

EFSNB
ELECTRONIC AUTHORIZATION AND PAYMENT
VOYAGER AGREEMENT

This Agreement is entered into the day and date set forth below by and between EFS National Bank, 2525 Horizon Lake Drive, Suite 120, Memphis, Tennessee, 38133 ("EFSNB") and the undersigned _____ ("Merchant"). In consideration of the mutual covenants herein, EFSNB and Merchant agree to the following terms and conditions.

1. **ACCEPTANCE OF VOYAGER CARDS.** Merchant agrees to promptly honor all valid and current Voyager Cards when properly presented as payment for merchandise or services by a cardholder ("Cardholder"). Merchant shall not establish minimum or maximum transaction amounts as a condition to honoring the Card, shall not impose any surcharge on transactions, shall not make cash advances, and shall collect any tax required in the total transaction amount and not separately in cash. Merchant agrees to display the service marks of Voyager Fleet Systems, Inc. and/or Voyager (hereinafter referred to as Voyager) in accordance with their respective rules and regulations. As used herein, the term "Card" shall refer to any Card of similar design licensed for use by Voyager. Neither this Agreement nor the provision of any material or information to Merchant pursuant to this Agreement constitutes any assignment, license, or other transfer of any mark, name, copyright, or other intellectual property of Voyager.

2. **AUTHORIZATION.** Merchant must receive authorization of each transaction from EFSNB using an electronic data terminal ("Terminal"). The Cardholder must present the Card and the Card must be swiped through the Terminal to entitle Merchant to receive payment under this Agreement. If the initial attempt to receive an authorization is declined, Merchant shall not attempt to receive a subsequent authorization. Authorization may be obtained by voice over the telephone only if the Terminal is not operating. There is a charge for voice authorizations if Terminal is operable but not used. In the event EFSNB authorizes the transaction by voice, it will transmit an authorization code, which must be written on the Sales Draft.

3. **RECOVERY OF CARDS.** The Merchant shall use its best efforts, using peaceable means, to retain or recover any Card, if the Merchant is advised to retain the Card in response to an authorization inquiry, or if the Merchant has reasonable grounds to believe such Card is counterfeit, fraudulent or stolen.

4. **SALES DRAFT PROCEDURE.** Merchants will be provided with sales drafts ("Sales Drafts") to record transactions. The Merchant must date each Sales Draft, include a brief description of the merchandise and/or services sold and specify the price thereof (including any applicable taxes). The Merchant must compare the signature on the Sales Draft with the signature appearing on the Card. The Merchant agrees to emboss (imprint) the Sales Draft with the information on the Card. The Merchant must verify that the card has not expired. A Sales Draft generated by an electronic printer as the Card is swiped through a Terminal connected to the printer will be accepted as an embossed or imprinted Sales Draft. Merchant must obtain the Cardholder's signature on the Sales Draft whether it is embossed or electronically printed. If the Card information cannot be read by the Terminal and must be manually entered, the Sales Draft must be embossed manually. The Sales Draft should include the total cash price of the sale and the cash price for each item, the authorization code, and any additional information EFSNB reasonably requires. The Merchant shall deliver to the Cardholder a true and complete copy of the Sales Draft at the time of delivery of goods or performance of services. In order to prove that the Sales Draft has been properly completed, Merchant agrees to retain a copy of the Sales Draft, other than the copy given to Cardholder, for a period of at least three years after the date of the transaction, unless otherwise required by EFSNB. At the request of EFSNB, Merchant shall deliver to EFSNB the Merchant's copy of any Sales Draft so requested, according to the procedures set by EFSNB. In the event that Merchant fails to deliver such Sales Draft, Merchant shall be liable to EFSNB for damages incurred by EFSNB, such as charge backs, which result from the failure to retain Sales Drafts. Merchant shall not prepare any sales draft which duplicates or includes any amount encompassed within another transaction.

5. **PAYMENT.** EFSNB will pay Merchant through the automated clearing house ("ACH") system for all authorized transactions. As payment for its services, EFSNB will deduct charges from the authorized transactions as set out on Merchant Data Sheet. Charges will include a daily ACH transaction fee. Merchant must reconcile transactions monthly with EFSNB, and Merchant hereby waives the right to collect for any transaction not reconciled within 120 days of the date of the transaction. EFSNB shall not increase the fees and charges provided in the Merchant Data Sheet except at the expiration of a term of the Agreement, except that EFSNB shall be entitled to increase fees and charges at any time and pass them through to Merchant to offset direct increases to EFSNB in the

costs of providing the services hereunder to the extent changes in the Rules of Voyager, fees or operation procedures of card issuers, card networks or federal, state or local governmental authority results in such cost increase. Any such increases shall become effective on the date EFSNB notifies Merchant of such increases in writing. The receipt of such notice shall be deemed to constitute an amendment to this Agreement.

6. **RETURNED MERCHANDISE.** If any merchandise is accepted for return or any services are terminated or canceled, or any price adjustment is allowed by the Merchant, the Merchant shall not make any cash refund to the customer or issue a credit to any other card but shall issue promptly to EFSNB via the Terminal for deposit a credit voucher evidencing such refund or adjustment. The refund or adjustment indicated by the credit voucher may not exceed the original transaction amount. Merchant shall not accept any payments from customer for merchandise and/or services if the purchase has been transmitted to EFSNB via the Terminal. Any such remittance which is inadvertently received by Merchant will be segregated and promptly delivered to EFSNB properly endorsed or signed, or the Merchant shall prepare a Credit Voucher on the Terminal for the purpose of effecting a deposit to the Cardholder's account.

7. **WARRANTIES AND REPRESENTATIONS.** Merchant agrees that it will become familiar with, be bound and abide by the rules and procedures of Voyager and Merchant further warrants and represents, to the best of its knowledge, that each Sales Draft prepared and each transaction transmitted to EFSNB represents a valid, legally binding obligation for the amount set forth therein, the transaction is not subject to any disputes, set offs, or counterclaims, is valid in form unaltered and complete on its face in accordance with instructions described above, is signed by Cardholder to whom Merchant has actually sold the merchandise or services on the date thereof, that the Sales Draft was personally signed by Cardholder and the signature corresponds with the signature on the Card, that all statements on the Sales Drafts are true, that Merchant has no knowledge which would impair the validity of the Sales Draft, that the Merchant has performed all of its obligations with respect to the sales transaction, that the sale does not involve any element of credit except to sell the merchandise or service and there have been no service, carrying or any special charges or any special agreements, conditions, other additional consideration or securities extracted in connection with the sale. Merchant warrants that merchandise has been delivered and/or services rendered to the Cardholder in satisfaction of the underlying obligation. Merchant represents and acknowledges that monies received by EFSNB for payment to Merchant are not the property of Merchant until actually delivered to Merchant. Each party warrants that all proprietary information disclosed by either party to the other in connection with this Agreement shall be held in confidence and protected by the recipient party from disclosure to others and further warrants that it will not be copied or used in any way other than as specifically authorized in this Agreement.

8. **PRICING AND FEES.** Merchant agrees to pay all fees associated with EFSNB Merchant account in accordance with Schedule A of said agreement.

9. **CHARGEBACKS.** Merchant authorizes EFSNB to charge back any transaction which breaches the terms of this Agreement and/or the rules and procedures of Voyager. Transactions that have been charged back and not re-presented may not be reauthorized. Notification of chargebacks from EFSNB will be given to Merchant by requesting an original receipt of the transaction from Merchant. Chargebacks may be debited from any account identified herein or in any other agreement between Merchant and EFSNB.

10. **IMPRINTERS.** At the request of Merchant, EFSNB will furnish Merchant, for a fee, a sufficient number of imprinters for Merchant's needs. The imprinters are the property of Merchant. If Merchant has or supplies the imprinter, said imprinter must be approved by EFSNB. EFSNB will supply Merchant with Sales Drafts and other forms as necessary.

11. **RECORDS.** Merchant agrees to furnish a statement of its current financial condition, if requested by EFSNB. EFSNB shall have the right to examine Merchant's books, records and other papers relative to Sales Drafts delivered to EFSNB.

12. **TAXES AND DISCOUNTS.** Merchant hereby acknowledges, understands, and agrees that Merchant is solely responsible for filing any and all documentation required by federal, state, and local tax authorities in order to obtain reimbursement for the sale of goods or services to tax exempt entities. Merchant understands and agrees that EFSNB will not be responsible in any manner whatsoever for taxes, reimbursement thereof, or filing for tax reimbursement on the Merchant's behalf on transactions completed with tax exempt entities. Merchant acknowledges, understands, and agrees that Merchant is solely responsible for discounts offered or given at the time any transaction is completed. Merchant hereby authorizes EFSNB to deposit funds into and

debit or draft funds out of the deposit account identified in Schedule B (EFSNB Data Sheet) attached hereto, for the purpose of paying or collecting amounts which EFSNB determines to be due to or from Merchant in connection with this Agreement. Additionally and specifically, Merchant irrevocably authorizes EFSNB to directly debit said deposit account for discounts or tax exemptions on monthly basis. Merchant shall indemnify EFSNB for liability, expense (including without limitation attorney fees), and other loss caused either directly or indirectly from Merchant's failure to observe its obligations to file for reimbursement of tax exempt sales or obligations regarding discounts.

13. **TERM.** This Agreement shall become effective when accepted by EFSNB and shall remain in full force and effect for a period of one (1) year. This Agreement shall be automatically renewed annually under the same terms and conditions provided for herein for one year periods unless either party notifies the other in writing prior to 60 days before the end of the initial term or any renewal term of that party's intent to terminate this Agreement. Notwithstanding the foregoing provision, either party has the right to terminate this Agreement immediately and without notice in the event that the other party is guilty of a material breach of this Agreement or violates the rules or regulations of Voyager. Termination of this Agreement shall not affect any obligation assumed or incurred and existing as of the date of the termination. Following termination of this Agreement, Merchant shall no longer honor Cards or use any of the materials issued under this Agreement. Either party may also terminate this Agreement immediately in the event the other party shall go into liquidation, suffer the appointment of a receivership of its assets, go into bankruptcy, voluntarily or involuntarily, or otherwise take advantage of any insolvency laws, or upon any voluntary or involuntary sale, transfer, or other disposition (including transfer by operation of law) of substantially all of the assets of by the other party.

14. **MISCELLANEOUS.** This Agreement, together with the policies and procedures of EFSNB related to Merchant authorizations, as modified from time to time, which are incorporated herein by reference, constitute the full agreement of the parties with respect to the subject matter hereof, and no waiver, alteration or modification of any of the provisions hereof, except for revised Merchant Data Sheet(s) or modification to the EFSNB policies and procedures, shall be binding unless in writing and signed by authorized representatives of both parties. This Agreement shall become effective when accepted by EFSNB and shall remain in effect until terminated as provided herein. Any notice under this Agreement shall be deemed to have been duly given when mailed to the party at the address given below, or as otherwise provided. Merchant expressly agrees to pay EFSNB on demand any and all indebtedness incurred pursuant to this Agreement including any costs and/or expenses which may be incurred by EFSNB in any attempt to investigate any claim or enforce any provision of this Agreement or to collect any indebtedness incurred pursuant to this Agreement, including but not limited to court costs and all expenses and reasonable attorney's fees. This Agreement cannot be assigned to any party by Merchant, but will be binding upon and inure to the benefit of Merchant's heirs, personal representatives, and successors. The obligations of EFSNB hereunder may be performed by any parent, affiliate, or successor corporation of EFSNB. This Agreement shall be construed and enforced in accordance with the internal laws of the State of Tennessee without reference to choice of law rules. Any legal action, including an original complaint or third party claim, by or in the right of any party to this Agreement or any action arising under or in any way related to this Agreement, including but not limited to a claim for payment under the Agreement, and also including any non-contract claim (collectively "Claims"), shall be brought and maintained exclusively in a state or federal court of competent subject matter jurisdiction in Shelby County, Tennessee and the parties hereby submit themselves to the personal jurisdiction and venue of those courts for the purpose of any such action and hereby waive any defense related to personal jurisdiction, process or venue. Merchant and EFSNB are independent contractors, and neither this Agreement nor any transactions authorized hereunder shall constitute either of them as agent for the other, or as partners, joint venturers, or any other relation.

15. **LIMITATION OF LIABILITY - INDEMNITY.** EFSNB on its own behalf, and on behalf of its officers, directors, affiliates, employees, agents, representatives and successors (collectively hereinafter "EFSNB and/or its Affiliates") make no warranties of any kind, express or implied, including, but not limited to, any implied warranty of merchantability or fitness for a particular purpose with regard to the operating systems being used, and Merchant agrees to waive such warranties. EFSNB and/or its Affiliates shall not be liable for failure to provide the services described herein if such failure is due to any cause or condition beyond its reasonable control, and any Claim by Merchant not reported within 60 days is hereby waived. **EFSNB and/or its Affiliates shall have no liability for punitive damages or for indirect, special or consequential damages of any kind, including but not limited to claims for loss of profits or business, economic injury or damage to reputation, whether resulting directly or indirectly to Merchant or third parties. In the event, a court adjudges EFSNB and/or its Affiliates liable for damages, the parties agree that such damage award for any and all Claims shall, in the aggregate, not exceed the amount of discount fees that would be paid to EFSNB for one (1) month's average volume of transactions by Merchant taken over the twelve (12) months preceding the month in which the damage or injury is alleged to have**

occurred. Merchant further agrees and acknowledges that its constitutional right to a jury trial is hereby knowingly and voluntarily waived in connection with any and all such Claims Merchant may have. Merchant shall indemnify and hold EFSNB and/or its Affiliates harmless from and against any and all loss, damage, or expense (or claims of damage or liability) asserted against EFSNB and/or its Affiliates by Merchant's customers.

MERCHANT UNDERSTANDS THAT THIS AGREEMENT SHALL NOT TAKE EFFECT UNTIL MERCHANT HAS BEEN APPROVED BY EFSNB AND A MERCHANT NUMBER ISSUED.

IN WITNESS WHEREOF, the undersigned warrant by their signatures that the foregoing Agreement has been read and understood, that they have the power and authority to enter into this Agreement, and that this Agreement does constitute a valid and binding obligation of Merchant.

MERCHANT

EFSNB

Title of Signatory

Title of Signatory

Signature

Signature

Date Signed

Date Signed & Accepted