yes," please attach details.

Bank Information (Attach Voided Check or Bank Letter):

	Routing Number:	DDA/Checking Account#:	Deposit	Discount	Chargebacks	Equipment	Supplies	Misc. Fees
Bank 1	067014822	7600489127	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Bank 2			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bank 3			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bank 4			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Merchant Site Survey Report (To be Completed by Sales Representative)

Merchant Location: ☐ Retail Location with Store Front ☐ Office Building ☐ Residence ☐ Other: _____
Surrounding Area: ☐ Commercial ☐ Industrial ☐ Residential

Does the amount of inventory and merchandise on shelves and floor appear consistent with the type of business? ☐ Yes ☐ No

If no, explain: _____

Does the Merchant use a Fulfillment House? ☐ Yes ☐ No If yes, was the Fulfillment House inspected? ☐ Yes ☐ No

The Merchant: ☐ Owns ☐ Leases the business premises

Further comments by inspector (must complete): _____

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

Verified and inspected by (print name): _____

Representative Name: _____ Representative Signature: X

Date: _____

Sales Rep Name:	Sales Rep Code:	Sales Phone Number:	Sales Email Address:
Amex annual volume < \$1,000,000 <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Amex Acceptance <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Amex Marketing <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	

American Express ESA Program

By signing below, I represent that I have read and am authorized to sign and submit this application for the above entity, which agrees to be bound by the American Express® Merchant Operating Guide ("Agreement") - https://icm.aexp-static.com/content/dam/gms/en_us/optblue/us-mog.pdf, and that all information provided herein is true, complete, and accurate. I authorize Global Direct and American Express Travel Related Services Company, Inc. ("American Express") and American Express's agents and Affiliates to verify the information in this application and receive and exchange information about me personally, including by requesting reports from consumer reporting agencies from time to time, and disclose such information to their agent, subcontractors, Affiliates and other parties for any purpose permitted by law. I authorize and direct Global Direct and American Express and American Express's agents and Affiliates to inform me directly, or inform the entity above, about the contents of reports about me that they have requested from consumer reporting agencies. Such information will include the name and address of the agency furnishing the report. I also authorize American Express to use the reports on me from consumer reporting agencies for marketing and administrative purposes. I am able to read and understand the English language. Please read the American Express Privacy Statement at <https://www.americanexpress.com/privacy> to learn more about how American Express protects your privacy and how American Express uses your information. I understand that I may opt out of marketing communications by visiting this website or contacting American Express at 1-(800)-528-5200. I understand that upon American Express's approval of the application, the entity will be provided with the Agreement and materials welcoming it to American Express's Card acceptance program.

Merchant's Signature

X

Name (printed):

Charles F Dodge

Title:

City Manager

Date:

Hardware

Quantity	Hardware Device	Rental/Purchase	Unit Price
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Special Instructions:

Rate Table: N (M)

Global Terminal Type: ZQ2

Cardholder Data Storage Compliance & Service Provider

PCI DSS and Card Network rules prohibit storage of sensitive authentication data after the transaction has been authorized (even if encrypted). If you or your POS system store, process, or transmit full cardholder's data, then you (merchant) must validate PCI DSS compliance. If you (merchant) utilize a payment application the POS software must be PA DSS (Payment Application Data Security Standards) validated where applicable. If you use a payment gateway, they must be PCI DSS Compliant.

As required under the Payment Card Industry Data Security Standard (PCI DSS), I do hereby declare and confirm the following:

Questions:

Merchant will maintain full PCI DSS compliance at all times and will notify Global Payments when it changes its point of sale software, system, application or vendor	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Do your transactions process through any other Third Parties (i.e. web hosting companies, gateways, corporate office)?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> N/A
Merchant utilizes the services of a PCI SSC Qualified Integrator Reseller (QIR) when POS payment applications are utilized.	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> N/A
The signing merchant listed below has experienced an account data compromise.	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> N/A (I have never accepted payment cards)
The signing merchant listed below is storing Sensitive Authentication Data* (even if encrypted) after the transaction has been authorized.	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> N/A (I have never accepted payment cards)
Merchant utilizes an EMV enabled terminal	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> N/A

*Sensitive Authentication Data is security related information (Card Verification Values, complete Magnetic Stripe Data, PINs, and PIN blocks) that is used to authenticate cardholders.

Please note that if you have indicated that your organization has experienced an account data compromise in the past, a PCI DSS Level 1 Compliance Assessment may be required upon Global's request. A compromise of cardholder data from your location(s) may result in the issuance of fines and/or penalties by the card brand, for which you will be responsible under your Merchant Agreement, notwithstanding this Compliance Statement.

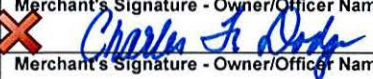

It is imperative that you notify Global Payments immediately should the information on this Compliance Statement change.

Acceptance of Merchant Application and Terms & Conditions / Merchant Authorization

Your Card Services Agreement is between Global Payments Direct, Inc. ('Global Direct'), the Merchant named above and the Member named below ('Member'). Member is a member of Visa, USA, Inc. ('Visa') and MasterCard International, Inc. ('MasterCard'); Global Direct is a registered independent sales organization of Visa, a member service provider of MasterCard and a registered acquirer for Discover Financial Services, LLC. ('Discover') and a registered Program Participant of American Express Travel Related Services Company, Inc. ('American Express'). A copy of the Card Services Terms and Conditions for Government Entities, revision number v2.2020, has been provided to you. Please sign below to signify that you have received a copy of the Card Services Terms & Conditions and that you agree to all terms and conditions contained therein. If this Merchant Application is accepted for card services, Merchant agrees to comply with the Merchant Application and the Card Services Terms & Conditions as may be modified or amended in the future. If you disagree with any Card Services Terms & Conditions, do not accept service.

IF MERCHANT SUBMITS A TRANSACTION TO GLOBAL DIRECT HEREUNDER, MERCHANT WILL BE DEEMED TO HAVE ACCEPTED THE CARD SERVICES TERMS & CONDITIONS.

By your signature below on behalf of Merchant, you certify that all information provided in this Merchant Application is true and accurate and you authorize Global Direct, and Global Direct on Member's behalf, to initiate debit entries to Merchant's checking account(s) in accordance with the Card Services Terms and Conditions. In addition by your signature below on behalf of Merchant you authorize Global Direct to order a consumer credit report on you, Merchant and each of Merchant's officers, partners, and/or owners, as well as subsequent consumer credit reports, which may be required or used in conjunction with the maintenance, updating, renewal or extension of the services provided hereunder, or in conjunction with reviewing, taking collection action on, or other legitimate purposes associated with the Merchant account.

Merchant's Signature - Owner/Officer Name 1: 	Name (printed): Charles F Dodge	Title: City Manager	Date:  2/23/21
Merchant's Signature - Owner/Officer Name 2:	Name (printed):	Title:	Date:
Merchant's Signature - Owner/Officer Name 3:	Name (printed):	Title:	Date:
Merchant's Signature - Owner/Officer Name 4:	Name (printed):	Title:	Date:
Signing for Global Payments Direct, Inc.:	Name (printed):	Title:	Date:
Signing for Member:	Name (printed):	Name of Member (printed):	Date:

Merchant's Electronic Signature Details:

Logged In User:
IP Address:
Date and Time:

CARD SERVICES TERMS & CONDITIONS – GOVERNMENT ENTITIES

1. GENERAL.

- 1.1. The "**Card Services Agreement**" consists of these Card Services Terms & Conditions and the Merchant Application (herein "**Card Services Agreement**" or "**Agreement**") and is made by and among the City of Pembroke Pines, Florida, a municipal corporation with a business address of 601 City Center Way, Pembroke Pines, Florida 33025 ("**Merchant**" or "**you**"), Global Payments Direct, Inc. ("**Global Direct**"), a corporation with the business address of 2675 W. 600 N. Lindon, Utah 84042, and Member (as defined below). The provisions in the Card Services Agreement are applicable to Merchant if Merchant has signed the appropriate space in the Acceptance of Terms & Conditions/Merchant Authorization section of the Merchant Application. The member bank identified in the Merchant Application ("**Member**") is a member of Visa USA, Inc. ("**Visa**") and Mastercard International, Inc. ("**Mastercard**"). Global Direct is a registered independent sales organization of Visa®, a member service provider of Mastercard®, a registered Program Participant of American Express Travel Related Services Company, Inc. ("**American Express**"), and a registered acquirer for Discover Financial Services LLC ("**Discover**"). Any references to the Debit Sponsor shall refer to the debit sponsor identified below.
- 1.2. Merchant and Global Direct agree that the rights and obligations contained in these Card Services Terms and Conditions do not apply to the Member with respect to American Express®, Discover® and PayPal® transactions and Switched Transactions (as defined below). To the extent Merchant accepts Discover cards, the provisions in this Card Services Agreement with respect to Discover apply if Merchant does not have a separate agreement with Discover. In such case, Merchant will also be enabled to accept JCB®, China UnionPay®, Diner's Club® and, for card present transactions, PayPal cards under the Discover network and such transactions will be processed at the same fee rate as Merchant's Discover transactions are processed. To the extent Merchant accepts Discover cards and has a separate agreement with Discover, Discover and PayPal card transactions shall be processed as Switched Transactions (as defined below). To the extent Merchant accepts American Express cards, the provisions in this Card Services Agreement with respect to American Express apply if Merchant does not have a separate agreement with American Express.
- 1.3. Under the terms of the Card Services Agreement, Merchant will be furnished with the services and products, including any software, described herein and in the Merchant Application and selected by Merchant therein (collectively and individually, as applicable, the "**Services**"). Any Merchant accepted by Global Direct for card processing services agrees to be bound by the Card Services Agreement, including the terms of the Merchant Application and these Card Services Terms & Conditions as may be modified or amended in the future. If Merchant submits a transaction to Global Direct prior to accepting this Card Services Agreement, Merchant's submission of the transaction shall be deemed to signify Merchant's Acceptance of the Card Services Agreement, including the Terms and Conditions herein.
- 1.4. Except as expressly stated in the first three paragraphs of section 13, all terms and conditions of this Card Services Agreement shall survive termination.

2. SERVICE DESCRIPTIONS.

- 2.1. Credit Card Processing Services: Global Direct's credit card processing services consist of authorization and electronic draft capture of credit card transactions; outclearing of such transactions to the appropriate card associations and/or issuers (e.g., Visa, Mastercard, American Express, Diners, Discover); settlement; dispute resolution with cardholders' banks; and transaction-related reporting, statements and products. From time to time under this Card Services Agreement, upon Merchant's request, Global Direct may facilitate the transmission of certain payment card transactions ("**Switched Transactions**") to the respective card issuers, including but not limited to American Express, Diners Club and various fleet, private label and commercial cards. Switched Transactions require Global Direct's prior written approval and are subject to applicable pricing; Global Direct does not purchase the indebtedness associated with Switched Transactions.

- 2.2. EBT Transaction Processing Services: Global Direct offers electronic interfaces to Electronic Benefits Transfer ("**EBT**") networks for the processing of cash payments or credits to or for the benefit of benefit recipients ("**Recipients**"). Global Direct will provide settlement and switching services for various Point of Sale transactions initiated through Merchant for the authorization of the issuance of the United States Department of Agriculture, Food and Nutrition Services ("**FNS**") food stamp benefits ("**FS Benefits**") and/or government delivered cash assistance benefits ("**Cash Benefits**," with FS Benefits, "**Benefits**") to Recipients through the use of a state-issued card ("**EBT Card**").
- 2.3. Provisions regarding debit card services are set forth in section 27 below.
- 2.4. Provisions regarding Decline Minimizer Services are set forth in section 29 below.
- 2.5. Provisions regarding CallPop OpenEdge Services are set forth in section 30 below.
- 2.6. With respect to Visa and Mastercard products, Merchant may elect to accept credit cards or debit/prepaid cards or both. Merchant shall so elect on the Merchant Application being completed contemporaneously herewith. Merchant agrees to pay and Merchant's account(s) will be charged pursuant to section 5 of this Card Services Agreement for any additional fees incurred as a result of Merchant's subsequent acceptance of transactions with any Visa or Mastercard product that it has elected not to accept.

3. PROCEDURES.

- 3.1. Merchant will permit holders of valid cards bearing the symbols of the cards authorized to be accepted by Merchant hereunder to charge purchases or leases of goods and services and the debt resulting therefrom shall be purchased hereunder, provided that the transaction complies with the terms of this Card Services Agreement. All indebtedness submitted by Merchant for purchase will be evidenced by an approved sales slip. Merchant will not present for purchase any indebtedness that does not arise out of a transaction between a cardholder and Merchant. Merchant agrees to follow the Card Acceptance Guide which is incorporated into and made part of this Card Services Agreement, and to be bound by the operating regulations, requirements, and rules of Visa, Mastercard, American Express, Discover, PayPal and any other card association or network organization covered by this Card Services Agreement, as any of the above referenced documents may be modified and amended from time to time. Merchant acknowledges that the Card Acceptance Guide is located on Global Direct's website at www.globalpaymentsinc.com. Without limiting the generality of the foregoing, Merchant agrees to comply with and be bound by, and to cause any third party who provides Merchant with services related to payment processing or facilitates Merchant's ability to accept credit and debit cards and who is not a party to this Card Services Agreement to comply with and be bound by, the rules and regulations of Visa, Mastercard, American Express, Discover, PayPal and any other card association or network organization related to cardholder and transaction information security, including without limitation, all rules and regulations imposed by the Payment Card Industry ("**PCI**") Security Standards Council (including without limitation the PCI Data Security Standard), Visa's Cardholder Information Security Program, Mastercard's Site Data Protection Program, and Payment Application Best Practices. Merchant also agrees to cooperate at its sole expense with any request for an audit or investigation by Global Direct, Member, a card association or network organization in connection with cardholder and transaction information security.
- 3.2. Without limiting the generality of the foregoing, Merchant agrees that it will use information obtained from a cardholder in connection with a card transaction solely for the purpose of processing a transaction with that cardholder or attempting to re-present a chargeback with respect to such transaction. To the maximum extent permissible under applicable law, Merchant shall remain responsible for and hold Global Direct and Member harmless from any fines and penalties issued by Visa, Mastercard, American Express, Discover, PayPal or any card association or network organization and any other fees and costs arising out of or relating to the processing of transactions by Global Direct and Member at Merchant's location(s) and will reimburse Global Direct for any losses incurred by Global Direct with respect to any such fines, penalties, fees and costs except to the extent that such fines, fees or costs arise solely from the gross negligence or willful misconduct of Global Direct.
- 3.3. Without limiting the generality of any other provision of this Card Services Agreement, Merchant also agrees that it will comply with all applicable laws, rules and regulations related to both: (a) the

truncation or masking of cardholder numbers and expiration dates on transaction receipts from transactions processed at Merchant's location(s), including without limitation the Fair and Accurate Credit Transactions Act and applicable state laws ("**Truncation Laws**"); and (b) the collection of personal information from a cardholder in connection with a card transaction, including all applicable state laws ("**Laws on Collection of Personal Information**"). As between Merchant, on the one hand, and Global Direct and Member, on the other hand, Merchant shall be solely responsible for complying with all Truncation Laws and Laws on Collection of Personal Information and will, to the maximum extent permissible under applicable law, remain responsible for any claim, loss or damage resulting from a violation of Truncation Laws or Laws on Collection of Personal Information as a result of transactions processed at Merchant's location(s).

- 3.4. Global Direct may, from time to time, issue written directions (via mail or Internet) regarding procedures to follow and forms to use to carry out this Card Services Agreement. Merchant will have 30 days from the date it receives these procedures or forms to object to them. If Merchant does not accept the new procedures or forms, it may terminate this Card Services Agreement within 90 days without penalty. If Merchant does not notify Global Direct of its objections within the 30-day window, then these directions and the terms of the forms are binding and shall form a part of these Card Services Terms & Conditions. Such operating regulations and rules may be reviewed upon appointment at Global Direct's designated premises and Merchant acknowledges that it has had the opportunity to request a review and/or review such operating regulations and rules in connection with its execution of this Card Services Agreement.
4. **MARKETING.** Merchant shall adequately display the card issuer service marks and promotional materials supplied by Global Direct. Merchant shall cease to use or display such service marks immediately upon notice from Global Direct or upon termination of this Card Services Agreement.

5. PAYMENT, CHARGES AND FEES.

- 5.1. Fees and charges payable by Merchant for all products, services and applications, whether provided by Global Direct, a third party through Global Direct, or directly by a third party with Global Direct collecting monies with respect thereto (e.g., a POS Vendor Fee), shall be as set forth in the Merchant Application (exclusive of taxes, duties and shipping and handling charges). With respect to POS Vendor Fees, Global Direct does not control and is not responsible for the POS Vendor Fees charged to Merchant, and the pricing for any such fees depends on Merchant's agreement with such third party. Merchant shall at all times maintain one or more commercial checking accounts with Member or with another financial institution of Merchant's choice acceptable to Member and Global Direct that belongs to the Automated Clearing House ("**ACH**") network and which can accept ACH transactions. Merchant will be paid for indebtedness purchased under this Card Services Agreement by credit to Merchant's account(s). Merchant's account(s) will be credited for the gross amount of the indebtedness deposited less the amount of any credit vouchers deposited. Merchant shall not be entitled to credit for any indebtedness that arises out of a transaction not processed in accordance with the terms of this Card Services Agreement or the rules and regulations of a card association or network organization. Availability of any such funds shall be subject to the procedures of the applicable financial institution. Chargebacks and adjustments will be charged to Merchant's account(s) on a daily basis. Merchant agrees to pay and Merchant's account(s) will be charged for the discount, fees, product service costs, chargebacks, and other fees and charges described in this Card Services Agreement. Merchant also agrees to pay and Merchant's account(s) will be debited for all fees, fines, penalties, etc. charged or assessed by third parties, the card associations or network organizations on account of or related to Merchant's processing hereunder, including without limitation with regards to any third party who provides Merchant with services related to payment processing or facilitates Merchant's ability to accept credit and debit cards and who is not a party to this Card Services Agreement. If any type of overpayment to Merchant or other error occurs, Merchant's account(s) may be debited or credited, without notice, and if Merchant's account(s) do not contain sufficient funds, Merchant agrees to remit the amount owed directly to Global Direct. Merchant agrees not to, directly or indirectly, prevent, block or otherwise preclude any debit by Global Direct or Member to Merchant's account which is permitted hereunder. Merchant represents and warrants that no one other than Merchant has any claim against such indebtedness except as authorized in writing by Member and Global Direct. Merchant hereby assigns to Member and Global Direct all of its right, title, and interest in and to all indebtedness submitted hereunder, agrees that

Member and Global Direct have the sole right to receive payment on any indebtedness purchased hereunder, and further agrees that Merchant shall have no right, title, or interest in any such funds, including any such funds held in a Reserve Account (as defined below).

- 5.2. During the Term, Merchant shall have reasonable access and the right to examine Global Direct's financial records that directly pertain to the Services provided under this Agreement. Such audit is subject to the following conditions: (i) it may only be done with good cause; (ii) it may not be done more than once in any rolling 12-month period; (iii) it must be done during Global Direct's business hours and at a location specified by Global Direct. As required by Ch. 119, Florida Statutes, records related to this agreement are public records open for inspection, unless an applicable exception applies, and must be retained pursuant to the State of Florida General Records Schedule GS1-SL.

6. EQUIPMENT AND SUPPLIES/THIRD PARTY SERVICES.

- 6.1. Merchant agrees that it will not acquire any title, copyrights, or any other proprietary right to any advertising material; leased equipment including im printers, authorization terminals, card reader hardware or printers; software; credit card authenticators; unused forms (online or paper); all hardware and software related to the CallPop OpenEdge Services (as defined below); and Merchant deposit plastic cards provided by Global Direct in connection with this Card Services Agreement. Merchant will protect all such items from loss, theft, damage or any legal encumbrance and will allow Global Direct and its designated representatives reasonable access to Merchant's premises for their repair, removal, modification, installation and relocation. Merchant acknowledges that any equipment or software provided under this Card Services Agreement is embedded with proprietary technology ("Software"). Merchant shall not obtain title, copyrights or any other proprietary right to any Software. At all time, Global Direct or its suppliers retain all rights to such Software, including but not limited to updates, enhancements and additions. Merchant shall not disclose such Software to any party, convey, copy, license, sublicense, modify, translate, reverse engineer, decompile, disassemble, tamper with, or create any derivative work based on such Software, or transmit any data that contains software viruses, time bombs, worms, Trojan horses, spyware, disabling devices, or any other malicious or unauthorized code. Merchant's use of such Software shall be limited to that expressly authorized by Global Direct. Global Direct's suppliers are intended third party beneficiaries of this Card Services Agreement to the extent of any terms herein pertaining to such suppliers' ownership rights; such suppliers have the right to rely on and directly enforce such terms against Merchant.
- 6.2. The operating instructions or user guides will instruct Merchant in the proper use of the terminals, other hardware or payment application(s), and Merchant shall use and operate the terminals, other hardware or payment application(s) only in such manner. If Merchant has purchased the relevant maintenance/help desk service hereunder, Merchant will promptly notify Global Direct of any equipment malfunction, failure or other incident resulting in the loss of use of the equipment or software or need for repair or maintenance, whereupon Global Direct will make the necessary arrangements to obtain required maintenance or replacement software or hardware. Merchant is responsible for shipping costs. Merchant shall cooperate with Global Direct in its attempt to diagnose any problem with the terminal, other hardware or payment application(s). If Merchant's terminal requires additional Software, Merchant is obligated to cooperate and participate in a dial in down line load procedure. With respect to any item of equipment leased to Merchant by Global Direct, Merchant will not be liable for normal wear and tear, provided, however, that Merchant will be liable to Global Direct if any leased item of equipment is lost, destroyed, stolen or rendered inoperative. To the extent permissible under applicable law, Merchant will remain responsible for any loss arising out of damage to or destruction of any item of equipment or software provided hereunder for any cause whatsoever. Merchant also agrees, to the extent permissible under applicable law, to hold harmless and remain responsible for any costs, expenses, and judgments Global Direct may suffer, including reasonable attorney's fees, as a result of Merchant's misuse of the equipment or software provided hereunder. Any unused equipment in its original packaging purchased from Global Direct hereunder may be returned to Global Direct at Merchant's expense within 60 days of receipt. Merchant shall receive a refund of any money paid in connection therewith subject to a re-stocking fee of an amount equal to 20 percent of the total purchase price for the returned equipment. No refunds shall be issued for any equipment returned after 60 days.

- 6.3. Merchant acknowledges that some of the services and applications to be provided by Global Direct and Member hereunder may be provided by third parties. Merchant agrees that except for its right to utilize such services in connection with this Card Services Agreement, it acquires no right, title or interest in any such services. Merchant further agrees that it has no contractual relationship with any third party providing Services under this Card Services Agreement and that Merchant is not a third party beneficiary of any agreement between Global Direct or Member, as applicable, and such third party. Merchant may not resell the services of any third party providing Services under this Card Services Agreement to any other party.
- 6.4. Merchant acknowledges that it may directly obtain software platform services from a third party that facilitate or integrate Global Direct's Services as set forth in section 2. Global Direct does not control and is not responsible for such software platform services or any fees (and their occurrence) charged by such third party to Merchant related to such software platform services. The pricing for Merchant's use of any third-party platform services and any associated fees depends on Merchant's agreement with such third party. Merchant authorizes Global Direct to collect all monies related to Merchant's use of such third-party software (i.e., the POS Vendor Fee) on behalf of such third party as set forth in the Merchant Application and Merchant's agreement with such third party. Global Direct is not responsible for the acts or omissions of any third party and shall have no responsibility for or liability in connection with any software platform services Merchant receives from a third party, even if Global Direct collects monies with respect to such software or services. . Global Direct makes no representation or warranty with respect to such third party's software platform services or such third party's access to or ability to integrate with the products, services, and systems of Global Direct and any such access or ability may terminate at any time and Global Direct shall have no obligation to advise Merchant of such termination.
7. **FINANCIAL INFORMATION.** Merchant agrees to furnish Global Direct and Member such financial statements and information concerning Merchant as Global Direct or Member may from time to time request. Global Direct and Member, or their duly authorized representatives, may examine the books and records of Merchant, including records of all indebtedness previously purchased or presented for purchase. Merchant agrees to retain copies of all paper and electronic sales slips and credit slips submitted to Global Direct for a period of two years from submission, or such longer period of time as may be required by the operating rules or regulations of the card associations or network organizations, by law, or by Global Direct as specifically requested in writing in individual cases.
8. **CHANGE IN BUSINESS.** Either Party agrees to provide the other party with 60 days prior written notice of its: (a) transfer or sale of any substantial part (ten percent or more) of its total stock, assets and/or to liquidate; or (b) change to the basic nature of its business, or (c) provided that Merchant has not indicated on the Merchant Application that it accepts mail order, telephone order, or internet-based transactions, conversion of all or part of the business to mail order sales, telephone order sales, Internet-based sales or to other sales where the card is not present and swiped through Merchant's terminal or other card reader. Upon the occurrence of any such event, the terms of this Card Services Agreement may be amended in a subsequent writing signed by the applicable parties to address issues arising therefrom, including but not limited to requirements of applicable card associations or network organizations.
9. **TRANSFERABILITY.** This Card Services Agreement is not transferable by Merchant without the prior written consent of Global Direct and Member. Any attempt by Merchant to assign its rights or to delegate its obligations in violation of this paragraph shall be void. Merchant agrees that the rights and obligations of Global Direct hereunder may be transferred by Global Direct upon providing Merchant with sixty (60) days' prior written notice of such event Merchant acknowledges that the transferable rights of Global Direct and Member hereunder shall include, but shall not be limited to, the authority and right to debit the Merchant's account(s) as described herein.
10. **WARRANTIES AND REPRESENTATIONS.**
- 10.1. Merchant warrants and represents to Global Direct and Member: (a) that each sales transaction delivered hereunder will represent a bona fide sale to a cardholder by Merchant for the amount shown on the sales slip as the total sale and constitutes the binding obligation of the cardholder, free from any claim, demand, defense, setoff or other adverse claim whatsoever; (b) that each sales slip or other evidence of indebtedness will accurately describe the goods and services which have been sold and

delivered to the cardholder or in accordance with his instructions; (c) that Merchant will comply fully with all federal, state and local laws, rules and regulations applicable to its business; (d) that Merchant will fulfill completely all of its obligations to the cardholder and will resolve any customer dispute or complaint directly with the cardholder; (e) that the signature on the sales slip will be genuine and authorized by cardholder and not forged or unauthorized; (f) that the sales transaction shall have been consummated and the sales slip prepared in full compliance with the provisions of the Card Acceptance Guide and the operating regulations and rules of the applicable card association or network organization, as amended from time to time; (g) provided that Merchant has not indicated on the Merchant Application that it accepts mail order, telephone order, or internet-based transactions, that none of the sales transactions submitted hereunder represent sales by telephone, or mail, or Internet, or where the card is not physically present at the Merchant's location and swiped through Merchant's terminal, unless Merchant is specifically authorized in writing by Global Direct to submit such sales slips for purchase, (h) to the extent Merchant has indicated on the Merchant Application that it accepts mail order, telephone order, or internet-based transactions, Merchant shall not submit such a transaction to Global Direct and Member for processing until the goods and/or services are shipped or performed, as applicable, unless otherwise permitted by the card associations or network organizations, (i) that sales transactions submitted hereunder for purchase representing sales to any principal, partner, or proprietor of Merchant shall not constitute an unreasonable portion of Merchant's transactions relative to the Merchant's legitimate business requirements, (j) that, without limiting the generality of the foregoing, each sales transaction submitted hereunder and the handling, retention, and storage of information related thereto, will comply with the rules and regulations of Visa, Mastercard, American Express, Discover, PayPal and any other card association or network organization related to cardholder and transaction information security, including without limitation PCI Data Security Standards, Visa's Cardholder Information Security Program and Mastercard's Site Data Protection Program, and (k) that all of the information contained in this Card Services Agreement (including the Merchant Application) is true and correct. If that any of the foregoing warranties or representations is breached, the affected sales slips or other indebtedness may be refused, or prior acceptance revoked and charged back to the Merchant. Furthermore, if Merchant submits for purchase hereunder a sales transaction that is not the result of a sale of Merchant's goods or services offered to the general public or if Merchant submits any sales transactions for purchase hereunder which represents an unreasonable sales transaction to any principal, partner, or proprietor, of Merchant, such sales transaction may be refused or charged back.

10.2. Merchant must notify Global Direct if Merchant elects to use the terminal service of American Express, Novus, or any other third-party provider. If Merchant elects to use a third-party terminal provider, that provider becomes Merchant's agent for the delivery of card transactions to Global Direct via the applicable card-processing network. Global Direct and Member shall have no responsibility for or liability in connection with any hardware, software or services Merchant receives from a third party agent, even if Global Direct collects monies with respect to such hardware, software or services. Neither Global Direct nor Member makes any representation or warranty with respect to such agent's access to or ability to integrate with the products, services, and systems of Global Direct and any such access or ability may terminate at any time and Global Direct shall have no obligation to advise Merchant of such termination. Merchant agrees to assume full responsibility and liability for any failure of such agent to comply with the operating regulations and rules of the applicable card association or network organization, including without limitation any violation, which results in a chargeback to the Merchant. Global Direct and Member have no responsibility for any card transactions until it receives data for the card transaction in the format required by Global Direct. Merchant also agrees that the obligation hereunder to reimburse the Merchant for the value of the card transactions captured by an agent is limited to the value of the transactions (less applicable fees) received by the card-processing network from the agent.

10.3. ***Neither Member, nor Global Direct, nor any Supplier makes any representations or warranties, express or implied, including without limitation any warranty of merchantability or fitness for a particular purpose with respect to any terminal, any equipment, software or services leased, sold, or otherwise furnished hereunder.***

11. **INDEMNITY.** Merchant agrees to satisfy directly with the cardholder any claim or complaint arising in connection with the card sale, regardless of whether such claim or complaint is brought by the cardholder,

Global Direct, or another party. To the extent permissible under applicable law and specifically Section 768.28, Florida Statutes, Merchant agrees to remain responsible for and hold Global Direct, Member and their respective parent companies, subsidiaries and affiliates (including, without limitation, the respective officers, directors, employees, attorneys, shareholders, representatives and agents of all of the foregoing) harmless from and against liabilities, judgments, arbitration awards, settlements, actions, suits, claims, demands, losses, damages, costs, reasonable litigation expenses, and reasonable attorneys' fees, bankruptcy proceedings, arising directly or indirectly from: (a) a card transaction made pursuant to this Agreement that does not conform to the requirements of this Card Services Agreement herein, the rules and regulations of any card association or applicable laws; (b) a card transaction or any act or omission of Merchant in connection with a cardholder; (c) Merchant's breach or default of this Card Services Agreement, any agreement with any card association, any card association rules and regulations or any violation by Merchant of laws, rules and regulations applicable to Merchant; (d) the rescission, cancellation or avoidance of any card transaction, by operation of law, adjudication or otherwise; (e) a claim, counterclaim, complaint, dispute or defense with respect to this Card Services Agreement; (f) damages related to performance of this Agreement; or (g) web based, Internet or electronic commerce transactions by Merchant, including Merchant's insecure transmission of card transaction data and/or storage of cardholder information. Notwithstanding the foregoing, Merchant shall not be liable to any party for indirect, incidental, special, punitive or consequential loss or damages, or for loss of revenues or profit by Global Direct or Member, whether in contract or in tort or otherwise, arising out of or related to this Agreement, for any reason. For purposes of this Card Services Agreement, card brand fees, assessments, and penalties shall be considered direct damages. For purposes of this Card Services Agreement, including the foregoing requirements to the extent permissible under applicable law, Merchant is responsible and liable for the acts and omissions of its employees, agents and representatives (whether or not acting within the scope of their duties). Nothing contained in this Agreement or any subsequent agreement between the parties shall be considered nor construed to limit Merchant's rights and immunities under the common law or Section 768.28, Florida Statutes, as may be amended from time to time.

12. LIMITATION OF LIABILITY.

- 12.1. *Neither Member nor Global Direct shall be liable for failure to provide the Services or delay in providing the Services including processing delays or other non-performance if such failure is due to any cause or condition beyond such Party's reasonable control. Such causes or conditions shall include, but shall not be limited to, acts of God or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, pandemics, quarantine restrictions, strikes, riots, war, shortages of labor or materials, freight embargoes, unusually severe weather, breakdowns, operational failures, electrical power failures, telecommunications failures, equipment failures, unavoidable delays, the errors or failures of third party systems, non-performance of vendors, suppliers, processors or transmitters of information, or other similar causes beyond such party's control.***
- 12.2. *The liability of Global Direct and Member for any loss arising out of or relating in any way to this Card Services Agreement, including but not limited to damages arising out of any malfunction of the Equipment or the failure of the Equipment to operate, the unavailability or malfunction of the Equipment or the failure of the Equipment to operate, the unavailability or malfunction of the Services, personal injury or property damage, shall, in the aggregate, be limited to actual, direct, and general money damages in an amount not to exceed three months average charge paid by Merchant hereunder (exclusive of interchange fees, assessments, and any other fees or costs that are imposed by a third party in connection with Merchant's payment processing) for the Services during the previous 12 months or such lesser number of months as shall have elapsed subsequent to the Effective Date of this Card Services Agreement. This shall be the extent of Global Direct's and Member's liability arising out of or relating in any way to this Card Services Agreement, including alleged acts of negligence, breach of contract, or otherwise and regardless of the form in which any legal or equitable action may be brought against Global Direct or Member, whether contract, tort, or otherwise, and the foregoing shall constitute Merchant's exclusive remedy.***
- 12.3. *Under no circumstances shall Global Direct or Member be liable for special, consequential, punitive or exemplary damages, including lost profits, revenues and business opportunities, arising out of or relating in any way to this Card Services Agreement, including but not limited to damages arising out of placement of a merchant's name on any terminated merchant list for any reason even if Global Direct or***

Member has been advised of the possibility of such damages. Under no circumstances shall Global Direct, or Member be liable for any settlement amounts pertaining to Switched Transactions; Merchant's recourse therefore shall be to the applicable card issuer. Member shall not be responsible or liable to Merchant for any action taken by Member (or the results thereof) that is authorized by this Card Services Agreement.

- 12.4. *It is agreed that in no event will Global Direct or Member be liable for any claim, loss, billing error, damage or expense arising out of or relating in any way to this Card Services Agreement which is not reported in writing to Global Direct by Merchant within sixty (60) days of such failure to perform, or, if a billing error occurs, within sixty (60) days of the date of the invoice or applicable statement. Merchant expressly waives any such claim that is not brought within the time periods stated herein.*
- 12.5. *Global Direct agrees to maintain commercially reasonable levels of insurance coverage during the term of the Card Services Agreement consistent with the scope and nature of its business and applicable industry best practices. Global Direct shall deliver its certificate(s) of insurance reflecting its then-current policy coverage and carriers prior to the start of performance of this Agreement.*
- 12.6. Subject to the foregoing, Global Direct agrees to indemnify and hold harmless the Merchant, its elected and appointed officials, employees, and agents from any and all claims, suits, actions, damages, liability, and expenses (including reasonable attorneys' fees at trial and appellate levels) related to any intentional wrong doing, recklessness, by Global Direct, its owners, agents, and employees, during performance of Agreement.

13. TERM AND TERMINATION.

- 13.1. This Card Services Agreement shall remain in full force and effect for an initial term of one (1) year (the "**Initial Term**"). The Card Services Agreement will automatically renew for additional one (1) year periods ("**Renewal Term**" or "**Renewal Terms**", and together with the Initial Term, the "**Term**") unless Merchant gives thirty (30) days' advance written notice of termination prior to the end of the then-current term. This Card Services Agreement is expressly made subject to the limitations of the Merchant's state constitution. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by Merchant, contrary to the any constitutional, statutory or charter debt limitation. Notwithstanding any other provision of this Card Services Agreement, with respect to any financial obligation of Merchant which may arise under this Card Services Agreement in any fiscal year, if the budget or other means of appropriations for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure shall not constitute a default or breach of this Card Services Agreement, including any sub-agreement, attachment, schedule, or exhibit thereto, by the Merchant. Global Direct shall transfer or destroy any records in its possession related to agreement to Merchant upon termination.
- 13.2. Notwithstanding the foregoing, Global Direct may terminate this Card Services Agreement or any portion thereof upon written notice to Merchant. Furthermore, Global Direct may terminate this Card Services Agreement upon an unauthorized conversion of all or any part of Merchant's activity to mail order, telephone order, Internet order, or to any activity where the card is not physically present and swiped through the Merchant's terminal or other card reader, upon any failure to follow the Card Acceptance Guide or any operating regulation or rule of a card association or network organization, upon any misrepresentation by Merchant, upon commencement of bankruptcy or insolvency proceedings by or against the Merchant, or if Global Direct reasonably deems itself insecure in continuing this Card Services Agreement.
- 13.3. If Global Direct and Member breach the terms and conditions hereof, the Merchant may, at its option, give written notice to Global Direct and Member of its intention to terminate this Card Services Agreement unless such breach is remedied within thirty (30) days of such notice. Failure to remedy such a breach shall make this Card Services Agreement terminable, at the option of the Merchant, at the end of such thirty (30)-day period unless notification is withdrawn.
- 13.4. Any Merchant deposit of sales or credit slips that is accepted by Global Direct and Member or by a designated depository after the effective date of termination will be returned to Merchant and will not be credited (or debited) to Merchant's account(s). If the deposit has already been posted to Merchant's account(s), said posting will be reversed and the deposit returned to Merchant. Termination of this Card

Services Agreement shall not affect Merchant's obligations which have accrued prior to termination or which relate to any indebtedness purchased hereunder prior to termination, including but not limited to chargebacks even if such chargebacks come in after termination. If a termination occurs, all equipment leased from, and software provided by, Global Direct including but not limited to imprinters, terminals, and printers; all supplies; Card Acceptance Guides; and operating instructions must be returned immediately to Global Direct at Merchant's expense.

14. **RETURNED ITEMS/CHARGEBACKS.** If a cardholder disputes any transaction, if a transaction is charged back for any reason by the card issuing institution, or if Global Direct or Member has any reason to believe an indebtedness previously purchased is questionable, not genuine, or is otherwise unacceptable, the amount of such indebtedness may be charged back and deducted from any payment due to Merchant or may be charged against any of Merchant's accounts or the Reserve Account (as defined below). Merchant acknowledges and agrees that it is bound by the rules of the card associations and network organizations with respect to any chargeback. Merchant further acknowledges that it is solely responsible for providing Global Direct and Member with any available information to re-present a chargeback and that, regardless of any information it provides or does not provide Global Direct and Member in connection with a chargeback, or any other reason, Merchant shall be solely responsible for the liability related to such chargeback. A list of some common reasons for chargebacks is contained in the Card Acceptance Guide provided, however, that such list is not exclusive and does not limit the generality of the foregoing. If any such amount is uncollectible through withholding from any payments due hereunder or through charging Merchant's accounts or the Reserve Account, Merchant shall, upon demand by Global Direct, pay Global Direct the full amount of the chargeback. Merchant understands that obtaining an authorization for any sale shall not constitute a guarantee of payment, and such sales slips can be returned or charged back to Merchant like any other item hereunder.

15. **RESERVE ACCOUNT.**

- 15.1. At any time, Global Direct and Member may, at their option, establish a reserve account to secure the performance of Merchant's obligations under this Card Services Agreement to such party ("**Reserve Account**"). The Reserve Account may be funded, at Global Direct's sole discretion, through any or all of the following: (a) direct payment by Merchant—at the request of Global Direct or Member, Merchant will deposit funds in the Reserve Account; or (b) the proceeds of indebtedness presented for purchase. Merchant hereby grants Member a security interest in all accounts referenced in section 5 or any other accounts, including certificates of deposits, maintained by Merchant with any designated depository or other financial institution and authorizes Global Direct (to the extent authorized by Member) or Member to make such withdrawals at such times and in such amounts as it may deem necessary hereunder. Merchant hereby instruct said financial institutions to honor any requests made by Global Direct and Member under the terms of this provision. To the extent permissible under applicable law, Merchant will remain responsible for any claims or losses they may suffer as a result of honoring withdrawal requests from Global Direct and Member.
- 15.2. Merchant hereby agrees that Global Direct and Member may deduct from this Reserve Account any amount owed to such party in accordance with this Card Services Agreement. Any funds in the Reserve Account may be held until the later of (a) the expiration of any potentially applicable chargeback rights in respect of purchased indebtedness under the rules and regulations of the card associations or network organizations and (b) the period necessary to secure the performance of Merchant's obligations under this Card Services Agreement, which holding period may extend beyond termination of this Card Services Agreement. Merchant will not receive any interest on funds being held in a Reserve Account and Merchant has no right to access the funds being held in the Reserve Account or otherwise transfer, pledge or use these funds for its own purposes. Without limiting the generality of the foregoing, Merchant shall, upon termination of this Card Services Agreement, maintain the sum of at least five percent of gross sales for the 90-day period prior to termination to be held in a Reserve Account in accordance with the terms of this Card Services Agreement. Global may, at its discretion upon termination of this Card Services Agreement, require that the Merchant maintain more than five percent of gross sales for the 90-day period prior to termination in a Reserve Account.

16. **DEFAULT/SECURITY INTEREST.**

16.1. Upon failure by Merchant to meet any of its obligations under this Card Services Agreement (including funding the Reserve Account), and to the extent permitted by applicable law, any of the accounts referred to in section 5 may be debited without notice to Merchant, and Merchant (on behalf of itself and its affiliated entities) hereby grants to Member, Global Direct a lien and security interest in all of Merchant's right, title and interest in or to any of the following assets or properties: (a) all of the accounts referenced in the preceding sentence; (b) the Reserve Account; (c) any rights to receive credits or payments under this Card Services Agreement; and (d) all deposits and other property of Merchant that Member or its affiliates possess or maintain (including all proceeds of the foregoing). Merchant shall execute, acknowledge or deliver any documents or take any actions Member or Global Direct may from time to time request to better assure, preserve, protect, perfect, maintain or enforce this security interest. To the extent permitted by law, Merchant irrevocably authorizes Member, Global Direct to file any financing statements (at Merchant's expense) in any relevant jurisdiction or any other documents or instruments related to this security interest. Merchant represents and warrants that: (a) Merchant has good and valid rights and title to the property described herein; (b) Merchant has full power and authority to grant to Member the security interest pursuant hereto and to execute, deliver and perform its obligations in accordance with the terms of this Card Services Agreement, without the consent or approval of any other person or entity; (c) no other person or entity has a security interest or lien in any of the property described herein; and (d) this security interest is a first lien security interest and secures Merchant's obligations to Member under this Card Services Agreement. Member shall have all rights of a secured party and Merchant must obtain the prior written consent of Member before granting any subsequent security interest or lien in the property described herein. Merchant agrees that it is Merchant's intent that these accounts and secured property shall to the extent allowed by applicable law not be subject to any preference, claim, or stay by reason of any bankruptcy or insolvency law. Merchant agrees to act consistently with the understanding that said accounts and secured property under this Card Services Agreement are free of all such preferences, claims or stays by reason of and as allowed by any such law. The scope of the security interest, and Merchant's (on behalf of itself and its affiliated entities) instructions to its financial institutions to accept withdrawal requests from Global Direct, Member, and Merchant's agreement to hold such institutions harmless and to indemnify them, to the extent permissible under applicable law, are described above in section 15.

16.2. Merchant also agrees that, if a default by Merchant occurs, Member has a right of setoff and may apply any of Merchant's balances or any other monies due Merchant from Member towards the payment of amounts due from Merchant under the terms of this Card Services Agreement. The rights stated herein are in addition to any other rights Global Direct, Member may have under applicable law.

17. DISPUTE RESOLUTION AND CLASS ACTION WAIVER

17.1. Any litigated action regarding, relating to or involving the validity, scope and/or enforceability of this Card Services Agreement, shall be brought in the state of Florida with venue lying in Broward County, FL and Merchant and Global Direct expressly agree to the exclusive jurisdiction of such courts. Merchant and Global Direct hereby agree and consent to the personal jurisdiction and venue of such courts, and expressly waive any objection that Merchant or Global Direct might otherwise have to personal jurisdiction or venue in such courts.

17.2. *Merchant acknowledges and agrees that all disputes arising out of or related to this Card Services Agreement shall be resolved on an individual basis without resort to any form of class action and shall not be consolidated with the claims of any other parties.*

17.3. Merchant hereby agrees that claims applicable to American Express may be resolved through arbitration as further described in the American Express Merchant Requirements Guide (the "**American Express Guide**").

18. **AMENDMENTS.** Global Direct shall have the right to modify or amend the terms and conditions of this Card Services Agreement, including, without limitation, the right to modify, amend, or supplement applicable fees, charges, and/or discounts. Modifications and amendments related to changes to the Card Association Rules, changes to the fees charged by the card associations, Member, or other third parties, or in response to changes in applicable laws or regulations (collectively, a "**Third Party Change**") may be made effective immediately,

with or without notice. Modifications or amendments unrelated to a Third Party Change shall be effective upon the date specified in a notice to the Merchant (the "**Change Notice**"), provided that the date shall not be fewer than five (5) business days after the date of such Change Notice. Following the Effective Date, in the event of any modification or amendment not related to a Third Party Change, Merchant shall have the right to terminate this Card Services Agreement, without liability for premature termination pursuant to Section 13, by providing written notice thereof to Global Direct, provided that such notice must be given within five (5) business days following the date of the Change Notice. Other than the amendments set forth above, this Card Services Agreement may be amended only in writing signed by Global Direct, Member, and Merchant.

19.

20. **WAIVER.** No provision of this Card Services Agreement shall be deemed waived by any party unless such waiver is in writing and signed by the party against whom enforcement is sought. No failure to exercise, and no delay in exercising on the part of any party hereto, any right, power or privilege under this Card Services Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege under this Card Services Agreement preclude any other or further exercise thereof or the exercise of any other right, power, or privilege.
21. **EXCHANGE OF INFORMATION.** Merchant authorizes Global Direct to order a credit report on Merchant. Merchant hereby authorizes Member or any depository institution to release any financial information concerning Merchant or its accounts to Global Direct. Subsequent credit reports may be ordered in connection with updating, renewing or continuing this Card Services Agreement. Upon the written request of any individual who is the subject of a consumer credit report, Global Direct will provide the name and address of the consumer credit reporting agency furnishing such report, if any. Global Direct may exchange information about Merchant with Member, other financial institutions and credit card associations, network organizations and any other party. Merchant hereby authorizes Global Direct to disclose information concerning Merchant's activity to any card association, network organizations, or any of their member financial institutions, or any other party without any liability whatsoever to Merchant.
22. **GENERAL.** If any provision of this Card Services Agreement or portion thereof is held to be unenforceable, such a determination will not affect the remainder of this Card Services Agreement. Paragraph headings are included for convenience only and are not to be used in interpreting this Card Services Agreement.
23. **NOTICES.** All notices required by this Card Services Agreement shall be in writing and shall be sent by facsimile, by overnight carrier, or by regular or certified mail. All notices sent to Global Direct or Member shall be effective upon actual receipt by the Corporate Secretary of Global Payments Direct, Inc. 3550 Lenox Road NE, Suite 3000, Atlanta GA 30326. Any notices sent to Merchant shall be effective upon receipt at the following locations: Charles F. Dodge, City Manager, City of Pembroke Pines, 601 City Center Way, 4th Floor, Pembroke Pines, Florida 33025, Telephone No. (954) 450-1040, with a copy to Samuel S. Goren, City Attorney, Goren, Cherof, Doody & Ezrol, P.A., 3099 East Commercial Boulevard, Suite 200, Fort Lauderdale, Florida 33308, Telephone No. (954) 771-4500. The parties hereto may change the name and address of the person to whom notices or other documents required under this Card Services Agreement must be sent at any time by giving written notice to the other party.
24. **MERGER.** This Card Services Agreement, including these Card Services Terms & Conditions and the Merchant Application, constitutes the entire agreement between Merchant, Global Direct, and Member and supersedes all prior memoranda or agreements relating thereto, whether oral or in writing.
25. **EFFECTIVE DATE.** This Card Services Agreement shall become effective only upon acceptance by Global Direct and Member, or upon delivery of indebtedness at such locations as designated by Global Direct for purchase, whichever event shall first occur.
26. **DESIGNATION OF DEPOSITORY.** The financial institution set forth in the Merchant Application is designated by Merchant as a depository institution ("**Depository**") for its credit card indebtedness. Such financial institution must be a member of an Automated Clearing House Association. Merchant authorizes payment for indebtedness purchased hereunder to be made by paying Depository therefore with instructions to credit Merchant's accounts. Depository, Member, and/or Global Direct may charge any of Merchant's accounts at Depository for any amount due under this Card Services Agreement. Global Direct must approve in writing any proposed changes to the account numbers or to the Depository, such approval shall not be unreasonably

withheld. Merchant hereby authorizes Depository to release any and all account information to Global Direct as Global Direct may request without any further authorization, approval or notice from or to Merchant.

27. **FINANCIAL ACCOMMODATION.** The acquisition and processing of sales slips hereunder is a financial accommodation and, as such, if Merchant becomes a debtor in bankruptcy, this Card Services Agreement cannot be assumed or enforced, and Global Direct and Member shall be excused from performance hereunder.

28. **DEBIT / ATM PROCESSING SERVICES: ADDITIONAL TERMS AND CONDITIONS.**

28.1. Debit Sponsor shall act as Merchant's sponsor with respect to the participation of point-of-sale terminals owned, controlled, and/or operated by Merchant (the "**Covered Terminals**") in each of the following debit card networks ("**Networks**"): Accel, AFFN, Alaska Option, CU24, Interlink, Maestro, NYCE, Pulse, Shazam, Star, and Tyme, which Networks may be changed from time-to-time by Debit Sponsor or Global Direct without notice. Merchant may also have access to other debit networks that do not require a sponsor. Global Direct will provide Merchant with the ability to access the Networks at the Covered Terminals for the purpose of authorizing debit card transactions from cards issued by the members of the respective Networks. Global Direct will provide connection to such Networks, terminal applications, settlement, and reporting activities. Merchant will comply with all federal, state, and local laws, rules, regulations, and ordinances ("**Applicable Laws**") and with all by-laws, regulations, rules, and operating guidelines of the Networks ("**Network Rules**"). Merchant will execute and deliver any application, participation, or membership agreement or other document necessary to enable Debit Sponsor to act as sponsor for Merchant in each Network. Merchant agrees to utilize the debit card Services in accordance with the Card Services Agreement, its exhibits or attachments, and Global Direct's instructions and specifications (including but not limited to the Card Acceptance Guide which is incorporated into and made a part of this Card Services Agreement), and to provide Global Direct with the necessary data in the proper format to enable Global Direct to properly furnish the Services. Copies of the relevant agreements or operating regulations shall be made available to Merchant upon request.

28.2. Merchant shall not in any way indicate that Debit Sponsor endorses Merchant's activities, products, or services. Debit Sponsor and Merchant are and shall remain independent contractors of one another, and neither they, nor their respective individual employees, shall have or hold themselves out as having any power to bind the other to any third party. Nothing contained in this section 27 shall be construed to create or constitute a partnership, joint venture, employer-employee, or agency relationship between Debit Sponsor and Merchant. This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that Global Direct is an independent contractor under this Agreement and not the Merchant's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. Global Direct shall retain sole and absolute discretion in the judgment of the manner and means of carrying out Global Direct's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of Global Direct, which policies of Global Direct shall not conflict with Merchant, State, or United States policies, rules or regulations relating to the use of Global Direct's funds provided for herein. Global Direct agrees that it is a separate and independent enterprise from the Merchant, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Agreement shall not be construed as creating any joint employment relationship between Global Direct and the Merchant and the Merchant will not be liable for any obligation incurred by Global Direct, including but not limited to unpaid minimum wages and/or overtime premiums.

28.3. If the Debit Sponsor's sponsorship of Merchant in any Network is terminated prior to the termination of the Card Services Agreement, Global Direct may assign Debit Sponsor's rights and obligations hereunder to a third party. All provisions in this section necessary to enforce the rights and obligations of the parties contained in this section 27 shall survive the termination of Debit Sponsor's debit sponsorship of Merchant under the Card Services Agreement. Debit Sponsor may assign this Card Services Agreement to any parent, subsidiary, affiliate, or successor-in-interest.

29. **NON DISCRIMINATION & EQUAL EMPLOYMENT OPPORTUNITIES.** During the performance of the Agreement, neither Global Direct nor any subcontractors shall discriminate against any employee or applicant for employment because of race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. Global Direct will take affirmative action to ensure that employees are treated during employment, without regard to their race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. Such actions must include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Global Direct shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. Global Direct will endeavor to ensure that subcontractors, if any, are made aware of and comply with this nondiscrimination clause.
- MERCHANT ACCEPTANCE OF EBT TRANSACTIONS: ADDITIONAL TERMS AND CONDITIONS.** If Merchant accepts EBT transactions (as defined in section 2, Services Descriptions), Merchant agrees to issue Benefits to Recipients in accordance with the procedures specified herein, and in all documentation and user guides provided to Merchant by Global Direct, as amended from time-to-time (including but not limited to the Card Acceptance Guide which is incorporated into and made a part of this Card Services Agreement); and pursuant to the Quest Operating Rules (the "**Rules**"), as amended from time-to-time, issued by the National Automated Clearing House Association as approved by the Financial Management Service of the U.S. Treasury Department. Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed them in the Rules. Merchant will provide each recipient a receipt of each Benefit issuance. Merchant will be solely responsible for Merchant's issuance of Benefits other than in accordance with authorizations. Merchant agrees to comply with all the requirements, laws, rules and regulations pertaining to the delivery of services to Benefit Recipients and Benefit Recipient confidentiality. If Merchant issues FS Benefits under this Card Services Agreement, Merchant represents and warrants to Global Direct that Merchant is an FNS-authorized "**Merchant**" (as such term is defined in the Rules) and is not currently suspended or disqualified by FNS. Merchant agrees to secure and maintain at its own expense all necessary licenses, permits, franchises, or other authorities required to lawfully effect the issuance and distribution of Benefits under this Card Services Agreement, including without limitation, any applicable franchise tax certificate and non-governmental contractor's certificate, and covenants that Merchant will not issue Benefits at any time during which Merchant is not in compliance with the requirements of any applicable law. Merchant agrees to hold Global Direct harmless from any costs of compliance or failure to comply with any such obligation by Merchant. Global Direct may terminate or modify the provision of Services to Merchant if any of Global Direct's agreements with government EBT agencies are terminated for any reason or if any party threatens to terminate services to Global Direct due to some action or inaction on the part of Merchant. If any of these Card Services Terms & Conditions are found to conflict with Federal or State law, regulation or policy of the Rules, these Card Services Terms & Conditions are subject to reasonable amendment by Global Direct, the State or its EBT Service Provider to address such conflict upon 90 days written notice to Merchant, provided that Merchant may, upon written notice, terminate the Card Services Agreement upon receipt of notice of such amendment. Nothing contained herein shall preclude the State from commencing appropriate administrative or legal action against Merchant or for making any referral for such action to any appropriate Federal, State, or local agency. Any references to "**State**" herein shall mean the State in which Merchant issues Benefits pursuant hereto. If Merchant issues Benefits in more than one State pursuant hereto, then the reference shall mean each such State severally, not jointly.
30. **DECLINE MINIMIZER SERVICES.** If Merchant elects to use Global Direct's Decline Minimizer Service (as defined below), the following terms apply. Merchant represents and warrants that its business is of such a nature that it periodically needs to receive updated cardholder account information and that Merchant does not belong to any high-risk categories as determined by any Card Schemes. In consideration of Merchant's payment of any fees and charges set forth herein, Global Direct agrees to provide to Merchant certain Card decline minimizer services facilitated by applicable card associations, which services are designed to assist merchants in recurring payment industries with maintenance of current cardholder account data (such services, the "**Decline Minimizer Services**"). The Decline Minimizer Services are subject to availability as determined by the card associations. Merchant acknowledges that a card association may terminate or suspend Global Direct's ability or right to provide the Decline Minimizer Services, and Global Direct may terminate its obligations with respect to the Decline Minimizer Service at any time upon notice to Merchant. The Decline Minimizer Services may be subject to additional

terms, conditions, and/or fees, notice of which shall be provided to Merchant in accordance with this Card Services Agreement.

31. **SCRUTINIZED COMPANIES.** Global Direct, its principals or owners, certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are engaged in business operations with Syria. In accordance with Section 287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services of: Any amount of, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or One million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company: Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; or Is engaged in business operations in Syria. If at any time Global Direct changes position or practice with respect to the foregoing, Merchant shall be entitled to terminate the Card Services Agreement upon written notice with immediate effect, and without any early termination penalty.
32. **PUBLIC RECORDS.** Global Direct shall comply with Florida's Public Records Law. Specifically, Global Direct shall: i) Keep and maintain public records required by the Merchant to perform the service; ii) Upon request from the Merchant custodian of public records, provide the Merchant with a copy of the public records which pertain to this Agreement or allow such records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law; iii) Ensure that public records that are exempt or that are confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and, following completion of the Agreement, Global Direct shall destroy all copies of such confidential and exempt records remaining in its possession after the Term of the Agreement; and iv) upon completion of the Agreement, Global Direct shall transfer to the Merchant, at no cost to Global Direct, all public records in Global Direct's possession. All records stored electronically by Global Direct must be provided to the Merchant, upon request from the Merchant's custodian of public records, in a format that is compatible with the information technology systems of the Merchant. The failure of Global Direct to comply with the provisions set forth in this Article shall constitute a default and breach of this Agreement, for which, the Merchant may terminate the Agreement in accordance with the terms herein.

**IF GLOBAL DIRECT HAS QUESTIONS REGARDING THE APPLICATION OF
CHAPTER 119, FLORIDA STATUTES, TO GLOBAL DIRECT'S DUTY TO
PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE
CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY CLERK, 601 CITY CENTER WAY, 4th FLOOR,
PEMBROKE PINES, FL 33025,
Phone: (954) 450-1050, mgraham@ppines.com**

33. **TAX EXEMPT.** Prices applicable to Merchant do not include applicable state and local sales, use and related taxes. The Merchant is exempt from state and local sales and use taxes and shall not be invoiced for the same. Upon request Merchant will provide Global Direct with proof of tax-exempt status.**[INTENTIONALLY OMITTED].**
34. **CALLPOP OPENEDGE SERVICES.**
- 34.1. Global Direct offers hardware and services, which may include but are not limited to, phone/fax to VOIP smart box converter, phone analytics, two-way calling, call notes and call history, quick text for incoming and missed calls, reviews via text, text to pay, smart caller ID, reporting portal(s), and mobile application(s) among other things (collectively, the "CallPop OpenEdge Services") for Merchant's sole use with its internal business operations.
- 34.2. If Merchant elects to use Global Direct's CallPop OpenEdge Services (as defined above), the following terms apply. In consideration of Merchant's payment of the fees and charges set forth in the Merchant

Application with respect to Global Direct's CallPop OpenEdge Services, and subject to the terms and conditions herein, Global Direct agrees to provide Merchant certain CallPop Services and hereby grants Merchant a limited, non-exclusive, non-sublicensable, non-transferable license in the United States of America to access and use the CallPop Open Edge Services (as defined above) solely for Merchant's internal business operations. Merchant shall not and shall not permit or authorize any other party to (a) decompile, disassemble, reverse engineer, or otherwise attempt to discern the source code of the CallPop OpenEdge Services; or (b) copy, modify, enhance, or otherwise create derivative works of the CallPop OpenEdge Services. Either party may terminate or suspend the CallPop OpenEdge Services without terminating the rest of the Card Services Agreement pursuant to the termination and/or suspension rights specified in the Card Services Agreement. Notwithstanding the foregoing, Global Direct may terminate its obligations with respect to the CallPop OpenEdge Services at any time upon notice to Merchant. The CallPop OpenEdge Services may be subject to additional terms, conditions, and/or fees, notice of which shall be provided to Merchant in accordance with this Card Services Agreement.

34.3. *Notwithstanding anything to the contrary herein, excepts as expressly provided herein, Global Direct makes no representation or warranty, express or implied with respect to the CallPop OpenEdge Services, including without limitation, any hardware provided in connection therewith. Global Direct specifically disclaims all warranties as to the merchantability, condition, design, or compliance with specifications or standards, and expressly disclaims all implied warranties, including without limitation implied warranties of merchantability, fitness for a particular use, or non-infringement of third party rights, with respect to the CallPop OpenEdge Services. Global Direct does not warrant that the CallPop OpenEdge Services will operate without interruption or on an error-free basis. Global Direct shall have not liability to Merchant for incidental, special, consequential, indirect or exemplary damages, including without limitation lost profits, revenues and business opportunities, or damages for injury to person or property, arising out of or in connection with the use by Merchant of the CallPop OpenEdge Services.*

35. DISCOVER PROGRAM MARKS. Merchant is hereby granted a limited non-exclusive, non-transferable license to use Discover brands, emblems, trademarks, and/or logos that identify Discover cards ("**Discover Program Marks**"). Merchant is prohibited from using the Discover Program Marks other than as expressly authorized in writing by Global Direct. Merchant shall not use the Discover Program Marks other than to display decals, signage, advertising and other forms depicting the Discover Program Marks that are provided to Merchant by Global Direct pursuant to this Card Services Agreement or otherwise approved in advance in writing by Global Direct. Merchant may use the Discover Program Marks only to promote the services covered by the Discover Program Marks by using them on decals, indoor and outdoor signs, advertising materials and marketing materials; provided that all such uses by Merchant must be approved in advance by Global Direct in writing. Merchant shall not use the Discover Program Marks in such a way that customers could believe that the products or services offered by Merchant are sponsored or guaranteed by the owners of the Discover Program Marks. Merchant recognizes that it has no ownership rights in the Discover Program Marks and shall not assign to any third party any of the rights to use the Discover Program Marks.

36. PAYPAL MARKS. PayPal Marks means the brands, emblems, trademarks, and/or logos that identify PayPal Acceptance. Merchant shall not use the PayPal Marks other than to display decals, signage, advertising, and other forms depicting the PayPal Marks that are provided to Merchant by Global Direct pursuant to the Merchant Program or otherwise approved in advance in writing by Acquirer. Merchant may use the PayPal Marks only to promote the services covered by the PayPal Marks by using them on decals, indoor and outdoor signs, advertising materials and marketing materials; provided that all such uses by Merchant must be approved in advance by Global Direct in writing. Merchant shall not use the PayPal Marks in such a way that customers could believe that the products or services offered by Merchant are sponsored or guaranteed by the owners of the PayPal Marks. Merchant recognizes that it has no ownership rights in the PayPal Marks. Merchant shall not assign to any third party any of the rights to use the PayPal Marks. Merchant is prohibited from using the PayPal Marks, not permitted above, unless expressly authorized in writing by PayPal.

37. AMERICAN EXPRESS CARD ACCEPTANCE.

37.1. If Merchant accepts American Express transactions, Merchant hereby acknowledges and agrees that for purposes of acceptance of American Express, the American Express Guide is hereby incorporated by reference into this Card Services Agreement. In addition, Merchant agrees to comply with the terms of

all other security and operational guides published by American Express from time to time, including the American Express Data Security Requirements. Merchant hereby authorizes Global Direct to submit American Express transactions to, and receive settlement from, American Express on behalf of Merchant. Merchant must accept the American Express card as payment for goods and services (other than those goods and services prohibited under the American Express Guide sold, or (if applicable) for charitable contributions made, at all of its establishments, except as expressly permitted by state statute. Merchant is jointly and severally liable for the obligations of Merchant's establishments under the Card Services Agreement. For the avoidance of doubt, "cardholder" as used in this Card Services Agreement shall include Card Members as defined in the American Express Guide.

- 37.2. Merchant hereby acknowledges and agrees that (i) Global Direct may disclose American Express Transaction Data (which for purposes of this section 33 shall have the same definition as "**Transaction Data**" in the American Express Guide), Merchant Data (as defined below), and other information about Merchant to American Express, (ii) American Express may use such information to perform its responsibilities in connection with the American Express Program, promote the American Express Network, perform analytics and create reports, and for any other lawful business purpose, including marketing purposes, and (iii) American Express may use the information obtained in this application at the time of setup to screen and/or monitor Merchant in connection with American Express Card marketing and administrative purposes. If Merchant has provided a wireless phone number in connection with this Card Services Agreement, Merchant hereby agrees that it may be contacted at that number and the communications sent may include autodialed text messages or automated prerecorded calls. If Merchant has provided a fax number, Merchant hereby agrees that it may be sent fax communications. To opt out of American Express-related marketing communications, Merchant may contact Global Direct customer service as described in this Card Services Agreement. For purposes of this section 33, "**Merchant Data**" means names, postal and email addresses, tax ID numbers, names and social security numbers of the authorized signer of Merchant and similar identifying information about Merchant. For clarification, Merchant Data does not include American Express Transaction Data.
- 37.3. Merchant hereby agrees that, if Merchant becomes a High Charge Volume Merchant (as defined below), Merchant will be converted from the American Express Program to a direct American Express Card acceptance relationship with American Express, and upon such conversion, (i) Merchant will be bound by American Express' then-current card acceptance agreement, and (ii) American Express will set pricing and other fees payable by Merchant for American Express Card acceptance. "**High Charge Volume Merchant**" for purposes of this section 33 means an American Express Program Merchant with either (i) greater than \$1,000,000 in American Express charge volume in a rolling 12-month period or (ii) greater than \$100,000 in American Express charge volume in any 3 consecutive months. For clarification, if Merchant has multiple establishments, the American Express charge volume from all establishments shall be summed to together when determining whether Merchant has exceeded the thresholds above.
- 37.4. Merchant shall not assign to any third party any American Express-related payments due to it under this Card Services Agreement, and all indebtedness arising from American Express Charges (as defined below) will be for bona fide sales of goods and services (or both) at its establishments (as defined below) and free of liens, claims, and encumbrances other than ordinary sales taxes; provided, however, that Merchant may sell and assign future American Express transaction receivables to Global Direct, its affiliated entities and/or any other cash advance funding source that partners with Global Direct or its affiliated entities, without consent of American Express.
- 37.5. In connection with Merchants acceptance of American Express, Merchant agrees to comply with and be bound by, the rules and regulations imposed by the PCI Security Standards Council (including without limitation the PCI Data Security Standard). Merchant hereby agrees to report all actual or suspected Data Incidents (as such term is defined in the American Express Data Security Requirements) immediately to Global Direct and American Express immediately upon discovery thereof.
- 37.6. Merchant hereby agrees that American Express shall have third party beneficiary rights, but not obligations, to enforce the Card Services Agreement against Merchant to the extent applicable to American Express processing. Merchant's termination of American Express card acceptance shall have no direct or indirect effect on Merchant's rights to accept other card brands. To terminate American

Express acceptance, Merchant may contact Global Direct customer service as described in this Card Services Agreement.

37.7. Without limiting any other rights provided herein, Global Direct shall have the right to immediately terminate Merchant's acceptance of American Express cards upon request of American Express. Merchant may not bill or collect from any American Express Card Member for any purchase or payment on the American Express card unless a chargeback has been exercised, Merchant has fully paid for such charge, and it otherwise has the right to do so. Merchant shall use the American Express brand and marks in accordance with the requirements set forth in the American Express Guide.

38. ELECTRONIC SIGNATURES.

38.1. Under the Electronic Signatures in Global and National Commerce Act (E-Sign), this Card Services Agreement and all electronically executed documents related hereto are legally binding in the same manner as are hard copy documents executed by hand signature when: (a) your electronic signature is associated with the Card Services Agreement and related documents, (b) you consent and intend to be bound by the Card Services Agreement and related documents; and (c) the Card Services Agreement is delivered in an electronic record capable of retention by the recipient at the time of receipt (i.e., print or otherwise store the electronic record). This Card Services Agreement and all related electronic documents shall be governed by the provisions of E-Sign.

38.2. By pressing Submit, you agree: (a) that the Card Services Agreement and related documents shall be effective by electronic means; (b) to be bound by the terms and conditions of this Card Services Agreement and related documents; (c) that you have the ability to print or otherwise store the Card Services Agreement and related documents; and (d) to authorize us to conduct an investigation of your credit history with various credit reporting and credit bureau agencies for the sole purpose of determining the approval of the applicant for merchant status or equipment leasing. This information is kept strictly confidential and will not be released.

39. SURCHARGES/OTHER FEES.

39.1. Merchant pricing appears in the Card Services Fee Schedule of the Merchant Application. T&E merchants (airline, car rental, cruise line, fast food, lodging, restaurant, travel agent, transportation) may have separate rates quoted for consumer and commercial (business) transactions. Transactions that do not clear as priced are subject to surcharges (as outlined in Merchant Application) that are billed back to you on your monthly statement. The most predominant market sectors and transactions types for surcharges appear in the Surcharge Addendum attached, however, such sectors and transaction types are not comprehensive and are subject to change. Most surcharges can be avoided by using a product that supports authorization and market data requirements established by the card associations and that are subject to change from time to time. Some surcharges occur on specific types of cards (including without limitation Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card, Discover Premium Plus Card, and "foreign" cards issued outside the United States). Unless your Card Services Fee Schedule specifically addresses commercial cards (i.e., Business Cards, Corporate Cards, Fleet Cards, GSA Cards, Purchase Cards), you will be billed back for the higher cost of acceptance of commercial cards, unless you are primarily a business-to-business supplier with corresponding pricing based on acceptance of commercial cards. The card associations require that information from the original authorization, including a lifecycle identifier, be retained and returned with subsequent authorizations and/or the settled transaction data. The card associations validate this information as part of the clearing and settlement process. If authorization data is not retained and returned at settlement, then the transaction will not clear as priced and will incur a surcharge. For more information concerning surcharging and to view market data, you may wish to check the Global Direct website (www.globalpaymentsinc.com) for best practices information and to license Global Access @dvantage (GA@) or Business View for transaction detail review.

39.2. The items listed in this section 35 are not and are not intended to be a comprehensive list of all instances in which surcharges may apply. Surcharges may apply in additional situations. All surcharges may include additional fees assessed by the applicable card association and Member or Global Direct.

39.3. In addition, Merchant may be assessed additional fees which will be in addition to the fees stated on the Merchant Application, including the following:

39.4. Merchant will also be assessed: (a) Cross-Border fees and a U.S. Acquirer Support fee for international Mastercard and Maestro transactions; (b) an International Service Assessment fee and International Acquirer fee for international Visa transactions; and (c) an International Processing fee and International Service fee for international Discover transactions. These fees, which are applicable to transactions between Merchant and a non-U.S. Mastercard, Maestro, Visa, American Express, or Discover cardholder will be displayed as a separate item on Merchant's monthly statement and may include fees assessed by both the applicable card association and Member or Global Direct.

39.5. Merchant will also be assessed per transaction access or participation fees and assessment rates for Visa, Mastercard, American Express, Discover and PayPal transactions, which will be displayed as a separate item on Merchant's monthly statement and may include fees by both the applicable card association and Member or Global Direct.

39.6. Merchant will also be assessed a Discover Network Authorization Fee.

39.7. Merchant may also be assessed a PCI DSS Compliance fee, which will appear as a separate item on Merchant's monthly statement. This fee is assessed by Member and Global Direct in connection with Member and Global Direct's efforts to comply with the PCI Data Security Standard and does not ensure Merchant's compliance with the PCI Data Security Standard or any law, rule or regulation related to cardholder data security. The payment of such fee shall not relieve Merchant of its responsibility to comply with all rules and regulations related to cardholder data security, including without limitation the PCI Data Security Standard. Merchant may also be assessed a PCI DSS Non-Compliance fee until they validate compliance or confirm they are using a PA DSS Validated payment application.

39.8. Merchant will also be assessed the following fees on or related to Visa transactions: the Visa Misuse of Authorization System fee, which will be assessed on authorizations that are approved but never settled with the Merchant's daily batch, the Visa Zero Floor Limit Fee, which will be assessed on settled transactions that were not authorized, the Visa Zero Dollar Verification fee, which will be assessed on transactions where Merchant requested an address verification response without an authorization, the Visa Transaction Integrity fee, which will be assessed on Visa signature debit and prepaid transactions that fail to meet processing and transaction standards defined by Visa, and a monthly fee based on the number of card present Merchant locations by Merchant taxpayer identification number and/or all Visa volume processed by a Merchant's taxpayer identification number. Merchant will also be assessed a Mastercard CVC2 Transaction fee and the Mastercard Misuse of Authorization System fee, which will be assessed on authorizations that are approved but never settled with the Merchant's daily batch or not properly reversed within 120 days, and an acceptance and licensing fee that will be applied to the Merchant's total U.S. Mastercard sales volume. These fees will be displayed as separate items on Merchant's monthly statement, provided that the acceptance and licensing fee may be included with Merchant's Mastercard assessment fees, and may include fees assessed by both the applicable card association and Member or Global Direct.

SURCHARGE ADDENDUM FOR PREDOMINANT MARKET SECTORS

Retail/Restaurant Electronic Merchant

If you are a Retail Merchant or a Restaurant Merchant with retail-only pricing (no Business Card Rate) and utilize a certified terminal product or electronic system or the payment application provided by Global Direct or its partner, which is designed for authorization and settlement through Global Direct, each consumer card transaction you submit which meets all of the following requirements will be priced at the rate quoted. Each transaction not processed as outlined, including without limitation retail commercial card transactions in addition to transactions using Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card, Discover Premium Plus Card and all Commercial Cards, will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain a single electronic authorization with magnetic strip read or contactless data capture (electronic imprint) at the time of sale. Obtain a single electronic authorization and settle for authorized amounts.
- Obtain a cardholder signature (unless transaction is eligible for No Signature Required [NSR] program). Settle and transmit batches same day via your terminal/electronic system.
- The electronic authorization amount must be equal to the transaction amount on all Visa debit card transactions unless a Restaurant (MCC 5812), Fast Food (MCC 5814), Service Station (MCC 5541) or, Bar/Tavern (MCC 5513), Beauty/Barber Shop (MCC 7230), or Taxi/Limousines (MCC 4121).
- The electronic authorization amount must be equal to the transaction amount on Discover retail transactions except that Taxi Limousines (MCC 4121) and Beauty/Barber Shop (MCC 7230) merchant transactions may vary up to 20%. Restaurant (MCC 5812), Fast Food (MCC 5814), Service Station (MCC 5541) or Bar/Tavern (MCC 5513) transactions may vary by more than 20% from the electronic authorization without incurring surcharges.

Restaurant Electronic Merchant

If you are a Restaurant Merchant MCC 5812 or Fast Food Merchant MCC 5814 and utilize a certified terminal product or electronic system for authorization and settlement through Global Direct, each consumer card transaction you submit which meets all of the following requirements will be priced at the rate quoted. Each transaction not processed as outlined, in addition to transactions using Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card, and Discover Premium Plus Card will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application. Commercial Card transactions that meet these requirements will be subject to the Business Card rate quoted in the Fee Schedule. Commercial Card transactions not processed in accordance with these requirements will be subject to the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain a single electronic authorization with magnetic strip read or contactless data capture (electronic imprint) at the time of sale. Obtain a cardholder signature (unless transaction is eligible for NSR program).
- Settle and transmit batches same day via your terminal/electronic system.

Supermarket Electronic Merchant

If you are an approved (certified) supermarket merchant and utilize a terminal or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets all of the following requirements will be priced at the rate(s) quoted for Supermarket Credit Card and Supermarket Check Card. Each transaction not processed as outlined, in addition to transactions using Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite, Discover Rewards Card, Discover Premium Card, Discover Premium Plus Card and commercial cards, will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain a magnetic strip read (card swipe/contactless data capture/electronic imprint) at the time of sale. Obtain a single electronic authorization and settle for authorized amounts.

- Obtain a cardholder signature (unless transaction is eligible for NSR program). Settle and transmit batches same day via your terminal/electronic system.
- The electronic authorization amount must be equal to the transaction amount on all Visa debit card transactions.

Emerging Market Electronic Merchant

If you qualify as an Emerging Market Merchant (as defined by Association guidelines from time to time) and utilize a terminal or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets all the following requirements will be priced at the rates quoted. Any other transaction, including commercial card transactions, Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card, Discover Premium Plus Card, and non-magnetic stripe read foreign transactions will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application. In addition, each Visa transaction not processed as outlined, but transmitted same day or next day via your terminal/electronic system, will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain a single electronic authorization.
- Settle and transmit batches same day via your terminal/electronic system. Provide market data as required. See Note.

NOTE: If card is not present and a magnetic stripe read does not occur, then Merchant may be required to comply with **"Direct Marketer"** market data requirements including AVS request on cardholder billing address at time of authorization. If card is present and cardholder signature is obtained, however the magnetic stripe is damaged, then Merchant may be required to obtain AVS match on cardholder billing address zip code.

MOTO Electronic Merchant

If you are a MOTO Merchant (non-magnetic swipe read transactions), and utilize a certified terminal product or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets all of the following requirements will be priced at the rate quoted. Any other transaction, including all foreign transactions and commercial card transactions in addition to transactions using Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card, and Discover Premium Plus Card will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain an electronic authorization and settle for authorized amounts (one reversal permitted on Visa transactions to make authorization amount equal to settle amount).
- Address Verification Request in authorization on cardholder billing address. For Discover transactions, Merchant must obtain full address verification request on street number and/or 9 digit postal code.
- CID verification for Discover merchants on non-recurring transactions. Purchase date (settled date) is ship date.
- Send order number with each transaction.
- Settle and transmit batches same day via your terminal/electronic system.
- Send level 3 data (line item detail, sales tax, customer code) with every eligible commercial card transaction.

NOTE: Card Not Present transactions involving one-time, recurring, or installment bill payment transactions are subject to additional card association requirements which must be complied with to avoid surcharges. Electronic commerce transaction requirements are also subject to additional card association requirements which must be complied with to avoid surcharges. Please refer to Card Acceptance Guide for additional requirements.

NOTE: Transactions which utilize our TouchTone Capture system for authorizations and settlement, settle beyond 48 hours, or are not transmitted via the TouchTone Capture system, will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

Public Sector Electronic Merchant

If you are an approved (certified) public sector merchant and utilize a terminal or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets all of the following requirements will be priced at the rate(s) quoted for Public Sector. Each transaction not processed as outlined, in addition to transactions using Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite, Discover Rewards Card, Discover Premium Card, Discover Premium Plus Card and commercial cards, will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain a magnetic strip read (card swipe/contactless data capture/electronic imprint) at the time of sale. Obtain a single electronic authorization and settle for authorized amounts.
- Obtain a cardholder signature (unless transaction is eligible for NSR program). Settle and transmit batches same day via your terminal/electronic system.
- The electronic authorization amount must be equal to the transaction amount on all Visa debit card transactions.

Purchase Card Electronic Merchant

If you are a Purchase Card Merchant (non-magnetic swipe read transactions) and utilize a certified terminal product or electronic system for authorization and settlement through Global Direct, each transaction you submit which meets the following requirements will be priced at the rate quoted. Each Visa transaction not processed as outlined, but transmitted same day or next day via your terminal/electronic system, will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application. Each Visa business and commercial card transaction will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application. Any other transaction that does not meet the following requirements, including without limitation foreign transactions, tax-exempt Visa Commercial transactions, Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card and Discover Premium Plus Card will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain an electronic authorization and settle for authorized amounts (one reversal permitted on Visa transactions to make authorization amount equal to settled amount).
- Address Verification Request in authorization on cardholder billing address. Purchase date (settled date) is ship date.
- Send order number (customer code) with each transaction. Send tax amount with every transaction.
- Send Level 3 data (line item detail) with every eligible commercial card transaction. Sales tax exempt transactions will not be considered to meet these requirements unless they include Level 3 data (line item detail).
- Settle and transmit batches same day via your terminal/electronic system.

Lodging/Auto Rental Electronic Merchant

If you are a Lodging or Auto Rental Merchant utilizing a terminal or electronic system for authorization and settlement through Global Direct, each consumer card transaction you submit which meets the following requirements will be priced at the rate quoted. Each transaction not processed as outlined, including without limitation non-magnetic stripe read foreign transactions, and transactions using Visa Rewards Card, Visa Signature Card, Visa Signature Preferred Card, Visa Infinite Card, Mastercard Rewards Card, Mastercard World Card, Mastercard World Elite Card, Discover Rewards Card, Discover Premium Card, and Discover Premium Plus Card will be priced at the rate quoted plus the applicable surcharge rate quoted in the Merchant Application. Commercial Card transactions that meet these requirements will be subject to the Business Card rate quoted in

the Fee Schedule. Commercial Card transactions not processed in accordance with these requirements will be subject to the rate quoted plus the applicable surcharge rate quoted in the Merchant Application.

- Obtain a magnetic swipe read (card swipe/electronic imprint) at the time of check-in.
- Obtain additional electronic authorizations or send partial reversals to bring total authorized amount within 15% of settled amount. Authorizations must meet card association requirements.
- Obtain a cardholder signature for final transaction amount. Purchase Date is hotel check-out date/auto return date.
- Length of guest stay/rental in initial authorization.
- Hotel Folio/Rental Agreement Number and check-in date/check-out date transmitted with each transaction.
- Additional market data may be required for commercial card transactions to avoid surcharges. Lodging merchants who: (a) accept credit cards for advance payment; (b) guarantee reservations using a credit card; or (c) provide express check-out services to guests, must comply with additional card association requirements for these services in addition to additional authorization and settlement market data requirements. Lodging merchants who subject charges to final audit and bill for ancillary/additional charges must comply with additional bank card association requirements for these services in addition to additional authorization and settlement market data requirements to avoid surcharges. These transactions may also be subject to the rate quoted plus the applicable surcharge rate quoted in the Merchant Application. Please see Card Acceptance Guide for requirements and best practices for these transactions.

Paper Deposit Merchant

Non-terminal/electronic paper deposit transactions will be priced at the rate quoted in the Card Services Fee Schedule of the Merchant Application.

Debit Card Merchant

Each debit card transaction will be assessed the network's acquirer fee in addition to the debit card per item fee quoted in the Card Services Fee Schedule of the Merchant Application.

Card Present / Mag Stripe Failure:

A magnetic stripe read is also referred to as an electronic imprint. If the magnetic stripe is damaged, then other validation means may be required to protect against counterfeit cards and merchant must obtain a manual imprint. Most products, including the payment application, if any, will prompt for cardholder billing zip code and perform an AVS check for a zip code match. CID verification is recommended for Discover key-entered transactions. Key-entered retail transactions are subject to higher interchange and surcharges.

The foregoing information regarding surcharging is not comprehensive and is subject to change by the card association. Additional or different rates or fees may apply based on the details of a subject transaction.

All questions regarding Card Services should be referred to Global Payments Direct Inc. – 3550 Lenox Road NE, Suite 3000, Atlanta, GA. 30326, or call: 1-800-367-2638. Note: Billing disputes must be forwarded, in writing, to Customer Service within 60 days of the date of the statement and/or notice.

Contact information for Member is listed in the Merchant Application.

Global Payments Direct Inc. is a registered ISO of BMO Harris Bank N.A. and Wells Fargo Bank, N.A.

Debit sponsorship is provided by Old Line Bank - 1525 Pointer Ridge Place, Bowie, MD. 20716, 1(800)617-7511.



City of Pembroke Pines, FL

601 City Center Way
Pembroke Pines, FL
33025
www.ppines.com

Agenda Request Form

Agenda Number: 13.

File ID: 21-0044

Type: Agreements/Contracts

Status: Passed

Version: 1

**Agenda
Section:**

In Control: City Commission

File Created: 01/20/2021

Short Title: Open Edge Payment LLC Agreement

Final Action: 02/17/2021

Title: MOTION TO APPROVE THE AGREEMENT WITH OPEN EDGE PAYMENT, LLC (A DIVISION OF GLOBAL PAYMENT) AND THE CITY OF PEMBROKE PINES TO PROVIDE MERCHANT PROCESSING SERVICES FOR INITIAL TERM OF ONE YEAR WITH AUTOMATIC RENEWALS OF ADDITIONAL ONE YEAR PERIODS UNLESS CITY GIVES 30-DAYS ADVANCE WRITTEN NOTICE OF TERMINATION PRIOR TO THE END OF THE THEN-CURRENT TERM, PURSUANT TO SECTION 35.18(C)(8) OF THE CITY'S CODE OF ORDINANCES.

***Agenda Date:** 02/17/2021

Agenda Number: 13.

Internal Notes:

Attachments: 1. Credit Card Merchant Application and Agreement, 2. Check Services Application and Agreement, 3. Tyler preferred and recommended vendors, 4. Letter from Open Edge, 5. Commission Approval of Tyler Technologies Inc. 4-17-19

1 City Commission 02/17/2021 approve

Pass

Action Text: A motion was made to approve on the Consent Agenda

Aye: - 5 Mayor Ortis, Vice Mayor Schwartz, Commissioner Good Jr.,
Commissioner Castillo, and Commissioner Siple

Nay: - 0

PROCUREMENT PROCESS TAKEN:

- Chapter 35 of the City's Code of Ordinances is titled "PROCUREMENT PROCEDURES, PUBLIC FUNDS."

- Section 35.18 of the City's Code of Ordinances is titled "COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS REQUIRED; EXCEPTIONS."

- Section 35.18(C) states that "Only the following situations are exempt from the competitive bid and competitive proposal requirements of this section:"

- **Section 35.18(C)(8) states that "Purchases of and contracts for commodities or services are exempt from this section when the City Commission declares by a simple majority affirmative vote that the process of competitive bidding and competitive proposals is not in the best interest of the City. The City Commission shall make specific factual findings that support its determination, and such contracts may be placed on the City Commission consent agenda.**
- **Section 35.21 of the City's Code of Ordinances is titled "AWARD OF CONTRACT."**
- **Section 35.21(A) of the City's Code of Ordinances is titled "City Commission approval."**
- **Section 35.21(A)(1) states, "An initial purchase of, or contract for, commodities or services, in excess of \$25,000, shall require the approval of the City Commission, regardless of whether the competitive bidding or competitive proposal procedures were followed."**

SUMMARY EXPLANATION AND BACKGROUND:

1. On April 17, 2019, the City Commission approved an agreement with Tyler-Munis (Tyler) for the implementation of a City-wide Enterprise Resource Planning (ERP) software for a total cost of approximately \$7.3 million. The implementation of this project will be phased in over several years with an estimated completion of all phases in the second half of 2022.
2. The City is currently in the process of going live with Phase 1 - Financials which includes General Ledger, Budget, Accounts Payable, Capital Assets, Cash Management, and Purchasing to name a few.
3. Implementation of Phase 2 has also begun and includes Utilities, General billing, and Cashiering, with an estimated go-live in June 2021.
4. As part of the Phase 2 implementation, representatives from Tyler communicated to City Administration that their software is not compatible or integrated with the City's current credit card merchant processing service provider, FIS Global.
5. Finance staff coordinated various meetings with Tyler representatives and our current provider FIS Global to determine if anything could be done to utilize our current vendor, but it was determined by both parties that this was not possible.
6. To facilitate a seamless integration with Tyler's cashiering, accounts receivable and citizen self-service modules for credit and debit card processing; Tyler has recommended two preferred Merchant Service Providers - Open Edge and BridgePay.
7. The City staff evaluated both Tyler's preferred vendors based on the fee structure,

security, feedback from other municipalities, and connectivity. Based on the best interest of the City, the Finance Department has concluded that Open Edge is the most beneficial option for the City.

8. Below are the factual findings:

- Open Edge is one of the two preferred vendors recommended by Tyler.
- Open Edge is the merchant provider that is integrated with CivicRec, which is the software program being utilized by the Recreation and Cultural Arts Department.
- Open Edge is a division of Global Payments Inc. which is one of the largest credit card processors. It is the only "one-stop shop" that can provide fully integrated services including the gateway, credit card merchant processing services, hardware and software, and 24/7/365 support on all service components.
- Finance has reviewed some other preferred vendors that are compatible with Tyler but many on the list only provide gateway services, this will require the City to engage another vendor for the credit card merchant processing services.

9. In order for CivicRec to be fully functional, and to have the ability to accept credit card payments through this software, the City will also be utilizing Open Edge. Residents will be able to book and pay for various recreational services seamlessly using their debit and credit cards.

10. **SERVICE FEES:** - Open Edge has agreed to match the City's current contract rates with FIS Global of 2.6% for debit and credit cards. The standard convenience fee rate that Open Edge charges is 3.0%. Open Edge has also agreed to match the current E-check transaction fee of \$1.49, being charged.

11. Historically, the City has incurred no cost for merchant processing services as convenience fees were paid by the individuals and businesses using the service. However, when the Pandemic caused the closure of various City buildings to the public; to assist in alleviating some of the economic burdens on the residents and the business community, and to encourage customers to pay online as a "safer at home" preventive response to COVID-19, the City temporarily waived the convenience fees. The City currently absorbs approximately \$40,000 a month in credit card fees related to the waived conveniences fees. For the Fiscal year-do-date January 2021; the City has absorbed \$159,394 in credit card and e-check fees.

12. The City will continue to absorb these fees as long as City buildings remain closed to the public and will evaluate the re-instatement of the fees once we return to a state of "normalcy".

13. **EQUIPMENT PURCHASE:** As part of transitioning to this new vendor the City will also be required to purchase new credit card machines. The approximate cost of each machine will be \$650.00, the City anticipates it will need approximately 20 machines for the various locations throughout the City for an amount of \$13,000.

14. The City Attorney's office has reviewed and the applications and the General terms and conditions of the agreements.

15. In order to facilitate a smooth transition of Phase 2 and other phases involving debit and credit cards processing - Administration recommends the City Commission to approve the agreement with Open Edge Payment, LLC (a division of Global Payment) and the City of Pembroke Pines to provide merchant processing services for initial term of one year with automatic renewals of additional one year periods unless City gives 30-days advance written notice of termination prior to the end of the then-current term. The goal will be to issue an more formal request for proposal once these modules have been implemented, pursuant to Section 35.18(C)(8) of the City's Code of Ordinances.

FINANCIAL IMPACT DETAIL:

a) Initial Cost:

Service Fees: There will be no cost the city, if the City charges the customers for the Credit Card Fees. However, if the fees are paid by the City the estimated cost for the remainder of the year is \$320,000.

Equipment Purchase: The estimated cost of the equipment \$13,000.

b) Amount budgeted for this item in Account No:

These fees were not budgeted in fiscal year 2021 as the City has not waived credit card fees in the past. The City will need to utilize reserves in the General Fund and the Utility Fund to cover these initial fees. Fees will be budgeted for the next fiscal year 2022.

c) Source of funding for difference, if not fully budgeted: Fund Balance Reserves

d) 5 year projection of the operational cost of the project

<u>Fund</u>	<u>A/F</u>	<u>Div</u>	<u>Proj</u>	<u>Obj Code</u>	<u>YTD Jan Amount</u>	<u>Annualized Amount</u>
1	519	City Clerk 1001		49400	\$2,827.94	\$9,000.00
1	513	Finance 2001		49400	\$1,841.39	\$6,000.00
1	529	Fire/Rescue 4003		49400	\$590.02	\$2,000.00
1	554	Housing Division 8002	603	49400	\$1,585.40	\$5,000.00
471	536	Utilities Admin Services		49400	\$152,549.11	\$458,000.00
TOTAL					\$159,393.86	\$480,000.00

e) Detail of additional staff requirements: Not Applicable

Garcia, Oniel

From: Danielle Schwabe <dschwabe@GorenCherof.com>
Sent: Tuesday, November 17, 2020 12:19 PM
To: Garcia, Oniel
Cc: Santos, Wilbert; Jacob G. Horowitz
Subject: RE: Global Payments Direct

This sender is trusted.

Hi Oniel,

Please note, in regards to your below email, for clarity this request relates to Global Payments Direct and I did not receive the return edits from the vendor until yesterday. The edits proposed by the vendor are acceptable. Please note the vendor did not accept many of our proposed changes but as a business decision the City may move forward with accepting the terms proposed by Global Payments Direct. If for some reason the Department would like to push back on a rejected change please update us accordingly and we will assist.

Since the document is locked and I am not able to accept revisions please ensure that the clean draft provided by the vendor matches the redline in the attached document.

If there are any further questions please let us know.

Sincerely,

Danielle Schwabe



**GOREN CHEROF
DOODY & EZROL P.A.**
ATTORNEYS AT LAW

3099 East Commercial Boulevard, Suite 200

Fort Lauderdale, Florida 33308

Telephone: (954) 771-4500 x 5016 | (561) 276-9400 x 5016 | Fax: (954) 771-4923

Email: dschwabe@GorenCherof.com | www.GorenCherof.com

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openedge
A division of globalpayments

OPENEDGE CHECK SERVICES MERCHANT APPLICATION

Merchant's DBA Name/Outlet Name:		Merchant's Legal Name:	
City of Pembroke Pines		City of Pembroke Pines	
Contact Name at this Address:		Contact Name at this Address:	
Oniel Garcia		Oniel Garcia	
Email:		Email:	
ogarcia@ppines.com		ogarcia@ppines.com	
Physical Street Address (No Po Box):		Legal Address:	
601 City Center Way		601 City Center Way	
City, State, Zip:		City, State, Zip:	
Pembroke Pines, FL, 33025		Pembroke Pines, FL, 33025	
DBA Phone:	Fax:	Corp Phone:	Fax:
(954) 450-1060		(954) 450-1060	
Company Stock Ticker (If Publicly Traded):		Website Address (Required for Internet Merchants):	
		https://www.ppines.com/	
Customer Service Phone (Required for Moto and Internet Merchants Only):		Federal Tax ID #:	Years in Business (Current Owner):
(954) 450-1060		5 9 0 9 0 8 1 0 6	60

Merchant Profile

Type of Ownership: <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> LLC <input type="checkbox"/> Professional Assoc <input type="checkbox"/> Other <input type="checkbox"/> Tax Exempt Org (510c)	SIC/MCC Code: 9 3 9 9
Description of Products or Services Sold:	
Municipal Services	

Account Deposit and Funds Information

Transaction Funding Bank Routing/Transit Number:	Transaction - Bank Account Number:	Transaction Type of Account:
0 6 7 0 1 4 8 2 2	7600489127	<input checked="" type="checkbox"/> Checking <input type="checkbox"/> Savings
Billing Bank Routing/Transit Number (If different from Funding Account):	Billing Bank - Bank Account Number:	Billing Type of Account:
		<input type="checkbox"/> Checking <input type="checkbox"/> Savings

Requested Activity Transaction Processing Information

Annual Check Sales	Average Transaction
28,050,000	187
Please provide accurate estimates of your expected ACH and/or Check21 activity. This information will be used during underwriting as a guide to establish your transaction limits. Requested amounts below are subject to approval by OpenEdge Risk Management	
Highest Single Monthly Amount \$	Highest Single Transaction Amount \$
6,000,000	33,192

OpenEdge Check Services Requested - Please select all that apply. (Estimate usage % of each check type) (Must total 100%)

Paper Check Conversion - Remote Deposit Capture: Please Note: Hardware is required for these Transaction Types			
<input type="checkbox"/>	I receive paper checks through the mail or in a lockbox.	ARC	0%
<input type="checkbox"/>	I receive paper checks at the time of the sale. I later process and convert them to an electronic payment.	BOC	0%
<input type="checkbox"/>	I receive paper checks at the time of the sale and I process and convert them at the same time to an electronic payment.	POP	0%
Electronic Check (a paper check is not presented)			
<input checked="" type="checkbox"/>	I have written pre-arranged agreements with my consumers to debit or credit their personal bank account for the goods or service I sell.	PPD	1%
<input checked="" type="checkbox"/>	I take transactions on a phone call from my consumers.	TEL	20%
<input checked="" type="checkbox"/>	Payments are submitted to me via a website, shopping cart or similar method.	WEB	79%
<input type="checkbox"/>	We have pre-arranged written agreements with our Corporate Partner authorizing us to debit or credit their bank accounts.	CCD	0%

Additional Services Available

<input type="checkbox"/> Check Verification Services	<input type="checkbox"/> Check 21 (AIR)
--	---

EMAIL NOTIFICATION☒ Please send email notifications of returned items

Primary Email Address lchong@ppines.com

Secondary Email Address

AUTO RE-PRESENTMENT

Would you like OpenEdge to automatically re-present ACH and/or Check21 NFS returns?

☐ Yes ☒ No If yes, please complete Re-Presentation Options below.**ACH RE-PRESENTMENT OPTIONS**Face Amount - Maximum Number of Re-Presentments (select one): ☐ 2 ☐ 1

Timing of Re-Presentation: of Days (0=immediately)

CHECK21 RE-PRESENTMENT OPTIONSFace Amount - Maximum Number of Re-Presentments (select one): ☐ 1

Timing of Re-Presentation: of Days (0=immediately)

Corporate Officers or Principal (A Principal is an Owner, or, If a Public Corporation Senior Officers Starting With CEO, CFO or President.)

Name of Principal:	Title of Principal:	% Owned:	Phone Number:	Residential Address, City, State, Zip:
Charles F Dodge	City Manager	0%	(954) 450-1060	601 City Center Way, Pembroke Pines, FL, 33025
		%		, , ,
		%		, , ,


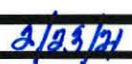
Personal Guarantee

As a primary inducement to OpenEdge Payments LLC ("OpenEdge") to enter into this Agreement, the persons indicated and signing below (the "Guarantor(s)") do jointly and severally, unconditionally and irrevocably, guarantee the continuing full and faithful performance and payment by Merchant of each of its duties and obligations to OpenEdge pursuant to this Agreement, as it now exists or amended from time to time, with or without notice. Guarantor(s) understands that OpenEdge may proceed directly against Guarantor(s) without first exhausting its remedies against any other person or entity responsible therefore to it or any security held by OpenEdge or Merchant. This guarantee will not be discharged or affected by the death of Guarantor(s), will bind all heirs, administrators, representatives and assigns and may be enforced by or for the benefit of any successor of OpenEdge. Guarantor(s) understand that the inducement to OpenEdge to enter into this Agreement is consideration for the guarantee, and that this guarantee remains in full force and affect even if the Guarantor(s) receive no additional benefit from the guarantee. This guarantee shall not be discharged or otherwise affected by any waiver, indulgence, compromise, settlement, extension of credit, or variations of terms of this Agreement. Guarantor(s) agree to promptly provide to OpenEdge or its agents any information requested by any of them from time to time concerning its financial conditions(s), business relationships, business history, and employment information. Guarantor(s) have read, understand, and agree to be bound by the terms and conditions set forth in this Merchant Application as well as the OpenEdge Check Services Agreement, and certifies that all information provided in these applications is true and correct and complete. Guarantor(s) authorize OpenEdge or any credit reporting agency employed by OpenEdge or any agent of OpenEdge, to make whatever inquiries OpenEdge deems appropriate to investigate, verify or research references, statements or data obtained for the purpose of this Merchant Application.

Print Name:	Social Security #:	Date of Birth:
Street Address:	City/State/Zip:	Years at Address:
Home Phone:	Email Address:	
Signature:		Date:
Print Name:	Social Security #:	Date of Birth:
Street Address:	City/State/Zip:	Years at Address:
Home Phone:	Email Address:	
Signature:		Date:

Signature

The undersigned is duly authorized to sign on behalf of the Merchant and to bind the Merchant to the terms and conditions set forth in this Merchant Application and the OpenEdge Check Services Agreement ("Agreement"), which terms and conditions are acknowledged and agreed to by the Merchant, and certifies that all information provided in this Merchant Application is true, correct and complete. The undersigned signing on behalf of the Merchant is a legal resident of the United States of America, is at least 18 years of age, and authorizes OpenEdge or any credit reporting agency employed by OpenEdge or any agent of OpenEdge, to make whatever inquiries OpenEdge deems appropriate to investigate, verify or research references, statements or data obtained from Merchant for the purpose of this Merchant Application. The undersigned, on behalf of the Merchant, authorizes OpenEdge to initiate automated deposit or debit (ACH) entries to the Merchant's bank account as indicated on this Merchant Application or subsequently provided by Merchant.

Print Name of Authorized Signer: Charles F Dodge	Title of Authorized Signer: City Manager
Signature: 	Date: 



OpenEdge Check Services Agreement

As set forth in the attached Merchant Application, between OpenEdge Payments LLC and the City of Pembroke Pines, Florida ("Merchant"), this OpenEdge Check Services Agreement ("Agreement") governs Merchant's use of OpenEdge Payments LLC's ("OpenEdge") OpenEdge Check services. OpenEdge and Merchant may be collectively referred to herein as "Parties". The Parties agree to be bound by these terms. Capitalized terms are defined on Exhibit A attached to this Agreement.

I. OpenEdge Responsibilities

1.1 The Services. OpenEdge, in conjunction with its Professional Service Providers, will make available to Merchant the following Services:

A. Accelerated Intelligent Routing. OpenEdge will utilize its Intelligent Routing Services in processing Merchant's check-present transactions. Intelligent Routing Services will first attempt to route the transaction using the ACH Services, and if that fails, OpenEdge will then attempt to route the transaction using the Check21 Services ("Routing Services") providing that an image of the check is presented for processing.

B. ACH Services. OpenEdge will process and settle the ACH transactions presented by Merchant as the originator, including, but not limited to: (i) processing checks via ACH (categorized as POP, ARC, BOC, TEL, WEB, PPD, and CCD under the NACHA Rules; (ii) customer activation and approval, (iii) security and recovery; (iv) customer and other "back office" services; (v) check return services; and (vi) transmission of files to the ODFI. OpenEdge will provide Merchant with Software which provides the capability to process recurring transactions for WEB, PPD and CCD transaction types. Collectively, the above are referred to as "ACH Services".

C. Check21. OpenEdge will deliver to Merchant Software which provides the capability to interface with hardware that scans checks and associated paper-remittances to: (i) create an electronic image of the front and back of the check and any associated paper remittance items; (ii) provide the ability to validate the CAR/LAR payment amount and other information on the items; (iii) create an account receivable interface output file; (iv) create a transmission file that will ultimately be converted into ACH and/or x9 file format or its successors, and transmit such file to the ODFI; (v) create image archives of all items scanned; (vi) provide intranet and internet-based archive access; and (vii) provide a web-based gateway portal that allows for other capabilities such as electronic checks (collectively, "Check21 Services").

D. Check Verification. OpenEdge will match checks provided by Merchant's customers to the customer's checking account and compare the account to a database of accounts that have a history of returns ("Check Verification Services").

1.2 Software and Support. "Software" means software used in connection with the Services to enable remote capture, deposits and check verification through the ACH and other methods. OpenEdge will make available to Merchant an adequate amount of initial materials and supplies necessary for Merchant to complete initial customer transactions. OpenEdge Payments LLC will train Merchant on the procedures and rules applicable to the Services and the operation of appropriate terminals. OpenEdge will receive

and respond to Merchant's inquiries regarding the Services via E-mail and telephone. Merchant may obtain support by using the appropriate number(s) and E-mail addresses found at www.openedgepayment.com/en/support.

1.3 Merchant Data. OpenEdge will provide the Professional Service Providers with information about Merchant ("Merchant Data") in order to enable Merchant to access the Services. Merchant authorizes OpenEdge to provide the data derived pursuant to Merchant's use of the Services and Merchant Data to Professional Service Providers. Data derived pursuant to Merchant's use of the Services and Merchant Data shall be held in strict confidence by the Professional Services Providers and the Parties hereto, and shall not be disclosed to any unauthorized third-party. In the event of an unauthorized disclosure, OpenEdge shall provide written notice of such breach to Merchant, unless OpenEdge is prohibited from doing so by its sponsor bank, the card brands, or law enforcement. Data derived pursuant to Merchant's use of the Services and Merchant Data shall be protected and secured in accordance to the applicable Federal and State regulations regarding data security.

1.4 Optional Additional Service. From time to time, OpenEdge may make available to Merchant additional services and any such services accepted by Merchant shall be described in addenda to this Agreement reflecting the details of and any Fees associated with such service. Notwithstanding the foregoing, Merchant shall not be responsible for payment for additional services unless authorized in an amendment or addendum signed by the Parties hereto.

1.5 Disclaimer of Warranties. OpenEdge does not make, and hereby expressly disclaims, any express or implied warranties or conditions with respect to the Software, the Services, or any authorization provided under this Agreement, including but not limited to the implied warranties of merchantability, suitability, satisfactory quality, or fitness for a particular purpose. Further, OpenEdge does not warrant: (A) the Software will be error-free or uninterrupted; (B) the Software will be compatible with any hardware except the hardware supplied by or otherwise approved by OpenEdge; or (C) the Software will integrate with any other computer system. All Services and deliverables described in this Agreement are on an "as is" basis.

II. Merchant Responsibilities

2.1 Hardware and Software. Merchant will provide and maintain all computer hardware, peripherals, device drivers, third party operating systems, and other third party software which may be required to operate the software and/or receive the Services. Merchant will ensure the compatibility of Merchant's computer hardware, peripherals, device drivers, third party operating systems, and other third party software with the Software. Merchant will provide a safe and suitable location for installation, use, and operation of the Software in accordance with any instructions that may be reasonably specified by OpenEdge. Merchant will be responsible for distributing, maintaining and protecting login usernames and passwords provided to Merchant's employees, contractors and agents, and will be liable for such individuals' misuse.

2.2 Cooperation. Merchant will cooperate with OpenEdge by providing access to Merchant's information, resources and personnel as reasonably requested. OpenEdge shall have the right from time to time, upon reasonable prior notice, to review Merchant's use of the Software to verify compliance with this Agreement. Merchant shall allow OpenEdge to perform a site survey at Merchant's location within five (5) days of its request. Merchant will provide OpenEdge financial statements and other financial information as requested from time to time. If requested, Merchant will furnish to OpenEdge upon request a financial statement of profit and loss for the fiscal year and a balance sheet as of the end of the fiscal year.

2.3 Software Restrictions. Title, copyright, intellectual property rights and distribution rights of the Software remain exclusively with OpenEdge. Merchant will not use the Software except as specifically provided in this Agreement. Merchant shall not copy, decompile, disassemble or otherwise reverse-engineer or reproduce, or knowingly allow others, including without limitation,

customers, resellers or others, to perform such reverse-engineering of the Software.

2.4 Representations and Warranties. Merchant represents and warrants to OpenEdge that: (A) Merchant is (i) a municipal corporation organized pursuant to the laws of Florida, validly existing and in good standing under the laws of the United States and in Florida; (B) Merchant has full authority and corporate power to enter into this Agreement and to perform the obligations of this Agreement; (C) Merchant's performance of the terms of this Agreement will not violate any applicable law or regulation or any agreement to which Merchant may now or hereafter be bound; (D) this Agreement represents a valid obligation of Merchant and is fully enforceable against Merchant; and (E) Merchant will comply with the terms of this Agreement. Further, Merchant will be responsible for complying with all applicable federal and state laws and regulations relating to transactions with Merchant's customers and this Agreement. All transactions submitted to OpenEdge will be for bona fide transactions with Merchant's customers.

2.5 Compliance With Laws. Merchant agrees to comply with all policies and procedures provided by OpenEdge, all payment network rules and regulations and all applicable state, federal and local laws, rules and regulations, as amended from time to time. Merchant will assist OpenEdge in complying with all laws which are applicable to any transaction or this Agreement. Merchant will execute and deliver to OpenEdge all instruments OpenEdge may from time to time reasonably deem necessary. Merchant understands that Merchant may not rely on, and OpenEdge will not be liable for, any advice OpenEdge may provide to Merchant about compliance with various laws.

2.6 Returns. Merchant is fully liable for all transactions returned for whatever reason. Merchant will pay on demand the value of all Returns and Chargebacks. Merchant authorizes OpenEdge to recoup from incoming transactions and to debit Merchant's Bank Settlement Account and the Reserve Account for the amount of all Returns and Chargebacks.

2.7 Merchant Application. Merchant represents and warrants to OpenEdge that all information in the Merchant Application is correct and complete. Merchant must notify OpenEdge in writing of any changes to the information in the Merchant Application, including but not limited to: any additional location or new business (the identity of principals and/or owners, the form of business organization (i.e., sole proprietorship, partnership, etc.)), type of goods and services provided and how sales are completed (i.e. by telephone, mail, or in person at Merchant's place of business). OpenEdge must receive the notice within ten (10) business days of the change. Merchant will provide other updated information to OpenEdge within a reasonable time upon request. Merchant is liable to OpenEdge for all losses and expenses OpenEdge incur arising out of Merchant's failure to report changes to OpenEdge. OpenEdge may immediately terminate this Agreement upon notification by Merchant of a change to the information in the Merchant Application.

2.8 *[Intentionally omitted]*

2.9 Authorizations. Merchant authorizes OpenEdge to audit Merchant's records, systems, processes or procedures to confirm compliance with this Agreement. Merchant will obtain, and will submit a copy of, an audit of Merchant's business when requested by OpenEdge. Merchant authorizes OpenEdge to make any credit inquiries OpenEdge consider necessary to review the acceptance and continuation of this Agreement. Merchant also authorizes any person or credit reporting agency to compile information to answer those credit inquiries and to furnish that information to OpenEdge.

2.10 Third Party Services. Merchant may be using special services or software provided by a third party to assist Merchant in providing the Services, including, but not limited to, authorizations and settlements, or accounting functions. OpenEdge has no responsibility for any transaction until that point in time OpenEdge receives data about the transaction.

III. Fees, Settlement, and Recoupment

3.1 Authorization. Merchant authorizes OpenEdge to present ACH debits and credits to Merchant's Settlement Account in the amount of fees and other payments due by Merchant under the Agreement. Merchant agrees to be bound by the terms of the operating rules of the National Automated Clearing House Association ("NACHA"), as amended from time to time. This ACH authorization will remain in effect after termination of this Agreement, and until such time as OpenEdge has received written notice terminating this authorization and all Merchant's obligations to OpenEdge have been paid in full. Merchant is solely liable for all fees and charges assessed by its financial institution, including all overdraft and NSF charges, and Merchant irrevocably releases OpenEdge and holds OpenEdge harmless from the same fees and charges, regardless of cause. OpenEdge is not liable for any delays in receipt of funds or errors in debit and credit entries caused by unaffiliated third parties including but not limited to a clearing house or Merchant's financial institution.

3.2 Fees. Merchant will pay OpenEdge fees ("Fees") for the Services and equipment in accordance with the rates set forth on Exhibit B. OpenEdge reserves the right to adjust the Fees at any time. Merchant's continued use of the applicable Services beyond the effective date of the price change will be deemed Merchant's consent to such price change. Prices do not include applicable state and local sales, use and related taxes. The Merchant is exempt from state and local sales and use taxes and shall not be invoiced for the same. Upon request Merchant will provide OpenEdge with proof of tax-exempt status.

3.3 Other Amounts Owed. Merchant will immediately pay to OpenEdge any amount incurred by OpenEdge attributable to this Agreement including but not limited to returns, unauthorized Returns, Chargebacks, non-sufficient fund fees, and ACH debits that overdraw the Settlement Account, Reserve Account (defined below) or are otherwise dishonored, if applicable. OpenEdge will debit via ACH the Settlement Account, Reserve Account, or any other account Merchant has at any financial institution, for any amount Merchant owes OpenEdge under this Agreement or under any other contract, note, or guaranty, now existing or later entered into between Merchant and OpenEdge, whether Merchant's obligation is direct, indirect, primary, secondary, fixed, contingent, joint or several. If such debit does not fully reimburse OpenEdge for the amount owed, Merchant will immediately pay OpenEdge such amount.

3.4 Charges and Settlement Procedures, Settlement Account.

A. Settlement. Merchant will designate and maintain a settlement account ("Settlement Account") with a balance of available funds sufficient to cover Merchant's obligations under this Agreement. OpenEdge will debit the Fees from the Settlement Account once each business day for the previous business day's activity, once each month for the previous month's activity, or will set off the Fees from the funds due to Merchant attributable to transactions presented to OpenEdge, in its discretion.

B. Authorization. Merchant irrevocably authorizes OpenEdge to credit and debit the amounts Merchant owes OpenEdge for Fees and for amounts OpenEdge owes Merchant from and to the Settlement Account. This authority will remain in full force and effect for two (2) years after termination of this Agreement whether or not Merchant has notified OpenEdge of a change to the Settlement Account. Merchant must obtain OpenEdge's prior written consent to make any change to the Merchant's Settlement Account. If Merchant changes the Settlement Account without receiving prior consent, OpenEdge

may immediately terminate this Agreement and may take other action OpenEdge deems necessary, in its sole discretion. Merchant also authorizes the financial institution(s) at which Merchant maintains its Settlement Account to act in accordance with instructions from OpenEdge regarding funds in the Settlement Account, including transferring funds in the Settlement Account to OpenEdge. To the extent permitted by applicable law, Merchant will indemnify and hold harmless the financial institution(s) at which Merchant maintains Merchant's Settlement Account for acting in accordance with any instruction from OpenEdge regarding the Settlement Account.

C. Withholding. Merchant agrees that this Agreement is a contract of financial accommodation within the meaning of the Bankruptcy Code, 11 U.S.C § 365 as amended from time to time. OpenEdge will deposit into the Settlement Account funds processed by Merchant and will provide Merchant provisional credit for such funds (less recoupment of any credits, adjustments, fines, Returns, Chargebacks, Fees or other costs). Final credit for those provisional funds will be granted in OpenEdge's sole discretion. OpenEdge, and not Merchant, owns all provisional funds, and title to such funds does not pass to Merchant until all amounts owed to OpenEdge is paid or recouped and OpenEdge deems such provisional credit final, in its reasonable discretion. Merchant understands and agrees that OpenEdge may withhold deposit and payment to Merchant without notice if OpenEdge determines, in its sole discretion, that a transaction or batch of transactions poses a risk of loss. OpenEdge is not responsible for any losses Merchant may incur, including but not limited to non-sufficient fund fees, due to such delayed deposit of funds. Merchant acknowledges that Merchant's obligation to OpenEdge for all amounts owed under this Agreement arise out of the same transactions as its obligation to deposit funds into the Settlement Account.

D. Deposits. OpenEdge will initiate a deposit to the Settlement Account upon receipt of funds. The deposit will be initiated the next business day following the funding hold period. The funding hold is determined during the underwriting process. Business days shall include any Monday through Friday, excluding holidays observed by the Federal Reserve. Merchant authorizes OpenEdge to initiate reversal or adjustment entries and initiate or suspend such entries as may be necessary to grant Merchant conditional credit for any entry.

E. Reports and Asserted Errors. A statement detailing the Fees will be made available to Merchant at www.myxcheckonline.com. Merchant must promptly examine all statements, and immediately notify OpenEdge in writing of any errors. Merchant's written notice must include: (1) Merchant's name and account number; (2) the dollar amount of the asserted error; (3) a description of the asserted error; and (4) an explanation of why Merchant believes an error exists and the cause of it, if known. That written notice must be received by OpenEdge within ninety (90) calendar days after the applicable statement containing the asserted error was made available to Merchant. Merchant waives all rights to make any claim against OpenEdge or any other party for any loss or expense relating to any asserted error after such 30 day period.

3.5 Reserve Account, Recoupment and Set-Off.

A. Security Interests. To the extent permitted by applicable law, this Agreement is a security agreement under the Uniform Commercial Code. Merchant grants to OpenEdge a security interest in and lien upon: (1) all funds at any time in the Settlement Account, regardless of the source of such funds; (2) all funds at any time in the Reserve Account, regardless of the source of such funds; and (3) any and all amounts which may be due to Merchant under this Agreement including, without limitation, all rights to receive any payments or credits under this Agreement (collectively, the "Secured Assets"). To the extent permitted by applicable law, Merchant agrees to provide other collateral or security to OpenEdge to secure

Merchant's obligations under this Agreement upon its request. These security interests and liens will secure all of Merchant's obligations under this Agreement and any other agreements now existing or later entered into between Merchant and OpenEdge. This security interest may be exercised by OpenEdge without notice or demand of any kind by making an immediate withdrawal or freezing the Secured Assets.

B. Perfection To the extent permitted by applicable law, and upon request by OpenEdge, Merchant will execute one or more financing statements, security agreements, account control agreements, or other documents to evidence this security interest. Merchant represents and warrants that no other person or entity has a security interest in the Secured Assets. Merchant will obtain OpenEdge's written consent prior to granting a security interest of any kind in the Secured Assets to a third party. Merchant agrees that this is a contract of recoupment and OpenEdge is not required to file a motion for relief from a bankruptcy automatic stay in order for OpenEdge to foreclose on, collect or sell any of the collateral (including any Settlement Account and/or Reserve Account). Nevertheless Merchant agrees not to contest or object to any motion for relief from the automatic stay filed by OpenEdge. Merchant authorizes OpenEdge and appoints OpenEdge as Merchant's attorney in fact to sign Merchant's name to any financing statement used for the perfection of any security interest or lien granted hereunder.

C. Reserve Account OpenEdge may establish and maintain a non-interest bearing deposit account on Merchant's behalf ("Reserve Account") at a financial institution OpenEdge chooses, initially or at any time in the future, and may fund the Reserve Account with sums sufficient to satisfy Merchant's current and future obligations as determined by OpenEdge. Merchant authorizes OpenEdge to debit the Settlement Account or any other account Merchant has at any financial institution in order to establish or maintain funds in the Reserve Account. OpenEdge may deposit into the Reserve Account funds OpenEdge would otherwise be obligated to pay Merchant for the purpose of establishing, maintaining or increasing the Reserve Account in accordance with this Section if OpenEdge determines such action is reasonably necessary to protect its interests. OpenEdge may, without prior notice to Merchant, apply deposits in the Reserve Account against any outstanding amounts Merchant owes under this Agreement or any other agreement between Merchant and OpenEdge. Notwithstanding the foregoing, OpenEdge will provide Merchant notice of the creation of a Merchant Reserve Account after such account is created, if applicable. Also, OpenEdge may exercise its rights under this Agreement against the Reserve Account to collect any amounts due to OpenEdge including, without limitation, rights of set-off and recoupment.

D. Funds in the Reserve Account Merchant agrees that Merchant will not use any funds in the Reserve Account for any purpose, including but not limited to paying Chargebacks, Fees, fines or other amounts Merchant owes OpenEdge under this Agreement. OpenEdge controls all funds in the Reserve Account, and OpenEdge (and not Merchant) shall have sole control of the Reserve Account.

E. Recoupment and Set Off OpenEdge has the right of recoupment and set-off. This means that OpenEdge may offset or recoup any outstanding/uncollected amounts owed by Merchant from: (1) any amounts OpenEdge would otherwise be obligated to deposit into the Settlement Account or Reserve Account; (2) any other amounts OpenEdge may owe Merchant under this Agreement or any other agreement; and (3) any funds in the Settlement Account or Reserve Account. Merchant acknowledges that in the event of a bankruptcy proceeding, in order for Merchant to provide adequate protection under Bankruptcy Code § 362 and/or 365 to OpenEdge, Merchant must create or maintain the Reserve Account as required by OpenEdge, and OpenEdge must have the right to offset and recoup against the Reserve Account for any and all obligations which Merchant may owe to OpenEdge, without regard to whether the obligations relate to transactions initiated or created before or after the filing of the bankruptcy petition.

F. Remedies Cumulative The rights and remedies conferred upon OpenEdge in this Agreement, at law or in equity, are not intended to be exclusive of each other. Rather, each and every right of ours under this Agreement, at law or in equity, will be cumulative and concurrent and in addition to every other right.

IV. Third Party Requirements

4.1 NACHA Requirements. Merchant authorizes OpenEdge, as a third party sender (as defined in the NACHA Rules), to act as Merchant's agent in processing ACH entries or check image deposits for Merchant, and acknowledges its understanding that OpenEdge will establish one or more clearing accounts with, and submit ACH entries or deposits on Merchant's behalf, to an ODFI selected by OpenEdge.

4.2 Originator Rules. Merchant: (A) assumes the responsibilities of and makes the warranties of an Originator (as defined in the NACHA Rules) and agrees to reimburse OpenEdge and the ODFI for returns, reversals, adjustments, reclamations and warranty claims and responsibilities related to Merchant's ACH entries or check image deposits; (B) agrees to comply with the NACHA Rules, including but not limited to the requirements of Article Three (Obligations of Originators), Article Five (Obligations of Third-Party Senders) and if international ACH entries are initiated by Merchant, the NACHA Rules applicable to IAT ACH entries, all of which are available at www.nacha.org; (C) agrees to comply with all applicable state and federal laws, rules and regulations, including but not limited to sanction laws administered by the Office of Foreign Assets Control, the Electronic Funds Transfer Act, the Unlawful Internet Gambling Enforcement Act, the Check Clearing for the 21st Century Act, and Federal Reserve Board Regulation E (the foregoing and the ACH Rules are, collectively, the "Applicable Rules"); and (D) acknowledges that ACH entries may not be initiated or deposits made that violate the laws of the United States, including but not limited to the sanctions laws, regulations and orders administered by OFAC, laws, regulations, rules and orders administered by FinCEN, and any state laws, regulations or orders applicable to the providers of ACH payment services.

4.3 Entries and Authorizations. Merchant represents and warrants as to each ACH entry that Merchant has obtained the necessary authorizations under the NACHA Rules and Applicable Rules and that Merchant shall not initiate any funds transfer after the authorization for the same has been revoked (or the agreement between Merchant and OpenEdge has been terminated).

With respect to each entry OpenEdge sends to the ODFI on Merchant's behalf, Merchant represents and warrants to OpenEdge and the ODFI that such entry is in compliance with United States law, including, but not limited to, rules promulgated and programs administered by OFAC and FinCEN, that no such entry violates United States law, including, but not limited to, rules promulgated and programs administered by OFAC and FinCEN, that Merchant is not acting on behalf of or transmitting funds to any party subject to OFAC sanctions and that such entry complies with the laws and payment system rules of the receiving country.

Merchant acknowledges that OpenEdge, the ODFI and other parties must comply with the NACHA Rules, Applicable Rules and United States law. The performance by each of these parties, including the ODFI, of obligations with respect to such entries may cause delays in processing, settlement and/or availability of the entries. Merchant waives and releases OpenEdge and the ODFI from any liability or obligation, including, but not limited to, funds availability obligations, caused by or arising out of any such delay associated with such entries.

4.4 Review. Merchant understands that OpenEdge and the ODFI have the right to: (A) review, monitor and audit Merchant's ACH transactions, processes and procedures for compliance with this Agreement and the NACHA Rules; (B) limit the amount of ACH entries processed for Merchant; and (C) suspend, discontinue or terminate processing based on their assessment of the risk posed to OpenEdge, the ODFI and/or the breach or termination of Merchant's agreements with OpenEdge.

4.5 Accuracy of Information and Errors. Merchant is responsible for the results of using OpenEdge, the Services, and for the accuracy and adequacy of the data Merchant or OpenEdge provides to the ODFI. Merchant authorizes the ODFI to act on any

instruction which has been or reasonably appears to have been sent by OpenEdge or Merchant, including but not limited to funds transfer instructions. The ODFI is not obliged to take any further steps to confirm or authenticate such instructions and will act on them without getting further confirmation. Merchant understands that if Merchant or OpenEdge provides the ODFI with incorrect information or if there is any error in the instruction Merchant accepts full responsibility for losses resulting from any of the errors, duplication, ambiguities or fraud in the information that was provided to the ODFI. Neither OpenEdge nor the ODFI is responsible to third parties (such as, but not limited to, third party service providers and the third parties to whom wire or ACH debit or credits are transmitted and Merchant shall defend, indemnify and hold the ODFI harmless from, the actions or omissions of OpenEdge, and Merchant shall defend, indemnify and hold both OpenEdge and the ODFI harmless from any claim made against OpenEdge or the ODFI arising out of Merchant's use of the Services, breach of this Agreement, or breach of any warranty under the NACHA Rules. IN NO EVENT WILL OpenEdge OR THE ODFI BE LIABLE OR RESPONSIBLE FOR, AND MERCHANT BEARS ALL RISK ASSOCIATED WITH, FOREIGN EXCHANGE CONVERSION AND ANY GAINS AND LOSSES RESULTING FROM THE CONVERSION OF CURRENCIES IN CONNECTION WITH ANY ENTRY.

4.6 Survival of Article IV. This Article IV shall survive the termination of the agreement between OpenEdge and the ODFI. Notwithstanding anything to the contrary elsewhere in the Agreement, the ODFI shall be considered an intended beneficiary of this Article IV and is entitled to enforce its terms. This Article IV is agreed to in consideration of the ODFI's agreement to serve as the ODFI. Merchant waives notice of the ODFI's acceptance of this Article IV.

V. Confidential Information

5.1 Information. For purposes of this Agreement "Confidential Information" means information belonging or relating to OpenEdge's business, including without limitation, the Software, its technology, the method of processing transactions, computer programs, software, message formats, procedures, forms, related materials, this Agreement, client lists, client information and pricing information. Merchant acknowledges that the Confidential Information has been developed through the expenditure of a significant amount of effort and resources. Merchant will not use for Merchant's own purposes, will not disclose to any third party, and will retain in strictest confidence all Confidential Information. Merchant will safeguard the Confidential Information by using the same degree of care and discretion that Merchant uses to protect Merchant's own confidential information.

5.2 Remedy. Merchant agrees that the Confidential Information constitutes trade secrets and that disclosures to others may result in loss or irreparable damage. Thus, if Merchant breaches this Section 5, OpenEdge will be entitled to injunctive relief in addition to any other rights to which OpenEdge may be entitled, without the necessity of proof of actual damages.

VI. Term and Termination

6.1 Term. This Agreement will have an initial term of one year. After the initial term of this Agreement, this Agreement will be automatically extended for successive 1 year periods on the same terms, unless Merchant gives OpenEdge written notice of termination at least thirty (30) days prior to the expiration of the then current term.

6.2 Termination. The parties will have the following rights:

A. Termination by OpenEdge. OpenEdge may terminate this Agreement for any reason upon providing Merchant with thirty (30) days prior written notice, which termination may be effective immediately.

B. Termination by Merchant. In addition to termination as provided in Section 6.1 herein, Merchant may terminate Agreement for cause if OpenEdge fails to perform its obligations under this Agreement. If Merchant desires to terminate this Agreement, then Merchant must give written notice to OpenEdge stating such intent, identifying the nonperformance, and giving OpenEdge the opportunity to remedy such nonperformance for a period of sixty (60) days following the date notice is given. Upon expiration of such sixty (60) day cure period, if the performance has not been remedied, Merchant may terminate this Agreement. Upon termination, OpenEdge shall retain and transfer all records, content, or data to Merchant as required by Florida's Public Records Law, Ch. 119, Florida Statutes, and more particularly described in Section 18 herein.

6.3 Early Termination. If Merchant terminates this Agreement before the end of the initial term or before the expiration of a renewal term, Merchant will immediately pay OpenEdge, as a deconversion cost, an early termination fee equal to \$99.00. Merchant agrees that the early termination fee is not a penalty, but rather is reasonable in light of the financial harm caused by Merchant's early termination. Other remedies OpenEdge may have under this Agreement still apply.

6.4 Effect of Termination. The obligations of the Parties regarding transactions and OpenEdge processes under this Agreement will survive termination. Merchant must maintain in the Settlement Account and Reserve Account enough funds to cover all Chargebacks, deposit charges, obligations, refunds and fees incurred by Merchant for two (2) years after termination of this Agreement. Merchant authorizes OpenEdge to charge those accounts, or any other account maintained under this Agreement, for all such amounts. If the amount in the Settlement Account or Reserve Account is not adequate, Merchant will pay OpenEdge the amount Merchant owes OpenEdge upon demand, together with all costs and expenses incurred to collect that amount, including reasonable attorneys' fees. After the expiration of such two (2) year period Merchant must provide OpenEdge with written notification indicating Merchant desires a release of any funds remaining in the Reserve Account, and OpenEdge shall release such funds to Merchant within thirty (30) days of receipt of such notice.

VII. Indemnification and Limitation of Liability

7.1 Indemnification. Merchant will hold OpenEdge harmless from and Merchant shall remain responsible for: (A) all claims by third parties arising out of this Agreement; (B) attorneys' fees, collection costs, and other costs and expenses paid or incurred by OpenEdge in the enforcement of this Agreement which shall be limited to those expenses resulting from any breach by Merchant of this Agreement and those related to any bankruptcy proceeding; (C) any action OpenEdge takes against the Settlement Account, Reserve Account, or any other account, pursuant to this Agreement; (D) any failure by Merchant or Merchant's employees, agents, or officers to comply with the terms of this Agreement; and (E) any damage due to equipment or software not purchased or leased from OpenEdge. This indemnification section shall survive termination of this Agreement. Merchant is responsible and liable for the acts and omissions of Merchant's employees, agents and representatives. Nothing contained herein or in a subsequent agreement between the Parties shall be considered nor construed as waiving Merchant's rights and immunities under the common law or Section 786.29, Florida Statutes.

7.2 Limitation of Liability. Any liability of ours under this Agreement, whether to Merchant or any other party, whatever the basis of the liability, shall not exceed in the aggregate the difference between (A) the amount of Fees paid by Merchant to OpenEdge during the month in which the transaction out of which the liability arose occurred; and (B) assessments, Chargebacks, and offsets against such Fees which arose during such month. In the event more than one month is involved, the aggregate amount of its liability shall not exceed the lowest amount determined in accordance with the foregoing calculation for any one month involved. Neither

OpenEdge, nor any of its agents, officers, directors, or employees shall be liable for indirect, special, or consequential damages, even if advised of the possibility of such damages. Any liability of Merchant pursuant to this Agreement is limited to the extent and amounts set forth in Section 768.28, Florida Statutes.

7.3 OpenEdge shall indemnify and hold harmless the Merchant, its elected and appointed officials, employees, and agents from any and all claims, suits, actions, damages, liability, and expenses (including attorneys' fees at trial and appellate levels) related to any gross negligence, intentional wrong doing or recklessness by OpenEdge, its owners, agents, and employees, during performance of Agreement. This provisions shall survive the termination of this Agreement and shall pertain to any occurrence during the term of this Agreement, even though the claim may be made after the termination hereof. Merchant reserves the right to select its own legal counsel to conduct any defense in any such proceeding.

VIII. General

8.1 Assignment. Merchant may not assign this Agreement or the rights under this Agreement without the other party's prior written consent and any purported assignment without such consent shall be void. This Agreement will be binding upon and inure to the benefit of the respective successors and permitted assigns of the Parties. OpenEdge may use third parties to deliver the Services to Merchant and shall provide Merchant written notice of such thirty parties. OpenEdge may assign this Agreement to any third party upon providing prior written notice to Merchant.

8.2 Governing Law and Jurisdiction. Pursuant to Merchant's common law home rule privilege, Agreement shall be exclusively governed by and construed according to the laws of the State of Florida. The parties irrevocably submit to the exclusive jurisdiction of any state court in State of Florida (and any federal court having jurisdiction in Broward County, Florida), in any action, suit or proceeding brought under this Agreement and waive, to the fullest extent it may do so, the defense of forum non convenience.

8.3 Relationship of the Parties. Merchant and OpenEdge will be deemed to be independent contractors and will not be considered to be agent, servant, joint venturer or partner of the other. This Agreement does not create an employee/employer relationship between the Parties. It is the intent of the Parties that OpenEdge is an independent contractor under this Agreement and not an employee of Merchant for any purpose, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. OpenEdge shall retain sole and absolute discretion in the judgment of the manner and means of carrying out OpenEdge's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of OpenEdge, which policies of OpenEdge shall not conflict with city, state, or federal policies, rules or regulations relating to the use of Merchant's funds provided for herein. This Agreement shall not be construed as creating any joint employment relationship between OpenEdge and Merchant and the Merchant will not be liable for any obligation incurred by OpenEdge, including but not limited to unpaid minimum wages and/or overtime premiums.

8.4 Entire Agreement. The terms of the Merchant Application, the Schedule and the Exhibit are incorporated into the Agreement by reference. The terms of the Merchant Application and this Agreement set forth the entire understanding between OpenEdge and Merchant relating to its subject matter, and all other understandings, written or oral, are superseded.

8.6. No Waiver of Rights. No failure or delay by OpenEdge in exercising any power, right or remedy under this Agreement shall

operate as a waiver. All waivers by OpenEdge must be in writing and signed by OpenEdge.

8.7 Voidness. If for any reason any court of competent jurisdiction finds any provision of this Agreement to be void or voidable, OpenEdge and Merchant agrees that the court may reform such provision(s) to render the provision(s) enforceable ensuring that the restrictions and prohibitions contained in this Agreement shall be effective to the fullest extent allowed under applicable law.

8.8 Construction of Terms. The captions used in this Agreement are inserted for convenience only and will not affect the interpretation of any provision. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction will be applied against any party. Section 1.3, Sections 2.2 through 2.8, Article III, Article IV, Article V, Sections 6.3 and 6.4, Article VII and Article VIII of this Agreement shall survive its termination.

8.9 Non Discrimination. During the performance of the Agreement, OpenEdge and its sub-consultants shall not discriminate against any employee or applicant for employment because of race, color, sex including pregnancy, religion, age, national origin, marital status, political affiliation, familial status, sexual orientation, gender identity and expression, or disability if qualified. OpenEdge will take affirmative action to ensure that employees and those of its sub-consultants are treated during employment, without regard to their race, color, sex including pregnancy, religion, age, national origin, marital status, political affiliation, familial status, sexual orientation, gender identity or expression, or disability if qualified. Such actions must include, but not be limited to, the following: employment, promotion; demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. OpenEdge and its sub-consultants shall agree to post in conspicuous places, available to its employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. OpenEdge will endeavor to ensure that all sub-consultants, if any, are made aware of and comply with this nondiscrimination clause.

8.10 Florida Information Protection Act. OpenEdge agrees and understands that the services to be provided pursuant to this Agreement consist, at least in part, of "customer records" that contain "personal information," as defined in the Florida Information Protection Act, Section 501.171, Florida Statutes (the "Act"). Accordingly, as required by the Act, OpenEdge agrees to implement safeguards to protect customer records containing personal information, in whatever form retained and stored, from a breach of security. If customer records in OpenEdge's possession are breached in the manner set forth in the Act, OpenEdge shall immediately notify Merchant as required by law, unless OpenEdge is prohibited from doing so by its sponsor bank, the card brands, or law enforcement, and OpenEdge shall work with Merchant as required by the Act to assist in any of the following actions:

8.10.1 Investigate the alleged breach and determine if an actual breach has occurred, which may include the use of law enforcement officials as needed and as determined by Merchant;

8.10.2 Provide notice to any and all consumers whose personal information has been breached;

8.10.3 Provide any and all other notices to governmental agencies that may be applicable under the Act, if a breach has reached a particular threshold, as defined in the Act, which may include but is not limited to: credit reporting agencies and the Florida Department of Legal Affairs;

8.10.4 Ensure that OpenEdge's third-party agents are made aware of the Act and any requirement to comply with the Act, and require that those third-party agents that store customer records of Merchant who experience a breach notify Merchant immediately, and work with Merchant as outlined in this section of the Agreement.

8.10.5 The procedures specified herein shall not supersede any requirement specified by the Act. The provisions of the Act, as may be amended from time to time, shall prevail in the event of any conflict.

8.11 Copies. A facsimile of the Merchant Application or this Agreement bearing a party's signature or a printed copy of the original, signed document scanned in .pdf or .tiff format shall have the same legal force and effect as an original of such signature and shall be treated as an original document for evidentiary purposes.

8.12 Force Majeure. The parties shall be released from liability under this Agreement for failure to perform any of the obligations where such failure to perform occurs by reason of any force majeure event, including, without limitation, act of God, fire, flood, storm, earthquake, tidal wave, pandemic, epidemic, communication failure, sabotage, war, military or terrorist operation, national emergency, mechanical or electronic breakdown, civil commotion, or the order requisition, request or recommendation of any government agency or acting governmental authority or either party's compliance therewith, or governmental regulation or priority or any other cause beyond either party's reasonable control whether similar or dissimilar to such causes.

8.13 Electronic Statements. By executing this Agreement, Merchant consents to the electronic delivery of statements, required notices and other OpenEdge related documents.

8.14 Notice. Any notice required to be sent pursuant to this Agreement will be effective when sent by registered or certified mail or a nationally recognized overnight courier to the following address:

OpenEdge: OpenEdge Payments LLC,
Attention: General Counsel
2578 West 600
North Lindon, Utah 84042

Merchant: City of Pembroke Pines
Attn: Charles F. Dodge, City Manager
601 City Center Way, 4th Floor
Pembroke Pines, Florida 33025
Telephone No. (954) 450-1040

Merchant Copy: Samuel S. Goren, City Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
Telephone No. (954) 771-4500

8.15 Amendments to this Agreement, Merchant Application and Additional Services. OpenEdge shall have the right to modify or amend this Agreement, including, without limitation, the right to modify, amend, or supplement applicable fees, charges, and/or discounts. Modifications and amendments related to changes to the NACHA Rules, changes to the fees charged by third parties, or in response to changes in the Applicable Laws and Rules (collectively, a "Third Party Change") may be made effective immediately, with or without notice. Modifications or amendments unrelated to a Third Party Change shall be effective upon the date specified in a notice to the Merchant (the "Change Notice"), provided that the date shall not be fewer than five (5) business days after the date of such Change Notice. Following the effective date of the Agreement, in the event of any modification or amendment not related to a Third Party Change, Merchant shall have the right to terminate this Agreement, without liability for premature termination pursuant to section 6.3, by providing written notice thereof to OpenEdge; provided that such notice must be given within five (5) business days following the date of the Change Notice. Other than the amendments set forth above, this Agreement may be amended only in writing signed by OpenEdge and Merchant.

8.16 Scrutinized Companies. OpenEdge, its principals or owners, certify that they are not listed on the Scrutinized Companies that

Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are engaged in business operations with Syria. In accordance with Section 287.135, Florida Statutes, as amended, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with any agency or local governmental entity for goods or services of: Any amount of, at the time bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or one million dollars or more if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company: is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes; or is engaged in business operations in Syria. If at any time Global Direct changes position or practice with respect to the foregoing, Merchant shall be entitled to terminate the Card Services Agreement upon written notice with immediate effect, and without any early termination penalty.

8.17 Public Records. Merchant is a public agency subject to Chapter 119, Florida Statutes. OpenEdge shall comply with Florida's Public Records Law. Specifically, OpenEdge shall:

18.17.1 Keep and maintain public records required by the Merchant to perform the service;

18.17.2 Upon request from the Merchant's custodian of public records, provide the Merchant with a copy of the public records which pertain to this Agreement or allow such records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

18.17.3 Ensure that public records that are exempt or that are confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and, following completion of the Agreement, OpenEdge shall destroy all copies of such confidential and exempt records remaining in its possession after the Term of the Agreement; and

18.17.4 Upon completion of the Agreement, OpenEdge shall transfer to the Merchant, at no cost to OpenEdge, all public records in OpenEdge's possession. All records stored electronically by OpenEdge must be provided to the Merchant, upon request from the Merchant's custodian of public records, in a format that is compatible with the information technology systems of the Merchant.

18.17.5 The failure of Merchant to comply with the provisions set forth in this section shall constitute a default and breach of this Agreement, for which, the Merchant may terminate the Agreement.

IF OPENEDGE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO OPENEDGE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY CLERK
601 CITY CENTER WAY, 4th FLOOR
PEMBROKE PINES, FL 33025
(954) 450-1050
mgraham@ppines.com**

8.18 Access to Records. During the Term, Merchant shall have reasonable access and the right to examine OpenEdge's financial records that directly pertain to the Services provided under this Agreement. Such audit is subject to the following conditions: (i) it may only be done with good cause; (ii) it may not be done more than once in any rolling 12-month period; (iii) it must be done during OpenEdge's business hours and at a location specified by OpenEdge. As required by Ch. 119, Florida Statutes records related to this agreement are public records open for inspection, unless an applicable exception applies, and must be retained pursuant to the State

8.19 Counterparts and Execution. This Agreement may be executed by hand or electronically in multiple originals or counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement. Execution and delivery of this Agreement by the Parties shall be legally binding, valid and effective upon delivery of the executed documents to the other party through facsimile transmission, email, or other electronic delivery.

8.20 Insurance. OpenEdge agrees to maintain commercially reasonable levels of insurance coverage during the term of the Agreement consistent with the scope and nature of its business and applicable industry best practices. OpenEdge shall deliver its certificate(s) of insurance reflecting its then-current policy coverage and carriers to Merchant upon request.

8.21 Agreement Subject to Funding. This Agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by Merchant's City Commission in the annual budget for each fiscal year of this Agreement, and is subject to termination by Merchant based on lack of funding.

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

CITY:

CITY OF PEMBROKE PINES, FLORIDA

ATTEST:

 2/27/2021
MARLENE D. GRAHAM, CITY CLERK

By: 
CHARLES F. DODGE, CITY MANAGER

APPROVED AS TO FORM:


Name: 
OFFICE OF THE CITY ATTORNEY

OPENEDGE:

OPENEDGE PAYMENTS LLC

Signed By: _____

Name: _____

Title: _____



EXHIBIT A

Definitions

1. **ACH:** means the Automated Clearing House financial network.
2. **Agreement:** means the OpenEdge Check Services Agreement, together with all of its exhibits and the Merchant Application.
3. **OpenEdge:** means OpenEdge Payments LLC, a Delaware corporation, with offices at 2436 West 700 South Pleasant Grove, Utah 84062.
4. **Chargeback:** means a type of Return that occurs when a bank account holder claims they did not authorize a transaction, when the account holder and the customer are not the same person (i.e., identity theft), when the authorization was not properly obtained from Merchant's customer or when a customer does not recognize a transaction.
5. **Fees:** shall have the meaning ascribed to it in Section 3.2 of the Agreement.
6. **FinCEN:** means the United States' government's Financial Crimes Enforcement Network.
7. **Merchant:** means the City of Pembroke Pines, Florida, a municipal corporation, with a business address of 601 City Center Way, Pembroke Pines, Florida 33025 as more particularly set forth on the Merchant Application, including its elected and appointed officials, agents, and employees.
8. **Merchant Application:** means the merchant application attached to this Agreement.
9. **Merchant Data:** means information in OpenEdge's possession, including that information provided on the Merchant Application as it may be updated and corrected from time to time, and the information derived during the performance of Agreement or related to Merchant's use of Services.
10. **NACHA Rules:** means the Operating Rules promulgated by the electronic transactions association NACHA, which are available at <http://www.nacha.org>.
11. **ODFI:** means the originating depository financial institution that receives and processes electronic checks submitted by Merchant to OpenEdge under this Agreement.
12. **OFAC:** means the United States government's Office of Foreign Assets Control.
13. **Reserve Account:** shall have the meaning ascribed to it in Section 3.5 (C) of the Agreement.
14. **Return:** means an ACH transaction rejected before being completely processed by the customer's bank (e.g., NSF, invalid account number, account closed, etc.).
15. **Secured Assets:** shall have the meaning ascribed to it in Section 3.5 (A) of the Agreement.
16. **Services:** means the electronic check processing and related services provided by OpenEdge to Merchant under this Agreement, including any or all of the following:
 - a. **ACH Services:** shall have the meaning ascribed to it in Section 1.1 (B) of the Agreement.
 - b. **Check21 Services:** shall have the meaning ascribed to it in Section 1.1 (C) of the Agreement.
 - c. **Check Verification Services:** shall have the meaning ascribed to it in Section 1.1 (D) of the Agreement.
 - d. **Routing Services:** shall have the meaning ascribed to it in Section 1.1 (A) of the Agreement.
17. **Settlement Account:** shall have the meaning ascribed to it in Section 3.4 (A) of the Agreement.
18. **Software:** shall have the meaning ascribed to it in Section 1.1 (G) of the Agreement.
19. **Professional Service Providers:** means third-party service providers engaged by OpenEdge to provide services to Merchant or OpenEdge related to Merchant's use of the Services.

EXHIBIT B

Fees

Summary of Fees		ACH		AIR(Check21)	
Remote Deposit Capture (ARC, BOC, POP)		Discount Fee	Per Item Fee	Discount Fee	Per Item Fee
Monthly Volume					
Tier 1	\$.01 - 5,000	0.00%	\$ 1.49	0.00%	\$ 1.49
Tier 2	\$ 5,001 - 20,000	0.00%	\$ 1.49	0.00%	\$ 1.49
Tier 3	\$ 20,001 - 50,000	0.00%	\$ 1.49	0.00%	\$ 1.49
Tier 4	> \$50,001	0.00%	\$ 1.49	0.00%	\$ 1.49
Check Not Present (WEB, TEL, PPD, CCD)		Discount Fee	Per Item Fee	Discount Fee	Per Item Fee
Monthly Volume					
Tier 1	\$.01 - 5,000	0.00%	\$ 1.49	-	-
Tier 2	\$ 5,001 - 20,000	0.00%	\$ 1.49	-	-
Tier 3	\$ 20,001 - 50,000	0.00%	\$ 1.49	-	-
Tier 4	> \$50,001	0.00%	\$ 1.49	-	-
Miscellaneous Fees		Per Account			
Account on File Fee			\$ 10.00		
Monthly Minimum Fee			\$ 15.00		
Application Fee			\$ 50.00		
ACH Return Transaction Fees			Per Item Fee		Per Item Fee
Returns (Administrative)		each	\$ 6.00	-	\$ 6.00
Unauthorized Return Transaction Fee (Chargeback)		each	\$ 25.00	-	\$ 25.00
Verification		each	\$ 0.10	-	\$ 0.10



City of Pembroke Pines, FL

601 City Center Way
Pembroke Pines, FL
33025
www.ppines.com

Agenda Request Form

Agenda Number: 13.

File ID: 21-0044

Type: Agreements/Contracts

Status: Passed

Version: 1

**Agenda
Section:**

In Control: City Commission

File Created: 01/20/2021

Short Title: Open Edge Payment LLC Agreement

Final Action: 02/17/2021

Title: MOTION TO APPROVE THE AGREEMENT WITH OPEN EDGE PAYMENT, LLC (A DIVISION OF GLOBAL PAYMENT) AND THE CITY OF PEMBROKE PINES TO PROVIDE MERCHANT PROCESSING SERVICES FOR INITIAL TERM OF ONE YEAR WITH AUTOMATIC RENEWALS OF ADDITIONAL ONE YEAR PERIODS UNLESS CITY GIVES 30-DAYS ADVANCE WRITTEN NOTICE OF TERMINATION PRIOR TO THE END OF THE THEN-CURRENT TERM, PURSUANT TO SECTION 35.18(C)(8) OF THE CITY'S CODE OF ORDINANCES.

***Agenda Date:** 02/17/2021

Agenda Number: 13.

Internal Notes:

Attachments: 1. Credit Card Merchant Application and Agreement, 2. Check Services Application and Agreement, 3. Tyler preferred and recommended vendors, 4. Letter from Open Edge, 5. Commission Approval of Tyler Technologies Inc. 4-17-19

1 City Commission 02/17/2021 approve

Pass

Action Text: A motion was made to approve on the Consent Agenda

Aye: - 5 Mayor Ortis, Vice Mayor Schwartz, Commissioner Good Jr.,
Commissioner Castillo, and Commissioner Siple

Nay: - 0

PROCUREMENT PROCESS TAKEN:

- Chapter 35 of the City's Code of Ordinances is titled "PROCUREMENT PROCEDURES, PUBLIC FUNDS."

- Section 35.18 of the City's Code of Ordinances is titled "COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS REQUIRED; EXCEPTIONS."

- Section 35.18(C) states that "Only the following situations are exempt from the competitive bid and competitive proposal requirements of this section:"

- **Section 35.18(C)(8) states that "Purchases of and contracts for commodities or services are exempt from this section when the City Commission declares by a simple majority affirmative vote that the process of competitive bidding and competitive proposals is not in the best interest of the City. The City Commission shall make specific factual findings that support its determination, and such contracts may be placed on the City Commission consent agenda.**
- **Section 35.21 of the City's Code of Ordinances is titled "AWARD OF CONTRACT."**
- **Section 35.21(A) of the City's Code of Ordinances is titled "City Commission approval."**
- **Section 35.21(A)(1) states, "An initial purchase of, or contract for, commodities or services, in excess of \$25,000, shall require the approval of the City Commission, regardless of whether the competitive bidding or competitive proposal procedures were followed."**

SUMMARY EXPLANATION AND BACKGROUND:

1. On April 17, 2019, the City Commission approved an agreement with Tyler-Munis (Tyler) for the implementation of a City-wide Enterprise Resource Planning (ERP) software for a total cost of approximately \$7.3 million. The implementation of this project will be phased in over several years with an estimated completion of all phases in the second half of 2022.
2. The City is currently in the process of going live with Phase 1 - Financials which includes General Ledger, Budget, Accounts Payable, Capital Assets, Cash Management, and Purchasing to name a few.
3. Implementation of Phase 2 has also begun and includes Utilities, General billing, and Cashiering, with an estimated go-live in June 2021.
4. As part of the Phase 2 implementation, representatives from Tyler communicated to City Administration that their software is not compatible or integrated with the City's current credit card merchant processing service provider, FIS Global.
5. Finance staff coordinated various meetings with Tyler representatives and our current provider FIS Global to determine if anything could be done to utilize our current vendor, but it was determined by both parties that this was not possible.
6. To facilitate a seamless integration with Tyler's cashiering, accounts receivable and citizen self-service modules for credit and debit card processing; Tyler has recommended two preferred Merchant Service Providers - Open Edge and BridgePay.
7. The City staff evaluated both Tyler's preferred vendors based on the fee structure,

security, feedback from other municipalities, and connectivity. Based on the best interest of the City, the Finance Department has concluded that Open Edge is the most beneficial option for the City.

8. Below are the factual findings:

- Open Edge is one of the two preferred vendors recommended by Tyler.
- Open Edge is the merchant provider that is integrated with CivicRec, which is the software program being utilized by the Recreation and Cultural Arts Department.
- Open Edge is a division of Global Payments Inc. which is one of the largest credit card processors. It is the only "one-stop shop" that can provide fully integrated services including the gateway, credit card merchant processing services, hardware and software, and 24/7/365 support on all service components.
- Finance has reviewed some other preferred vendors that are compatible with Tyler but many on the list only provide gateway services, this will require the City to engage another vendor for the credit card merchant processing services.

9. In order for CivicRec to be fully functional, and to have the ability to accept credit card payments through this software, the City will also be utilizing Open Edge. Residents will be able to book and pay for various recreational services seamlessly using their debit and credit cards.

10. **SERVICE FEES:** - Open Edge has agreed to match the City's current contract rates with FIS Global of 2.6% for debit and credit cards. The standard convenience fee rate that Open Edge charges is 3.0%. Open Edge has also agreed to match the current E-check transaction fee of \$1.49, being charged.

11. Historically, the City has incurred no cost for merchant processing services as convenience fees were paid by the individuals and businesses using the service. However, when the Pandemic caused the closure of various City buildings to the public; to assist in alleviating some of the economic burdens on the residents and the business community, and to encourage customers to pay online as a "safer at home" preventive response to COVID-19, the City temporarily waived the convenience fees. The City currently absorbs approximately \$40,000 a month in credit card fees related to the waived conveniences fees. For the Fiscal year-do-date January 2021; the City has absorbed \$159,394 in credit card and e-check fees.

12. The City will continue to absorb these fees as long as City buildings remain closed to the public and will evaluate the re-instatement of the fees once we return to a state of "normalcy".

13. **EQUIPMENT PURCHASE:** As part of transitioning to this new vendor the City will also be required to purchase new credit card machines. The approximate cost of each machine will be \$650.00, the City anticipates it will need approximately 20 machines for the various locations throughout the City for an amount of \$13,000.

14. The City Attorney's office has reviewed and the applications and the General terms and conditions of the agreements.

15. In order to facilitate a smooth transition of Phase 2 and other phases involving debit and credit cards processing - Administration recommends the City Commission to approve the agreement with Open Edge Payment, LLC (a division of Global Payment) and the City of Pembroke Pines to provide merchant processing services for initial term of one year with automatic renewals of additional one year periods unless City gives 30-days advance written notice of termination prior to the end of the then-current term. The goal will be to issue an more formal request for proposal once these modules have been implemented, pursuant to Section 35.18(C)(8) of the City's Code of Ordinances.

FINANCIAL IMPACT DETAIL:

a) Initial Cost:

Service Fees: There will be no cost the city, if the City charges the customers for the Credit Card Fees. However, if the fees are paid by the City the estimated cost for the remainder of the year is \$320,000.

Equipment Purchase: The estimated cost of the equipment \$13,000.

b) Amount budgeted for this item in Account No:

These fees were not budgeted in fiscal year 2021 as the City has not waived credit card fees in the past. The City will need to utilize reserves in the General Fund and the Utility Fund to cover these initial fees. Fees will be budgeted for the next fiscal year 2022.

c) Source of funding for difference, if not fully budgeted: Fund Balance Reserves

d) 5 year projection of the operational cost of the project

<u>Fund</u>	<u>A/F</u>	<u>Div</u>	<u>Proj</u>	<u>Obj Code</u>	<u>YTD Jan Amount</u>	<u>Annualized Amount</u>
1	519	City Clerk 1001		49400	\$2,827.94	\$9,000.00
1	513	Finance 2001		49400	\$1,841.39	\$6,000.00
1	529	Fire/Rescue 4003		49400	\$590.02	\$2,000.00
1	554	Housing Division 8002	603	49400	\$1,585.40	\$5,000.00
471	536	Utilities Admin Services		49400	\$152,549.11	\$458,000.00
TOTAL					\$159,393.86	\$480,000.00

e) Detail of additional staff requirements: Not Applicable

Garcia, Oniel

From: Danielle Schwabe <dschwabe@GorenCherof.com>
Sent: Thursday, October 22, 2020 11:32 AM
To: Santos, Wilbert; Garcia, Oniel
Cc: Chong, Lisa; Contracts
Subject: RE: FW: OpenEdge Check Service Agreement, Global Payments Direct
Attachments: OpenEdge Payments LLC Agreement - OpenEdge Check Services (final) (00407530xC4B6A).docx

Follow Up Flag: Copied to Worldox (Main Docs\1956\7601851\00408312.MSG)
Flag Status: Flagged

Good Moring,

Thanks for sending this over. I have incorporated the last round of edits in the attached draft. The vendor declined to revise the requirements related to Section 3.5. Accepting these terms is a business decision for the City. Please review 3.4 and 3.5 of the Agreement and make sure to ask us or the vendor any further questions you may have. The agreement is sufficient as to legal form. Thank you for your time and consideration.

Re: "the other agreement for the credit card" please let us know if we can provide any additional assistance.

Sincerely,

Danielle Schwabe



**GOREN CHEROF
DOODY & EZROL P.A.**
ATTORNEYS AT LAW

3099 East Commercial Boulevard, Suite 200

Fort Lauderdale, Florida 33308

Telephone: (954) 771-4500 x 5016 | (561) 276-9400 x 5016 | Fax: (954) 771-4923

Email: dschwabe@GorenCherof.com | www.GorenCherof.com

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Garcia, Oniel

From: Danielle Schwabe <dschwabe@GorenCherof.com>
Sent: Tuesday, November 17, 2020 12:19 PM
To: Garcia, Oniel
Cc: Santos, Wilbert; Jacob G. Horowitz
Subject: RE: Global Payments Direct

This sender is trusted.

Hi Oniel,

Please note, in regards to your below email, for clarity this request relates to Global Payments Direct and I did not receive the return edits from the vendor until yesterday. The edits proposed by the vendor are acceptable. Please note the vendor did not accept many of our proposed changes but as a business decision the City may move forward with accepting the terms proposed by Global Payments Direct. If for some reason the Department would like to push back on a rejected change please update us accordingly and we will assist.

Since the document is locked and I am not able to accept revisions please ensure that the clean draft provided by the vendor matches the redline in the attached document.

If there are any further questions please let us know.

Sincerely,

Danielle Schwabe



**GOREN CHEROF
DOODY & EZROL P.A.**
ATTORNEYS AT LAW

3099 East Commercial Boulevard, Suite 200

Fort Lauderdale, Florida 33308

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Email: dschwabe@GorenCherof.com | www.GorenCherof.com

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