

# AUTHORIZE.NET® PAYMENT GATEWAY MERCHANT SERVICE AGREEMENT

Authorize.Net LLC ("Authorize.Net") offers merchants credit card transaction processing and payment gateway services, as well as a host of value-adding services, as more fully described herein and at [www.authorize.net](http://www.authorize.net) (the "Site"), as such descriptions may be changed by Authorize.Net from time to time (the "Authorize.Net Services"). In order for you and/or your company ("You" or "Your"), to obtain or continue using those certain Authorize.Net services, You must agree to and accept the terms and conditions of this agreement (the "Agreement"). The Agreement sets out the terms and conditions under which You may utilize the Authorize.Net Services. Please read this Agreement carefully.

**By clicking on the "I AGREE" button, or by acknowledging Your acceptance of the Agreement terms and conditions by any other method allowed by Authorize.Net, or by using the Authorize.Net Services, You acknowledge and agree that You have reviewed and understand the Agreement and agree to be legally bound by all its terms and conditions. If You do not agree or are not willing to be bound by the terms and conditions of this Agreement, please do not click on the "I AGREE" button, do not acknowledge Your acceptance of the Agreement terms and conditions by any other method and do not seek to obtain or continue using the Authorize.Net Services.**

NOW THEREFORE, You agree as follows:

**1. Your Capacity and Related Matters.** By accepting the terms and conditions of this Agreement, You represent and warrant that (a) You are 18 years of age or older, (b) all information You have provided to Authorize.Net is true and correct in all respects, and (c) You will update Authorize.Net by e-mail with any changes to information You have previously supplied. You further represent and warrant that You have the legal authority to accept the terms and conditions of this Agreement on behalf of Your company and that such acceptance will be binding on Your company. Authorize.Net reserves its right, in its sole discretion, to refuse to provide You with any Authorize.Net Service. Words and phrases with initial letters capitalized and not otherwise defined herein shall have the meaning set forth in Section 13.14.

**2. Undertakings of Authorize.Net.**

**2.1 Authorize.Net Grant.** Authorize.Net hereby grants You a non-exclusive, royalty-free, fully-paid up right, during the Term, to use the Authorize.Net Services, subject to the restrictions herein and any other restrictions communicated by Authorize.Net to You, only as necessary to perform hereunder and for no other purpose.

**2.2 Authorize.Net Services.** Authorize.Net shall provide the Authorize.Net Services to You in all material respects in accordance with the terms and conditions of this Agreement and consistent with all applicable laws and regulations.

**2.3 Customer Service.** During the Term, if You are current in payment of all fees owing to Authorize.Net and are otherwise not in default under this Agreement, Authorize.Net shall provide customer service to You, as set forth in the Contact Us section of the Authorize.Net Web site at the URL <<http://www.authorize.net/support>>.

**3. Your Undertakings.**

**3.1 ID and Password.** In connection with Your rights described in Section 2.1, You must select an ID and password to enable You to access Your payment gateway account and use the Authorize.Net Services. You will restrict access to such ID, password, and account to Your employees and agents as may be reasonably necessary consistent with the purposes of this Agreement and will ensure that each such employee and agent accessing and using the account is aware of and otherwise complies with all applicable provisions of this Agreement regarding such use and access. You are solely responsible for maintaining adequate security and control of any and all IDs, passwords, or any other codes for purposes of giving You access to the Authorize.Net Services. Authorize.Net shall be entitled to rely on information it receives from You and may assume that all such information was transmitted by or on behalf of You. You shall comply with all Authorize.Net recommendations and notices regarding the security of your ID, password and payment gateway account(s).

**3.2 Limitations.** Your use of the Authorize.Net Services shall be restricted to a single merchant acquiring bank account and You shall not submit payment data to Authorize.Net or otherwise process orders on behalf of any other entity or individual. Any attempt by You to use the Authorize.Net Services for more than one merchant acquiring bank account or on behalf of another entity or individual may result in an obligation to pay to Authorize.Net additional fees and charges and/or Authorize.Net's revocation of Your right to use the Authorize.Net Services and termination of this Agreement.

**3.3 Relationship to Merchant Service Providers.** You may have enrolled in the Authorize.Net Services via a Merchant Service Provider. In addition to any other agreement You may have with the Merchant Service Provider, the terms and conditions of this Agreement govern Your use and Authorize.Net's provision of the Authorize.Net Services. You expressly acknowledge and agree that Authorize.Net may share information about You and Your account with its Merchant Service Providers.

**3.4 Compliance with Law and Authorize.Net Guidelines.** In connection

with the exercise of Your rights and obligations under this Agreement (including, without limitation, any related to individual privacy), You will comply, at Your own expense, with all laws, policies, guidelines, regulations, ordinances, rules applicable to You, this Agreement, Your business or the Transactions and/or orders of any governmental authority or regulatory body having jurisdiction over the subject matter hereof, including, without limitation, the rules promulgated by the Credit Card Associations, the Federal Trade Commission, the electronic communication rules of the CAN-SPAM Act, and the privacy requirements of the Gramm Leach Bliley Act and regulations thereof. You shall comply with all the current policies, procedures and guidelines of Authorize.Net governing the Authorize.Net Services, including, without limitation, the Prohibited Activity list set forth in Appendix B, the Acceptable Use Guidelines and the current Services Documentation. Authorize.Net reserves the right to amend, modify or change such policies, procedures, and guidelines at any time. You shall not use the Authorize.Net Services in any manner, or in furtherance of any activity that may cause Authorize.Net to be subject to investigation, prosecution, or legal action.

**3.5 Value-Adding Solutions and Services.** In the event that You enroll in and/or utilize any of Authorize.Net's Value-Adding Services, You hereby acknowledge and agree to the terms and conditions contained in Appendix C, Value-Adding Services.

**3.6 Third Party Products and Services.** Your use of third party products and services shall be governed by and subject to separate third party product, service, software and/or license agreements. Authorize.Net will not be a party to such third party agreements and does not warrant or guarantee any third party product or service.

**4. Data Collection, Privacy and Security.**

**4.1 Your Obligations.**

a. You are solely responsible for the security of data residing on servers owned or operated by You, or a third party designated by You (e.g., a Web hosting company, processor or other service provider). You shall comply with all applicable laws, policies and regulations governing the security, collection, retention and use by You of financial information, including card account numbers, and all other personally identifiable customer information. You agree to provide notice to your customers on Your Web site that discloses how and why personal and financial information is collected and used, including uses governed by this Agreement.

b. You must not use, disclose, sell or disseminate any cardholder information obtained in connection with a card transaction (including the names, addresses and card account numbers of cardholders) except for purposes of authorizing, completing and settling card transactions and resolving any chargebacks, retrieval requests or similar issues involving card transactions, other than pursuant to a court or governmental agency request, subpoena or order. You shall use proper controls for and limit access to, and render unreadable prior to discarding, all records containing card account numbers and card imprints.

c. You agree that you will comply with all Authorize.Net security protocols and security advisories in effect during the term of this Agreement. You are solely responsible for verifying the accuracy and completeness of all Transactions submitted and processed by Authorize.Net associated with Your account and verifying that all corresponding funds are accurately processed. You acknowledge that Authorize.Net shall not be liable for any improperly processed or unauthorized Transactions or illegal or fraudulent access to Your account, End-User or Transaction data. Authorize.Net's liability for improperly processed or unauthorized Transactions solely attributable to the negligence of Authorize.Net is limited pursuant to Section 11.

d. You will comply with all then-current legal obligations and security measures, as applicable, including without limitation those issued by Credit Card Associations and the Federal Trade Commission, associated with the collection, security, dissemination and destruction of End-User and

Transaction data, and expressly including the Payment Card Industry (PCI) Data Security Standard, Visa Cardholder Information Security Program (CISP) and the MasterCard Site Data Protection Program (SDP). You warrant that You have taken such precautions as are necessary to ensure that Your server and electronic systems are secure from breach or intrusion by unauthorized third parties. In the event that Your system is breached and an unauthorized third party has access to or has accessed End-User data or Transaction data, You shall notify Authorize.Net promptly of such breach and shall take such precautions as may be necessary to prevent such breaches from occurring in the future.

#### **4.2 Authorize.Net Obligations.**

a. Authorize.Net will collect, retain, and disclose information and data collected from You and Your customers (including data associated with the Authorize.Net Services) in accordance with the Services Documentation.

b. Authorize.Net, its subsidiaries, Merchant Service Providers, partners, suppliers and/or their agents/contractors may transfer data amongst themselves as necessary for the purpose of the provision and management of the Authorize.Net Services, and that Authorize.Net may further transfer data: (i) to third parties assisting Authorize.Net in evaluating Your eligibility for, provision of, administration and management of the Authorize.Net Services, as well as under circumstances described in Authorize.Net's Privacy Policy, as may be modified from time to time; (ii) with non-affiliated entities that assist Authorize.Net in providing products and services that Merchant has requested; (iii) with companies that provide support services to Authorize.Net or with which Authorize.Net has agreements to provide marketing services on its behalf; or (iv) as otherwise permitted by law. While Authorize.Net uses commercially reasonable efforts to safeguard data, Authorize.Net does not warrant that End-User data and Transaction data will be transported without unauthorized interception or modification or that data will not be accessed or compromised by unauthorized third parties.

c. With respect to the Authorize.Net Services, at all times while this Agreement is in effect, Authorize.Net will maintain compliance with the Payment Card Industry Data Security Standard (PCI DSS).

**4.3 Data Retention.** You are solely responsible for compiling and retaining permanent records of all Transactions and End-User data for Your reference. Except as otherwise provided herein, at no time shall Authorize.Net have an obligation to store, retain, report or otherwise provide any copies of or access to any records of Transactions or End-User data collected or processed by Authorize.Net.

#### **5. Fees.**

**5.1 Authorize.Net Service Fees.** You shall pay to Authorize.Net the fees set forth in the Fee Schedule located in the Merchant Interface, which is hereby incorporated into the terms of this Agreement by reference. Notwithstanding anything to the contrary and if agreed upon by the parties, a Merchant Service Provider may charge, bill, and collect such fees from You, in the amounts stated in and in accordance with the terms and conditions of the agreement between You and such Merchant Service Provider. If Your relationship with a Merchant Service Provider expires or terminates and such Merchant Service Provider was billing You for certain fees, You agree to pay Authorize.Net for any further use of the Authorize.Net Services effective immediately upon any such expiration or termination in accordance with the terms herein.

#### **5.2 Account Fees**

**5.2.1 Returned Payment Fee.** You shall pay to Authorize.Net a "Returned Payment Fee," in the amount set forth in the Fee Schedule, each time Authorize.Net attempts to debit Your depository account or charge Your credit card for any amounts owing under this Agreement and receives a returned item or decline message from Your bank.

**5.2.2 Late Payment Fee.** Any amount due to Authorize.Net under this Agreement and not paid when due will be subject to a finance charge equal to one and one-half percent (1.5%) or the highest rate allowable by law, determined and compounded daily from the date due until the date paid. Payment of such finance charges will not excuse or cure any breach or default for late payment. Authorize.Net may accept any check or payment from You without prejudice to its rights to recover the balance due or to pursue any other right or remedy. No endorsement or statement on any check or payment or any correspondence accompanying any check or payment or elsewhere will be construed as an accord or satisfaction. If You do not pay owing amounts on or before the first business day following the fifteenth (15th) day of the month, You will be subject to a late payment fee, in the amount set forth in the Fee Schedule. If You have not paid all amounts due before the last day of the month in which they were due, Your ability to use the Authorize.Net Services shall automatically be suspended.

**5.2.3 Service Reactivation Fee.** Unless Authorize.Net has already terminated this Agreement, if You subsequently pay in full all owing fees and charges, including a "Service Reactivation Fee" in the amount set forth in the Fee Schedule, within six (6) months of the date Authorize.Net deactivated

your account, Authorize.Net agrees to restore Your access to the Authorize.Net Services upon Authorize.Net's receipt of such payment. You agree to pay all costs and expenses of whatever nature, including attorneys' fees, incurred by or on behalf of Authorize.Net in connection with the collection of any unpaid charges and fees. As security for Your payment and indemnity obligations under this Agreement, You hereby warrant to Authorize.Net a security interest on all of Your inventory, accounts, contract rights, receivables, goods and assets of any and every kind, including but not limited to all items of intangible property, wherever located, now and hereafter belonging to You or in which You have had interest, and all proceeds of the foregoing.

**5.2.4 Abandoned Account Fee.** If your account becomes a Abandoned Account with a balance due to You, You shall be assessed a monthly Abandoned Account Fee in the amount set forth in the Fee Schedule. In addition, all costs incurred by Authorize.Net in managing Your Abandoned Account, including costs associated with attempting to locate You to deliver Your account balance or incurred with respect to escheating Your funds to the appropriate governmental agency will be deducted from Your account, as applicable.

#### **6. Payment Terms.**

##### **6.1 Authorize.Net Bills You.**

**6.1.1 Billing Terms.** Billing shall begin on the Effective Date. Authorize.Net service fees are due and payable to Authorize.Net on a monthly basis, and the first payment shall be due on the first day of the month immediately following the billing effective date. Unless otherwise specified herein, fees and payments for any subsequent time periods shall be due on the first day of the month.

**6.1.2 ACH Authorization.** You hereby authorize Authorize.Net to initiate transaction entries to Your depository account or, if Authorize.Net is unable to collect owing amounts from Your depository account, to charge Your credit card, the numbers of which are to be provided to Authorize.Net by You, directly or through a Merchant Service Provider, for any and all amounts owing to Authorize.Net under this Agreement. Entries initiated to or from Your depository account will be in accordance with the rules of the National Automated Clearing House Association (NACHA) and/or any other regulatory body or agency having jurisdiction over the subject matter hereof. This authorization is to remain in full force and effect until Authorize.Net has received written notification from You of Your termination in such time and manner as to afford Authorize.Net and Your depository institution a reasonable opportunity to act on it. If Your depository account number or card account number changes, You must promptly update Your account information in the Merchant Interface with the new numbers. If You fail to provide Authorize.Net with accurate current depository account or card account numbers, Authorize.Net may discontinue its performance of the Authorize.Net Services for You, without liability, until such information is provided to Authorize.Net or terminate this Agreement. You acknowledge that any change in account information may not be effective until the billing month following the second month in which Authorize.Net receives such notice. Termination of Your authorization shall result in termination of any and all Authorize.Net Services.

**6.1.3 Disputes.** The parties shall promptly investigate any disputed fees under this Agreement. If the disputed amount is less than three (3) percent of the total (excluding taxes) of the relevant billing statement, the total amount invoiced shall be due and payable on or before the due date. If the amount in dispute is greater than three (3) percent of the total (excluding taxes) of the relevant billing statement, the disputed amount may be withheld until the dispute is resolved. All disputes must be made in good faith and in writing within thirty (30) days of the billing statement date. Fees billed shall be deemed accepted where written objections are not lodged within such thirty (30) day period.

**6.2 Merchant Service Provider Bills You.** Notwithstanding Section 6.1, if You are to be billed by a Merchant Service Provider for some or all of the fees associated with Authorize.Net Services, You shall pay the Merchant Service Provider in accordance with the terms mutually agreed upon between You and such Merchant Service Provider.

**7. Term.** This Agreement shall commence on the Effective Date and remain in full force and effect until terminated pursuant to Section 8.

#### **8. Termination and Suspension.**

**8.1 Termination by Merchant.** You may immediately terminate this Agreement, at any time and for any reason, with or without cause, upon written notice to Authorize.Net. In the event You are billed by a Merchant Service Provider in accordance with Section 6.2, You hereby authorize the Merchant Service Provider to terminate this Agreement on Your behalf.

**8.2 Termination by Authorize.Net.** Authorize.Net may immediately terminate this Agreement and/or Your access to the Authorize.Net Services, at any time and for any reason, with or without cause, including, without

limitation, violation of the Acceptable Use Guidelines. Termination shall be accompanied by a written or electronic notice to You.

**8.3 Termination or Suspension of You by a Merchant Service Provider.** If Authorize.Net is to be paid for Your access to and use of the Authorize.Net Services by a Merchant Service Provider, and if Authorize.Net receives notice from such Merchant Service Provider that it has terminated or suspended its relationship with You, Authorize.Net may suspend and/or terminate Your right to access and use the Authorize.Net Services and/or this Agreement without notice and without liability. In addition, Authorize.Net may suspend and/or terminate the Authorize.Net Services and/or this Agreement without notice and without liability upon receipt of notice from Your Processor or acquiring bank that You are no longer entitled to send an authorization message, settlement message, or other message or payment data related to a credit card transaction to Your Processor.

**8.4 Effect of Termination.** Upon termination of the Term for any reason, all rights and obligations of the parties under this Agreement shall be extinguished, except that (a) all payment obligations hereunder shall survive such termination; and (b) the rights and obligations of the parties under Sections 8.4, 9.1, 10, 11, 12, and 13 shall survive such termination.

## **9. Intellectual Property and Confidentiality.**

**9.1 Authorize.Net.** The parties agree that Authorize.Net owns and retains all right, title and interest in and to the Authorize.Net Trademarks, Authorize.Net Services, copyrights and any related technology utilized under or in connection with this Agreement, including but not limited to all intellectual property rights associated therewith. No title to or ownership of any of the foregoing is granted or otherwise transferred to You or any other entity or person under this Agreement. You will not reverse engineer, disassemble, decompile or otherwise attempt to discover the source code or trade secrets for any of the Authorize.Net Services or related technology.

**9.2 Authorize.Net Trademarks License.** Subject to the terms and conditions contained herein, Authorize.Net hereby grants to You a non-exclusive, royalty-free, fully-paid up right to use, reproduce, publish, perform and display the Authorize.Net Trademarks on Your Web site in connection with Your offering of payment options to Your customers.

**9.3 Your Marks License.** Subject to the terms and conditions contained herein, You hereby grant to Authorize.Net a non-exclusive, royalty-free, fully-paid up right to use, reproduce, publish, perform and display Your Marks as necessary in connection with the performance of the Authorize.Net Services.

**9.4 Use of Trademarks.** Each party shall strictly comply with all standards with respect to the other party's Trademarks contained herein or which may be furnished by such party from time to time. Further, neither party shall create a combination mark consisting of one or more Trademarks of the other party. All uses of the other party's Trademarks shall inure to the benefit of the party owning such Trademark. Either party may update or change the list of Trademarks usable by the other party hereunder at any time by written notice to the other party.

**9.5 Use the Appropriate ® or ™ Symbol.** You must reproduce any Authorize.Net Trademarks exactly as shown in Appendix A, including the exact reproduction of any proprietary markings or legends and including the appropriate ® or ™ symbol at the first and most prominent reference, or as soon as practicable thereafter.

**9.6 Provide Appropriate Trademark Attribution.** You must include a statement of ownership when displaying or reproducing any Authorize.Net Trademarks. The statement should read: "AUTHORIZE.NET and the Authorize.Net logo [or any other applicable mark] are trademarks or registered trademarks of CyberSource Corporation." If it is not feasible to include the attribution statement, it is acceptable to use a general-purpose attribution statement in a form such the following: "All other trademarks are the property of their respective owners."

**9.7 Trademarks and Domain Registration.** Except as otherwise provided herein, You shall not use, register or attempt to register any (a) Authorize.Net Trademarks or (b) marks or domain names that are confusingly similar to any of the Authorize.Net Trademarks or the Domain(s).

**9.8 Trademark Restrictions.** You shall not (a) use the Authorize.Net Trademarks except as expressly authorized in this Agreement; (b) take any actions inconsistent with Authorize.Net's ownership of the Authorize.Net Trademarks and any associated registrations, or attack the validity of the Authorize.Net Trademarks, its ownership thereof, or any of the terms of this Agreement; (c) use the Authorize.Net Trademarks in any manner that would indicate You are using such Authorize.Net Trademarks other than as a licensee of Authorize.Net; nor (d) assist any third party do any of the same.

## **9.9 Confidential Information.**

**9.9.1** Each Party (the "Receiving Party") hereby agrees (i) to hold the other party's (the "Disclosing Party") Confidential Information in strict confidence and to take reasonable precautions to protect such Confidential Information (including, without limitation, all precautions the Receiving Party employs with respect to its own confidential materials), (ii) not to divulge any

such Confidential Information or any information derived therefrom to any third person; (iii) not to make any use whatsoever at any time of such Confidential Information except as contemplated hereunder, (iv) not to remove or export from the United States or re-export any such Confidential Information or any direct product thereof, except in compliance with, and with all licenses and approvals required under, applicable U.S. and foreign export laws and regulations, including, without limitation, those of the U.S. Department of Commerce, (v) not to copy or reverse engineer any such Confidential Information, and (vi) that any employee, subcontractor, or agent given access to any such Confidential Information must have a legitimate "need to know" and shall be bound in writing to comply with the Receiving Party's confidentiality obligations, whether generally or specific to this Agreement.

**9.9.2** Notwithstanding any provision in this Agreement to the contrary, each party may disclose Confidential Information of the other party to the extent it is required to be disclosed pursuant to a valid order or requirement of a governmental agency or court of competent jurisdiction.

## **10. Representations and Warranties.**

**10.1 Mutual Warranties.** Each party represents and warrants to the other that (a) it has all necessary right, power and ability to execute this Agreement and to perform its obligations therein; (b) no authorization or approval from any third party is required in connection with such party's execution, delivery or performance of this Agreement, (c) this Agreement constitutes a legal, valid and binding obligation, enforceable against it in accordance with its terms, (d) the party's obligations under this Agreement do not violate any law, policy or regulation or breach any other agreement to which such party is bound; and (e) it has all right, title or interest, or valid license to use its respective Marks, and that its grant of rights associated therewith do not violate any intellectual property or other proprietary rights of any third party.

### **10.2 Authorize.Net Warranty.**

**10.2.1** With respect to the Authorize.Net Services, Authorize.Net represents and warrants that the Authorize.Net Services provided to You hereunder will conform substantially to specifications set forth in the applicable Services Documentation, as may be amended from time to time at Authorize.Net's sole discretion. The preceding warranty will not apply if (a) any Authorize.Net Services or products provided hereunder are used in material variation with this Agreement or the applicable documentation; (b) any Authorize.Net Services or products have been modified without the prior written consent of Authorize.Net; or (c) a defect in any Authorize.Net Services or products has been caused by any of Merchant's malfunctioning equipment or software. You expressly acknowledge that the Authorize.Net Services are computer network-based services, which may be subject to outages, interruptions, attacks by third parties and delay occurrences.

**10.2.2** In the event You discover that any Authorize.Net Services or products are not in conformance with the representations and warranties made in Section 10.2.1 and report such non-conformity to Authorize.Net or if the Authorize.Net Services are subject to outages, interruptions, attacks by third parties and delay occurrences, Authorize.Net shall use commercially reasonable efforts to remedy material interruptions and will provide adjustments, repairs and replacements, within its capacity, that are necessary to enable the Authorize.Net Services to perform their intended functions in a reasonable manner. You acknowledge that Authorize.Net does not warrant that such efforts will be successful. If Authorize.Net's efforts are not successful, you may terminate this Agreement in accordance with section 8.1. The foregoing shall constitute your sole remedy, and Authorize.Net's sole liability, in the event of interruption, outage or other delay occurrences in the Authorize.Net Services. Authorize.Net does not warrant the services of any third party, including without limitation, the Merchant Service Provider, bank or any third party processor.

**10.2.3 DISCLAIMER.** THE AUTHORIZE.NET SERVICES ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS WITHOUT ANY REPRESENTATIONS OR WARRANTIES. AUTHORIZE.NET DOES NOT REPRESENT OR WARRANT THAT THE AUTHORIZE.NET SERVICES WILL BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, ACCURATE, COMPLETE, OR ENTIRELY ERROR-FREE. YOU MAY NOT RELY UPON ANY REPRESENTATION OR WARRANTY REGARDING THE AUTHORIZE.NET SERVICES BY ANY THIRD PARTY IN CONTRAVENTION OF THE FOREGOING STATEMENTS, INCLUDING REPRESENTATIONS OR WARRANTIES OF ANY MERCHANT SERVICE PROVIDER. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 10.2.1, AUTHORIZE.NET SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS, WARRANTIES, AND CONDITIONS WHETHER EXPRESS OR IMPLIED, ARISING BY STATUTE, OPERATION OF LAW, USAGE OF TRADE, COURSE OF DEALING, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS

FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR TITLE WITH RESPECT TO THE AUTHORIZE.NET SERVICES, OR OTHER SERVICES OR GOODS PROVIDED UNDER THIS AGREEMENT. YOU UNDERSTAND AND AGREE THAT AUTHORIZE.NET SHALL BEAR NO RISK WITH RESPECT TO YOUR SALE OF PRODUCTS OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY RISK ASSOCIATED WITH CREDIT CARD FRAUD OR CHARGEBACKS.

**10.3 Your Warranties.** You represent and warrant that:

**10.3.1** All representations and statements made by You in this Agreement, or in any other document relating hereto by You or on Your behalf, are true, accurate and complete in all material respects. You hereby authorize Authorize.Net to investigate and confirm the information submitted by You herein. For this purpose, Authorize.Net may utilize credit bureau reporting agencies and/or its own agents.

**10.3.2** You are engaged in a lawful business that includes the sale of products and/or services, and are duly licensed to conduct such business under the laws of all jurisdictions in which You conduct business.

**10.3.3** You will comply with all laws, policies, guidelines, regulations, ordinances or rules applicable to You, this Agreement, Your business or the Transactions, including, without limitation: (a) the Credit Card Association rules and regulations, expressly including the Payment Card Industry Data Security Standard (PCI DSS); (b) the Gramm Leach Bliley Act; (c) any regulatory body or agency having jurisdiction over the subject matter hereof; (d) the Services Documentation and (e) the Acceptable Use Guidelines.

**10.4 Third Party Programs.** You acknowledge that the Authorize.Net Services are designed for use with certain third party programs, including, without limitation, certain Internet browser and software programs developed and owned by third parties. You will look solely to the developers and manufacturers of such programs with regard to warranty, maintenance or other support regarding the same. Authorize.Net does not warrant and shall not be responsible for services or software provided by unaffiliated third party vendors. You authorize Authorize.Net to disclose to any third party vendor information concerning You to the extent required to deliver the requested service.

## 11. LIMITATIONS OF LIABILITY AND DISCLAIMERS.

**11.1 LIMITATIONS.** UNDER NO CIRCUMSTANCES WILL: (A) AUTHORIZE.NET OR ANY OF ITS PARENTS, AFFILIATES OR VENDORS (OR ANY OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS OF THE PARTIES, OR ITS PARENTS, AFFILIATES OR VENDORS) BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (HOWEVER OR WHENEVER ARISING), INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST REVENUE, LOST PROFITS, ANTICIPATED PROFITS, LOST BUSINESS OR INJURY TO BUSINESS REPUTATION, COST OF PROCUREMENT OF SUBSTITUTE SERVICES, UNDER ANY THEORY OF LIABILITY OR CAUSE OF ACTION WHETHER IN TORT (INCLUDING NEGLIGENCE), CONTRACT OR OTHERWISE, REGARDLESS OF WHETHER IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (B) AUTHORIZE.NET'S TOTAL LIABILITY TO YOU, WHETHER ARISING IN TORT (INCLUDING NEGLIGENCE), CONTRACT OR OTHERWISE, UNDER THIS AGREEMENT OR WITH REGARD TO ANY AUTHORIZE.NET PRODUCTS OR SERVICES, EXCEED THE AGGREGATE COMPENSATION AUTHORIZE.NET RECEIVED FOR PROVIDING THE AUTHORIZE.NET SERVICES TO YOU DURING THE THIRTY (30) DAYS PRECEDING THE DATE ON WHICH THE CLAIM AROSE OR \$1,000, WHICHEVER IS LESS.

**11.2 DISCLAIMER.** EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, YOU EXPRESSLY AGREE THAT AUTHORIZE.NET SHALL NOT BE LIABLE FOR ANY LOSS (HOWEVER OCCURRING, INCLUDING NEGLIGENCE), ARISING FROM OR RELATED TO: (A) YOUR FAILURE TO PROPERLY ACTIVATE, INTEGRATE OR SECURE YOUR MERCHANT ACCOUNT; (B) FRAUDULENT TRANSACTIONS PROCESSED THROUGH YOUR PAYMENT GATEWAY ACCOUNT(S); (C) DISRUPTION OF AUTHORIZE.NET SERVICES, SYSTEMS, SERVER OR WEB SITE BY ANY MEANS, INCLUDING WITHOUT LIMITATION, DDOS ATTACKS, SOFTWARE VIRUSES, TROJAN HORSES, WORMS, TIME BOMBS, OR ANY OTHER TECHNOLOGY; (D) ACTIONS OR INACTIONS BY ANY THIRD PARTY, INCLUDING WITHOUT LIMITATION, A MERCHANT SERVICE PROVIDER, PAYMENT PROCESSOR OR BANK; OR (E) UNAUTHORIZED ACCESS TO (I) DATA, END-USER DATA (INCLUDING CREDIT CARD NUMBERS AND OTHER PERSONALLY IDENTIFIABLE INFORMATION), TRANSACTION DATA OR PERSONAL INFORMATION BELONGING TO AUTHORIZE.NET, YOU OR ANY THIRD PARTY OR (II) THE AUTHORIZE.NET SERVICES, OR ANY SYSTEM OR PROGRAM ASSOCIATED THEREWITH; OR (F)

THE LIMITATION OF THE FUNCTIONING OF ANY AUTHORIZE.NET SERVICES OR SOFTWARE, HARDWARE, OR EQUIPMENT ASSOCIATED THEREWITH.

**11.3 THIRD PARTY PRODUCTS AND SERVICES.** AUTHORIZE.NET MAKES NO REPRESENTATION, WARRANTY OR GUARANTEE WHATSOEVER IN RELATION TO THIRD PARTY PRODUCTS OR SERVICES. YOUR USE OF THIRD PARTY PRODUCTS AND SERVICES IS AT YOUR OWN RISK. AUTHORIZE.NET ASSUMES NO RESPONSIBILITY AND EXPRESSLY DISCLAIMS ANY LIABILITY FOR CLAIMS OF LOSS AND/OR FRAUD INCURRED RESULTING FROM THE USE OF OR CONCLUSIONS DRAWN FROM ANY THIRD PARTY PRODUCT OR SERVICE, REGARDLESS OF WHETHER OR NOT AUTHORIZE.NET IS A RESELLER OF OR REFERRAL AGENT FOR SUCH PRODUCT OR SERVICE.

## 12. Indemnification.

### 12.1 Indemnification by Authorize.Net.

**12.1.1 General.** Authorize.Net shall defend, indemnify and hold You and any of Your officers, directors, agents and employees harmless from and against any and all third party claims, actions, proceedings, and suits and all related liabilities, damages, settlements, penalties, fines, costs or expenses (including reasonable attorneys' fees and other litigation expenses) incurred by You, arising out of or relating to any alleged infringement of a U.S. patent or copyright of any other entity or person by the Authorize.Net Services.

**12.1.2 Limitation; Prevention of Infringement.** Authorize.Net's obligations in Section 12.1.1 do not apply if: (i) the Authorize.Net Services have been modified by parties other than Authorize.Net; (ii) the Authorize.Net Services are used in conjunction with data where use with such data gave rise to the infringement claim; (iii) Your fail to install upgrades or patches provided by Authorize.Net where such upgrade or patch would have removed the infringing condition; (iv) Your use of the Authorize.Net Services in a manner inconsistent with Services Documentation; or (v) Your use of the Authorize.Net Services with software or hardware not authorized by Authorize.Net, where use with such other software or hardware gave rise to the infringement claim. If the Authorize.Net Services or any component thereof becomes, or in Authorize.Net's opinion is likely to become, the subject of a claim of infringement, then You shall permit Authorize.Net, at Authorize.Net's sole option and expense, either to (i) procure for You the right to continue using the Authorize.Net Services as permitted in this Agreement, or (ii) replace or modify the affected Authorize.Net Services or infringing component so that it becomes non-infringing. If, after using commercially reasonable efforts, Authorize.Net is unable to cure the infringement, either party may terminate this Agreement upon notice to the other, as provided in Section 8.1. THIS SECTION 12.1.2 STATES THE ENTIRE LIABILITY OF AUTHORIZE.NET TO YOU WITH RESPECT TO INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS BY THE AUTHORIZE.NET SERVICES.

**12.2 Indemnification by You.** You shall defend, indemnify, and hold harmless Authorize.Net and its affiliates, parents, and/or subsidiaries, and any of their officers, directors, agents and employees, from and against any and all claims, actions, proceedings, and suits and all related liabilities, damages, settlements, penalties, fines, costs or expenses (including reasonable attorneys' fees and other litigation expenses) incurred by Authorize.Net, arising out of or relating to (a) any breach or alleged breach by You of any representation, warranty, or obligation of You set forth in this Agreement; (b) any damage or loss caused by negligence, fraud, dishonesty or willful misconduct by You or any of Your employees, agents or customers; (c) the reliability, accuracy, or legitimacy of payment data or purchase orders submitted by You to Authorize.Net; (d) payment card transactions submitted by You to Authorize.Net and rejected by Authorize.Net or an issuing bank; (e) any alleged infringement of a patent, copyright, trademark or other intellectual property right resulting from a Merchant Fault; (f) claims by Your customers, including, without limitation, claims relating to the disclosure of consumer data; (g) any alleged or actual violation by You of any applicable laws, regulations or rules of (i) the Credit Card Associations; (ii) the Gramm Leach Bliley Act; (iii) or any regulatory body or agency having jurisdiction over the subject matter hereof; or (h) any violation of Authorize.Net's Acceptable Use Guidelines. In the event You cause fines and/or penalties to be charged to Authorize.Net by the Credit Card Associations or any other entity, you agree to immediately reimburse Authorize.Net for said fines or penalties.

**12.3 Indemnification Procedure.** The obligations of each party ("Indemnitor") under this Section 12 to defend, indemnify and hold harmless the other party ("Indemnitee") shall be subject to the following: (a) Indemnitee shall provide Indemnitor with prompt notice of the claim giving rise to such obligation; provided, however, that any failure or delay in giving such notice shall only relieve Indemnitor of its obligations under this section to the extent it reasonably demonstrates that its defense or settlement of the claim or suit was adversely affected thereby; (b) Indemnitor shall have control

of the defense and of all negotiations for settlement of such claim or suit; and (c) Indemnitee shall cooperate with Indemnitor in the defense or settlement of any such claim or suit, provided that Indemnitee shall be reimbursed for all reasonable out-of-pocket expenses incurred in providing any cooperation requested by Indemnitor. Subject to clause (b) above, Indemnitee may participate in the defense of any such claim or suit at its own expense. Indemnitor shall not, without the consent of the Indemnitee, enter into any settlement that reasonably can be expected to require a material affirmative obligation of, result in any ongoing material liability to or materially prejudice Indemnitee in any way.

**12.4 Exceptions.** If You are an agency or instrumentality of a state of the United States and are precluded by the law of Your state from entering into indemnification obligations, then the obligations under Sections 12.2 and 12.3 shall apply only to the extent permitted by such state law.

### **13. General Provisions.**

**13.1 Publicity.** The parties may work together to issue publicity and general marketing communications concerning their relationship and other mutually agreed-upon matters, provided, however, that neither party will have any obligation to do so. In addition, neither party will issue such publicity and general marketing communications concerning this relationship or the Authorize.Net Services without the prior written consent of the other party (not to be unreasonably withheld or delayed).

**13.2 Non-exclusivity.** Each party acknowledges and agrees that the rights granted to the other party in this Agreement are non-exclusive, and that, without limiting the generality of the foregoing, nothing in this Agreement shall be deemed or construed to prohibit either party from participating in similar business arrangements as those described herein.

**13.3 Relationship of the Parties.** The parties are independent contractors and nothing in this Agreement shall make them joint venturers, partners, employees, agents or other representatives of the other party. Neither party shall make any representation that suggests otherwise. You further recognize that if You contracted for the Authorize.Net Services with a Merchant Service Provider, such provider is an independent contractor and is not a joint venturer, partner, or agent of Authorize.Net.

**13.4 Notices.** All notices to You shall be given electronically, sent to the electronic mail address provided by or for You during registration for the Authorize.Net Services and/or posted in the Announcement section of Your payment gateway account(s). Service termination notices to Authorize.Net shall be given electronically from within Your Authorize.Net Merchant Interface and sent to support@authorize.net. You must log into Your Merchant Interface at <<https://secure.authorize.net/>>, click on Contact Us, click on Customer Support Inquiry Form, type your termination request, and click the Submit button. All other notices to Authorize.Net must be in writing and sent to Authorize.Net LLC, 808 East Utah Valley Drive., American Fork, Utah, 84003, Attention: General Counsel. Such written notice will be deemed given upon personal delivery, upon confirmation of receipt if sent by fax, or three (3) days after the date of mailing if sent by certified or registered mail, postage prepaid. Electronic mail notices shall be deemed given the next business day following the date delivered.

**13.5 Amendment; Modifications.** No amendment, modification, or change to any provision of this Agreement, nor consent to any departure by either party therefrom, will in any event be effective unless the same will be in writing and signed by the other party, and then such consent will be effective only in the specific instance and for the specific purpose for which given. Notwithstanding the foregoing, Authorize.Net may amend this Agreement at any time upon written or electronic notice to You of not less than ten (10) days prior to the effective date of such amendment; provided that the addition or change of service fees, will become effective upon at least thirty (30) days' notice. If You do not agree to such amendments, Your sole remedy is to immediately terminate this Agreement upon written notice to Authorize.Net.

**13.6 Severability; Headings.** If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision, which most closely approximates the intent and economic effect of the invalid provision. Headings are used for convenience of reference only and in no way define, limit, construe or describe the scope or extent of any section, or in any way affect this Agreement.

**13.7 Governing Law; Jurisdiction.** This Agreement and performance under it will be interpreted, construed and enforced in all respects in accordance with the laws of the State of California, excluding (i) that body of law known as conflicts of law and (ii) the United Nations Convention on Contracts for the International Sale of Goods. You hereby irrevocably consent to the personal jurisdiction of and venue in the state and federal courts located in Santa Clara County, California with respect to any action, claim or proceeding arising out of or related to this Agreement and agree not to commence or prosecute any such action, claim or proceeding other than in

such courts. No action, regardless of form, arising out of or in conjunction with the subject matter of this Agreement, except for claims involving intellectual property, claims to recover outstanding amounts due Authorize.Net and claims for indemnification, may be brought by either party more than one (1) year after the cause of action arose.

**13.8 Waiver.** The failure of any party to insist on or enforce strict performance of any provision of this Agreement or to exercise any right or remedy under this Agreement or applicable law will not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such provision, right or remedy in that or any other instance; rather, the same will be and remain in full force and effect. Waiver by either party of a breach of any provision contained herein must be in writing, and no such waiver will be construed as a waiver of any other and/or succeeding breach of such provision or a waiver of the provision itself.

**13.9 Assignment.** You will not have the right or the power to assign any of Your rights or delegate the performance of any of Your obligations under this Agreement without the prior written consent of Authorize.Net, including in the case of a merger.

**13.10 Force Majeure.** Neither party will be liable for any losses arising out of the delay or interruption of its performance of obligations under the Agreement due to any acts of God, acts of civil or military authorities, civil disturbances, wars, strikes or other labor disputes, fires, transportation contingencies, interruptions in telecommunications, utility, Internet services or network provider services, acts or omissions of a third party, infiltration or disruption of the Authorize.Net Services by a third party by any means, including without limitation, DDoS attacks, software viruses, Trojan horses, worms, time bombs or any other software program or technology designed to disrupt or delay the Authorize.Net Services, or other catastrophes or any other occurrences which are beyond such parties' reasonable control (each a "**Force Majeure Event**"), provided that the party delayed will provide the other party notice of any such delay or interruption as soon as reasonably practicable, will use commercially reasonable efforts to minimize any delays or interruptions resulting from the Force Majeure Event and in no event will any failure to pay any monetary sum due under this Agreement be excused for any Force Majeure Event.

**13.11 Telephone Recording.** You acknowledge, agree and consent that Authorize.Net may monitor and record any customer service telephone conversations at any time, without additional further notice to the parties to such conversations.

**13.12 Entire Agreement.** This Agreement together with all of Authorize.Net's policies referenced herein sets forth the entire understanding and agreement of the parties, and supersedes any and all prior or contemporaneous oral or written agreements or understandings between the parties, as to the subject matter of this Agreement. You acknowledge that this Agreement reflects an informed, voluntary allocation between Authorize.Net and You of all risks (both known and unknown) associated with the Authorize.Net Services.

**13.13 Survival.** The provisions of this Agreement relating to any fees or other amounts owed, payment of interest on unpaid fees, confidentiality, warranties, limitation of liability, indemnification, governing law, severability, headings and this paragraph shall survive termination or expiration of this Agreement.

### **13.14 Definitions**

**"Abandoned Account"** means any inactive account through which no Transactions have been processed for a minimum of six (6) months **AND** for which all contact information (address, phone numbers, fax numbers, e-mail address) and billing information (ABA routing number and bank account number and/or credit card number) is no longer valid.

**"Acceptable Use Guidelines"** see <<http://www.authorize.net/company/terms/>>.

**"Batch(es)"** means any batch settlement submitted to a Processor by Authorize.Net consisting of any credit card authorization, credit, ticket only, decline transaction or other related transaction.

**"Confidential Information"** shall mean any data or information, oral or written, treated as confidential that relates to either party's (or, if either party is bound to protect the confidentiality of any third party's information, such third party's) past, present, or future research, development or business activities, including any unannounced products and services, any information relating to services, developments, Services Documentation (in whatever form or media provided), inventions, processes, plans, financial information, End-User data, revenue, transaction volume, forecasts, projections, and the financial terms of this Agreement. Notwithstanding the foregoing, Confidential Information shall not be deemed to include information if: (i) it was already known to the receiving party prior to the Effective Date of this Agreement, as established by documentary evidence; (ii) it is in or has entered the public domain through no breach of this Agreement or other wrongful act of the receiving party; (iii) it has been rightfully received by the receiving party from a third party and without breach of any obligation of

confidentiality of such third party to the owner of the Confidential Information; (iv) it has been approved for release by written authorization of the owner of the Confidential Information; or, (v) it has been independently developed by a party without access to or use of the Confidential Information of the other party."

"**Credit Card Association**" for the purposes of this Agreement means Visa U.S.A., Inc., Visa International, Inc., MasterCard International, Inc., and any other credit or debit card issuing company.

"**Domain(s)**", means any Web site or sites operated by or for Authorize.Net, including without limitation the URL <<http://www.authorize.net/>>.

"**Effective Date**" means the earlier of the date You acknowledge and agree to the Agreement terms and conditions by (a) clicking the "I AGREE" button associated with the Agreement; (b) acknowledging Your acceptance of the Agreement by any other method allowed by Authorize.Net, including without limitation execution of a Merchant Service Provider application that incorporates the Agreement by reference; or (c) by using the Authorize.Net Services.

"**End User**" shall mean any person that purchases any of Your goods or services, whose information You will submit to Authorize.Net during the course of Your use of the Authorize.Net Services.

"**Fee Schedule**" means a list of fees and charges to be paid by You to Authorize.Net. The Fee Schedule is located in the Merchant Interface.

"**Merchant Interface**" means the user interface available to Merchants at <<https://secure.authorize.net/>>.

"**Merchant Service Provider**" for purposes of this Agreement, a Merchant Service Provider shall mean any third party through whom Authorize.Net may offer the Authorize.Net Services to You, including but not limited to a reseller, Independent Sales Organization ("ISO"), application service provider, merchant aggregator, acquiring bank and financing agency.

"**Privacy Policy**" see <<http://www.authorize.net/company/privacy.php/>>.

"**Processor**" means a credit card processor that accepts Transactions from Authorize.Net and processes Transactions for You.

"**Services Documentation**" means collectively, the operating instructions, user manuals, and help files, in written or electronic form, made available to You and that are intended for use in connection with the Authorize.Net Services.

"**Trademark(s)**" means all common law or registered trademark, service mark, trade name and trade dress rights and similar or related rights arising under any of the laws of the United States or any other country or jurisdiction, whether now existing or hereafter adopted or acquired.

"**Transaction(s)**" means any credit card authorization, credit, ticket only, capture or settlement request, decline transaction, or other related transaction, completed or submitted under Your account to Authorize.Net.

"**Value Adding Service(s)**" means the following services, Customer Information Manager, Advanced Fraud Detection Suite™, FraudScreen.Net®, Automated Recurring Billing™ and/or any other service or product that may be offered by Authorize.Net in the future.

#### Appendix A- Trademarks

##### I. Authorize.Net Marks

For purposes of this Agreement, "Authorize.Net Trademarks" means those trademarks listed below and such other trademarks as Authorize.Net may from time to time notify You in writing to be "Authorize.Net Trademarks" within the meaning of this Agreement.

**Advanced Fraud Detection Suite™**

**Authorize-IT®**

**Authorize.Net®**

**Authorize.Net Verified Merchant Seal™**

**Authorize.Net Your Gateway to IP Transactions™**

**Authorize.Net Where the World Transacts®**

**Automated Recurring Billing™**

**CyberSource®**

**eCheck.Net®**

**FraudScreen.Net®**

**Authorize.Net**  
a CyberSource solution

##### II. Your Marks

For purposes of this Agreement, "Your Marks" means Your customary name and logo, and such other trademarks as You may from time to time notify

Authorize.Net in writing to be "Your Marks" within the meaning of this Agreement.

#### Appendix B - Prohibited Activities

You agree that You will not at any time conduct Your business in any manner that directly or indirectly offers, sells, leases, licenses or displays, delivers, advertises, recommends, or promotes any product(s), service(s), data, information, image(s), text and/or any content which:

(i) is unlawful or violates any applicable local, state, federal, national or international law, statute, ordinance, or regulation including, without limitation, Credit Card Association rules, consumer protection law, Internet tobacco sales, firearm sales, unfair competition, antidiscrimination or false advertising;

(ii) is associated with any form of adult, sexually oriented, or obscene materials or services, including without limitation, any material clearly designed to sexually arouse the viewer/reader (e.g., books, text, photos, videos, X-rated movies, pornographic materials, etc.), any materials which require individuals to be eighteen (18) or older to view or purchase those materials, escort services, and adult websites;

(iii) infringes on any patent, trademark, trade secret, copyright, right of publicity, or other proprietary right of any party, including, but not limited to, the unauthorized copying and posting of trademarks, pictures, logos, software, articles, musical works and videos;

(iv) is threatening, abusive, harassing, defamatory, obscene, libelous, slanderous, deceptive, fraudulent, invasive of another's privacy, tortuous, or otherwise violate Company's rules or policies;

(v) victimizes harasses, degrades, or intimidates an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability;

(vi) impersonates any person or entity;

(vii) contains harmful content, including, without limitation, software viruses, Trojan horses, worms, time bombs, cancel bots, spy-ware, or any other files, software programs, or technology that is designed or intended to disrupt, damage, surreptitiously intercept or expropriate the Services or any system, program, data or personal information or limit the functioning of any software, hardware, or equipment or to damage or obtain unauthorized access to any data or other information of any third party;

(viii) violates any U.S. export or import laws, including, without limitation, the Export Administration Act and the Export Administration Regulations maintained by the Department of Commerce;

(ix) offers or disseminates fraudulent goods, services, schemes, or promotions (i.e., make money fast schemes, chain letters, pyramid schemes) or engage in any unfair deceptive act or practice;

(x) is associated with any form of gambling or lottery type services;

(xi) is associated with illegal telecommunications or cable television equipment;

(xii) is associated with electronic wallets (i.e., "e-wallets") or any similar payment type; or

(xiii) is associated with the sale of (a) any controlled drug that requires a prescription from a licensed practitioner unless you are authorized by the National Association of Boards of Pharmacy to offer such products as a Verified Internet Pharmacy Practice Site and only if such a prescription has been issued by the practitioner after a bona fide examination of the patient; or (b) any over-the-counter drug, unless the sale of such product, without a prescription, has been approved by the Food & Drug Administration; or (c) nonprescription drugs that make false or misleading treatment claims or treatment claims that require FDA approval; or (d) any drug or controlled substance that the Company believes to be or may become harmful, unlawful, or prohibited. Authorize.Net requires sellers of prescription drugs to abide by all laws applicable to both the buyer and seller and we may require you to provide evidence of compliance with these requirements. In addition, due to the complexities of current laws regulating the importation of controlled drugs into the United States, you may not use the Services to sell prescription drugs that are imported into the United States from an international location. The foregoing list is a non-exhaustive list of prohibited goods and services;

(xiv) is associated with electronic cigarettes (i.e., "e-cigarettes") or any similar product.

#### Appendix C – Value-Adding Services

In the event You enroll in and Authorize.Net provides You with Value-Adding Service(s), You agree as follows:

1. **Expansion of Services.** The terms "Services" and "Authorize.Net Services," as each is defined in the Agreement, shall include each of the Value-Adding Services. Each Value-Adding Service is described on the Authorize.Net Web site and in other Services Documentation provided to You from time to time. All terms of the Agreement applicable to the Authorize.Net Services shall be applicable to each Value-Adding Service.

2. **Your Obligations.** In addition to Your obligations set forth in the Agreement, You agree to pay the Value-Adding Service Fees, in accordance with Section 6 of this Agreement, in the amounts provided in the Fee Schedule located in the Merchant Interface and/or in the Value-Adding Service documentation page accessed during enrollment in the applicable Value-Adding Service. By checking the "I ACCEPT" button next to a Value-Adding Service Fee schedule, You acknowledge Your acceptance of such fees, Your obligation to pay same and the terms and conditions applicable to the Value-Adding Service.

3. **Your Warranty.** You represent, warrant, and covenant to Authorize.Net that Your use of the Value-Adding Services and any information gathered by You in connection with use of a Value-Adding Service: (a) will be fully compliant with all applicable local, state and federal laws, rules, and regulations; (b) will be in accordance with all applicable Services Documentation; and (c) will not be used for any purpose other than in connection with the Value-Adding Service.

4. **Acknowledgement.** You understand, acknowledge, and agree that (a) You will be solely responsible for ALL transactions processed through Your payment gateway account(s), regardless of whether such transactions are monitored by a Value-Adding Service; (b) You will be solely responsible for Your use of the Value-Adding Service including, without limitation (i) configuring, maintaining and updating, as You deem necessary, the applicable settings for Your Value-Adding Service account; and (ii) with respect to each Transaction processed via your payment gateway account(s), and regardless of any data, analysis, or information generated or not generated by the Value-Adding Service, as applicable, determining the appropriate action for each such Transaction (i.e., approve, void, decline, reject); (c) under certain circumstances, it may be necessary for Authorize.Net to adjust Your Value-Adding Service security settings, with or without notice to You, to guard against fraudulent activity and that such actions may inadvertently cause legitimate transactions to expire, be rejected or delayed; and (d) Authorize.Net shall not be liable under any theory of law, including negligence, for any loss associated with any of the foregoing.

5. **AUTHORIZE.NET WARRANTY. IN ADDITION TO ANY LIMITATIONS OR DISCLAIMERS SET FORTH IN THE AGREEMENT, YOU UNDERSTAND, ACKNOWLEDGE AND AGREE THAT THE VALUE-ADDING SERVICES ARE PROVIDED TO YOU BY AUTHORIZE.NET "AS IS" AND THAT AUTHORIZE.NET DOES NOT REPRESENT OR WARRANT THAT THE VALUE ADDING SERVICES OR ANY OTHER TECHNOLOGY, CONTENT, INTELLECTUAL PROPERTY, OR ANY OTHER INFORMATION, DATA, PRODUCTS, OR SERVICES, WILL BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, ACCURATE, COMPLETE, OR ERROR-FREE, AND THAT YOUR SOLE REMEDY FOR ANY ISSUE RELATED TO OR ARISING FROM THE VALUE ADDING SERVICES, AND AUTHORIZE.NET'S SOLE LIABILITY FOR SAME, WILL BE TO TERMINATE THIS AGREEMENT AND DISCONTINUE YOUR USE OF THE VALUE-ADDING SERVICES.**

6. **Risk, Security and Disclosure.** The risk and security suggestions provided to You in the Services Documentation for any of the Value-Adding Services are solely for illustrative purposes to show best industry practices, and You shall be solely responsible for choosing the appropriate settings and parameters for Your account.

7. **Termination.** If Your Agreement is terminated for any reason, Authorize.Net shall immediately cancel access to Your Value-Adding Service account. It is Your responsibility to download all reports prior to the effective date of any such termination as such reports will not be available subsequent to the termination date.

8. **Incorporation by Reference.** The Value-Adding Services Fee Schedules are incorporated herein by reference.

9. **Third Party Programs.** Authorize.Net makes no warranty, express or implied, with regard to any third party services or software.

10. **Definitions.** All terms and conditions of the Agreement not specifically modified in this Appendix shall remain unchanged and in full force and effect. Unless separately defined herein, capitalized words used in this Appendix as defined terms shall have the same meanings herein as in the Agreement.