

What is accepting credit cards all about? Below are questions often asked about merchant services. If you have additional questions after looking at the packet please call Theresa Metcalf at 800-952-4451 x73123, 8:30 to 5:00 Pacific Standard Time or simply email theresa.metcalf@bankofamerica.com.

Are there any risks in accepting credit cards?

Yes. You are required by Visa and MasterCard to obtain an authorization approval on all transactions. This approval does not guarantee the charge it only approves the amount against the customer's credit card limit. It is telling you the money is available. The cardholder has the right to dispute any transaction. Please keep all receipts for 18 months in case of a dispute.

What is a Chargeback?

The cardholder has the right to dispute any transaction. They can contact their bank and dispute a credit card transaction, which will result as a debit against your account. You will receive a notice from Bank of America about the dispute. You may need to provide documentation about a transaction to possibly reverse the dispute. There are many reasons for a Chargeback.

What is a Minimum Discount Fee?

To process credit cards Bank of America has a minimum charge for the merchant account. You will be charged the sum of the processing rate multiplied by the bankcard volume or the minimum fee whichever is greater.

What is Dial Pay?

Dial Pay is a program to process credit card transactions via an 800#. This program allows you to key in the credit card information by phone for approval and deposit to a business checking account. This does not require rental of electronic equipment, only rental of a manual imprinter.

What is Electronic Processing?

This program allows you to process transactions via a credit card terminal and printer. You have the option of using an integrated terminal and printer or a terminal with a manual imprinter. You have the ability to swipe the credit card when the credit card is present and key in any mail/phone transactions for approval and deposit. This option gives you a lower rate than Dial Pay.

What does Non-bankcard mean?

Visa and MasterCard are considered a bankcard. Non-bankcards are considered American Express, Discover, Diners and JCB. To accept American Express simply complete the American Express Acceptance Application. To accept Discover please call 800-347-8688 to establish a merchant account. Once Discover has provided you with a merchant number please call us for programming. A merchant account is setup with Visa and MasterCard automatically. We can also setup Diners and JCB with the Visa and MasterCard at 3.00%.

Is this program for e-Commerce?

No. To process through a website there are different products and pricing depending on the development of your website. Please visit our website to learn more about our eStore Solutions at www.bankofamerica.com/estores.

Do I have to open a Bank of America Checking Account?

No. We can process the transactions to a Bank of your choice. However we will require a voided business check for proper setup.

Can I fax the paperwork? How do I get started?

Yes to start the process you can fax the paperwork to (253) 437-3140. However, please follow up by mailing the original application to Theresa Metcalf, Bank of America, 6811 South 204th Street, #310, Kent, WA 98032-2359. To get started we need the Merchant Service Account Application, American Express Acceptance Agreement (optional), copy of your most recent tax returns and your Distributor ID number.

How long does it take to get setup?

Once I receive the complete packet it takes 7 business days before we ship the merchant kit. An approval can be done within 24-48 hours Monday - Friday.



BA Merchant Services, Inc.
6811 south 204th Street, #310
Kent, WA 98032-2359

Schedule of Fees For USANA Distributors

Standard Fees:

Setup-Application Fee: \$50.00 one-time non-refundable fee

Equipment Options and Pricing:

Terminal w/integrated Printer: \$25.00 rental per unit, per month

Merchant Owned Equipment: \$6.95 help desk fee

Manual Imprinter (for backup): \$32.00 one-time purchase

Processing Options and Rate:

Minimum Fee: \$15.00

Electronic Rate: (via terminal) **1.75% plus \$0.22 per item*** Card swiped

2.18% plus \$0.25 per item* hand-keyed transactions

* Bank of America charges 1.75% and \$0.15 per transaction on all transactions. We pass through the Incremental Interchange and Surcharge Fees directly from Visa and MasterCard. These Interchange rates and Surcharge Fees depend on how the credit card is processed at time of sale and what type of card is presented. This proposal is based face to face transactions, CPS:Retail/Merit 3, with an average ticket of \$75.00.

Non-Bankcard Fees:

American Express (BofA can provide setup): 3.25% - 3.75% plus \$0.15 per item

As a courtesy to Bank of America clients, American Express can be established with your Visa/MasterCard, separate agreement.

Diners/JCB: 3.00% funded with Visa/MC transactions

Discover (800) 347-8688: \$0.15 per item (establish merchant account with Discover)

Documentation Required:

- Completed Merchant Services Account Application
- Most Recent Tax Returns – Personal 1 year
- Distributor ID number and date established
- American Express Card Acceptance Agreement
- Voided Business Check (must be a business checking account)

Contact Information:

Theresa Metcalf

Sales Associate

Phone: (800) 952-4451 x73123

Fax: (253) 437-3140

theresa.metcalf@bankofamerica.com

BA MERCHANT SERVICES, INC. Merchant Card Service Agreement

This Agreement is for merchant card payment processing services between the merchant that signs the Application which incorporates the terms and conditions here ("Merchant") and BA Merchant Services, Inc.

("BA"), a BankAmerica Company and a Delaware corporation, and is effective upon BA's approval of the Application of Merchant. The related appendices, addenda and schedules are part of these terms and conditions, as are the Operating Rules of BA and the Card Organizations, and individually and collectively, all

these items are referred to as the "Agreement" between Merchant and BA. This Agreement includes provisions for processing credit card and ATM/debit card transactions, which will apply depending on the kinds of Cards Merchant accepts and the Payment Options designated on the Application.

Section 1. DEFINITIONS.

1.01 "Application" is the Merchant Services Account Application which Merchant completed and signed and which BA's authorized officers signed, in which the Payment Options subject to this Agreement are designated.

1.02 "Authorization" is the process whereby Merchant in compliance with the Operating Rules for each Card obtains approval of a Charge from the Card Issuer.

1.03 "Business Day" is Monday through Friday excluding BA holidays. Each Business Day ends at the cut-off time specified by BA. Charges submitted for processing on a holiday, weekend, or after the cut-off time are treated as received the following Business Day.

1.04 "Card" is a Visa -branded, MasterCard -branded or private-label credit card, ATM card or debit card, or any other credit card, ATM/debit card or stored value card included on the Application or which BA may at any time specify as an additional card payment option available to Merchant. (See also "Valid Card").

1.05 "Card Account" is the account of a Cardholder as represented by a Card.

1.06 "Cardholder" is the person issued a Card and a corresponding account by a Card Issuer and whose name is embossed on the front of the Card by the Card Issuer, or a person authorized to use the Card by the Cardholder.

1.07 "Card Issuer" is the institution authorized by a Card Organization to issue Cards to Cardholders and that has issued a Card presented to Merchant for a Charge or Credit Voucher.

1.08 "Card Organization" is a card association such as Visa U.S.A. Inc. or MasterCard International Incorporated that promulgates Operating Rules and operates an interChange system for exchanging Charges and Credit Vouchers among Merchant, BA and Card Issuers. In the case of ATM/debit cards, "Card Organization" includes Debit Networks.

1.09 "Charge" is the evidence of an obligation of a Cardholder arising from a transaction with Merchant, which is submitted by Merchant in paper or electronic form to BA for processing through a Card Organization's interchange system so that payment may be made to Merchant and the amount of the Charge added to the Cardholder's Account. A Charge also may be referred to as a "Charge Record," "sales draft" or "sales slip."

1.10 "Chargeback" is a return of a Charge to Merchant, typically initiated by a Cardholder through a Card

Issuer, for transmittal to and payment by Merchant under Operating Rules established by the Card Organizations.

1.11 "Credit Voucher" is the evidence of a partial or total refund by Merchant of a Charge submitted to BA in paper or electronic form for processing through a Card Organization interchange system for credit to a Card Account.

1.12 "Deposit Account" is the checking account or other acceptable account Merchant maintains at Bank of America or at another depository institution acceptable to BA for credit of Charges by BA and debit of Credit Vouchers, Chargebacks, Processing Fees and any fines or fees assessed by Card Organizations.

1.13 "Operating Rules" are relevant portions of Operating Regulations, Operating Manuals Official Rules, Bulletins, Notices, and similar documents issued by Card Organizations, Debit Networks or BA.

1.14 "Point of Sale" or "POS" is each location of Merchant where Merchant and Cardholder can jointly complete a Charge or Credit Voucher transaction in connection with the Cardholder's purchase of goods or services provided by Merchant.

1.15 "Processing Fees" are the fees payable by Merchant to BA for services BA provides to Merchant in connection with this Agreement, as specified in the fee schedule that BA supplies to Merchant.

1.16 "Valid Card" is a Card that is: (1) properly issued under the authority of a Card Organization (not counterfeit); (2) "current" according to any beginning and expiration dates on the Cards; (3) signed by the Cardholder named on the front or other authorized signer; (4) not listed at the time of a Charge in a warning bulletin or notice issued by a Card Organization (all referred to as "Warning List"); and (5) not visibly altered or mutilated.

Section 2. MERCHANT'S APPLICATION AND INFORMATION.

By completing and signing the Application, Merchant applies for the card processing services covered by the Application and this Agreement. In its sole discretion, BA may accept or reject Merchant's application. Merchant may present Charges to BA only for the activities and in the volumes described on the Application. Any addition to those activities or Charge volume

exceeding the volume indicated on the Application by more than 25% must be approved in writing by an authorized BA officer before Merchant submits Charges for them to BA.

Section 3. MERCHANT'S GENERAL DUTIES.

3.01 Merchant will comply with this Agreement for submitting and processing Charges and Credit Vouchers with BA. BA is responsible to Merchant for processing Card transactions under the Operating Rules for the services to which Merchant subscribes, which may vary among Card types.

3.02 Merchant:

A. will honor each Valid Card presented by Cardholders;

B. will treat each debit Card transaction on a Debit Network no less favorably than Merchant treats other comparable debit Card transactions on other Debit Networks;

- C. will not establish minimum or maximum amounts for Charges or Credit Vouchers;
- D. will not impose any surcharge on Charges or transactions if the surcharge is prohibited by the Operating Rules; and
- E. will include any tax on a purchase in the total Charge amount.

3.03 Merchant will not use a Charge to make a credit card cash advance to any person, except for specialized transactions authorized by BA in writing. Merchant will not require a Cardholder to provide personal information such as address, license or telephone number as a condition for honoring a Card, unless required by the Operating Rules. Merchant will not make a photocopy of a Card or require the Cardholder to provide a photocopy unless the photocopy is needed for a Card recovery program of BA or a Card Organization.

3.04 Merchant may not submit mail-order or telephone-order Charges for processing Charge without a physical Card unless permitted in the Application's Signature Section signed by two BA officers. If permitted to process and submit mail-order and telephone-order Charges, Merchant will accept the risk that Merchant will sustain a level of loss from Chargebacks which is higher than the Chargeback-related losses from Charges completed with a Card.

Section 4. PROCEDURES FOR CREDIT CARD TRANSACTIONS.

4.01 AUTHORIZATION.

A. Before completing a Charge, Merchant must obtain Authorization for the amount of the purchase following BA's specified procedures, including obtaining Authorization through electronic processing methods and terminals provided or authorized by BA. Merchant must not request Authorization before the Charge date, except as permitted by the Operating Rules for specific types of transactions such

B. If a Merchant completes a Charge without Authorization, Merchant will be responsible for any Chargeback of the Charge. However, obtaining Authorization only means that at the time Authorization is requested, sufficient credit or funds are available from the Card Account and the Card is not on a warning list. Obtaining Authorization does not assure that the person using the Card is its Cardholder and will not prevent a Chargeback to Merchant for any of a variety of reasons under the Operating Rules, including use of the Card by an unauthorized user or a Cardholder claim or defense relating to the Charge.

C. Merchant must properly code the Authorization request and any resulting Charge as a "Recurring Charge" (described in Section 4.02.E. below) if appropriate.

4.02 RECORDING A CHARGE.

A. Complete a Charge Record. Merchant must record each Charge and Credit Voucher by following procedures in a format and manner specified by BA and using records such as sales drafts, sales slips or electronic processing records and methods, as applicable. Merchant will complete each sale as a single Charge, except as alternative methods are specifically approved by BA in writing.

B. Obtain the Cardholder's Signature. Merchant will require Cardholders to sign the Charge Record, but not until the final transaction amount is entered into the "Total" column of the Charge Record. Merchant warrants that the signature on the Charge Record is that of the Cardholder or a person authorized by the

Cardholder to use the Card. If the signature panel on the Card is blank, in addition to requesting an Authorization, the Merchant must do all of the following:

(1) Review positive identification to determine that the customer is the Cardholder. The identification must consist of a current, official government identification document (such as a passport or driver license) that bears the Card-holder's signature;

(2) Write the positive identification (including any serial number and expiration date) on the Charge Record;
and

(3) Require the Cardholder to sign the signature panel of the Card before completing the Charge.

C. Deliver Charge Record to the Cardholder. Merchant will deliver to the Cardholder an accurate and complete copy of the Charge, no later than the time of delivery of the goods or performance of services, using a format approved by the Card Organizations and supplied by BA. Merchant need not deliver copies for Express Payment Transactions except upon Cardholder request. Merchant must provide the following information on the Cardholder's copy resulting from use of electronic processing terminals:

(1) Card Account number;

(2) Merchant name;

(3) Merchant location code or city and state;

(4) Charge amount;

(5) Charge date; and

(6) Brief description of merchandise or services sold.

D. Non-Electronic Charges. For each Charge not submitted to BA through an electronic terminal, Merchant will complete the Charge Record form supplied by BA for that purpose by providing all information required, including the Authorization code and a brief description of the merchandise or services sold, and will imprint the Card on the Charge Record, except for mail-order and telephone-order Charges permitted by BA under Section 2.04 above.

E. Recurring Charges. Merchant may complete a Recurring Charge (Charge for goods or services that are delivered or performed periodically), but not mail-order or telephone-order transactions, by meeting the following requirements:

(1) The Cardholder must deliver a written request to Merchant to charge the purchase to the Cardholder's Account specifying:

(a) the Charge amount;

(b) the frequency of the recurring Charge; and

(c) the duration of time for which the Cardholder's permission is granted.

(2) The Cardholder must deliver a similar written request to Merchant for any renewal.

(3) If the recurring Charge is for varying amounts, the following additional conditions apply:

(a) The Cardholder's written request must allow the Cardholder to specify a minimum and maximum amounts which Merchant may charge periodically; and

(b) Merchant must inform the Cardholder of the right to receive, at least 10 days before each scheduled Charge date, Merchant's written notification of the amount and date of the next Charge. The Cardholder may elect to receive the notice: for each Charge, or

only when the Charge amount does not fall within the range of amounts specified in the Cardholder's written request, or

only when the Transaction amount will differ from the most recent Charge by more than an agreed-upon amount.

(4) Merchant must retain the original or a facsimile copy of the Cardholder's written request for the duration of the recurring Charge and must provide a copy in response to a Card Issuer's request.

(5) Merchant must not complete a Recurring Charge after receiving a cancellation notice from the Cardholder or BA, or after receiving denial of an Authorization request. Merchant will code a Recurring Charge in a manner specified by BA.

F. Cardholder Verification.

(1) Merchant will not complete a Charge before the valid-from date or after the expiration date of a Card.

(2) Merchant will complete a Charge only if the signature on the sales draft or Charge Record is the same as the signature appearing on the Card (which signature may, but need not be, the name embossed or printed on the Card). Merchant will also verify that the Cardholder resembles the person depicted in any picture on the Card. This requirement does not apply to Express Payment Service Transactions. If identification is uncertain or if Merchant otherwise questions the validity of the Card, Merchant will contact BA for instructions.

(3) Nevertheless, conforming to these requirements will not relieve Merchant of its responsibility to verify that the person using the Card is the Cardholder or a person authorized by the Cardholder to use the Card.

(4) BA or a Card Organization may require Merchant to examine additional Card security features before completing a Charge.

4.03 REFUNDS,ADJUSTMENTS; CREDIT VOUCHERS.

A. Merchant Policy. Merchant may limit returned merchandise or limit price adjustments, to the same extent as for sales not involving a Card, provided Merchant properly discloses its policy to the Cardholder before the sale, the limits are noted on the Charge Record before the Cardholder signs it, and the purchased goods or services are delivered to the Cardholder at the time the Charge takes place. Merchant will submit any changes

to its return policy to BA in writing at least 30 days before the change and will not implement any change to which BA reasonably objects. Merchant's policies will not override the Operating Rules and will not prevent Chargebacks to Merchant under those rules.

B. Credit Vouchers. Merchant will not make a refund or adjustment for a Charge in cash (except when required by law), but will deliver to BA a Credit Voucher for a refund or adjustment to the Card Account within 3 days of the refund or adjustment and deliver to the Cardholder a copy of the Credit Voucher at the time the refund or adjustment is made. Merchant will include the refund date and amount and a brief description of the refund or adjustment on the Credit Voucher in sufficient detail to identify the Card used and original Charge. The amount of the Credit Voucher must not exceed the amount of the original Charge except for any amount which Merchant agrees to reimburse the Cardholder for return postage. Merchant may not deliver a Credit Voucher to BA for any refund or adjustment of a purchase not originating as a Charge with the same Cardholder requesting the refund or adjustment, a Charge not made with Merchant, or a Charge not originally processed by BA. Merchant will not complete a Credit Voucher for a card issued to it or its employees except for a valid refund of a Charge originating with Merchant. Merchant may not receive money from a Cardholder and subsequently deliver to BA a Credit Voucher to make a deposit to the Card Account. BA may delay processing Credit Vouchers on any day to the extent they exceed the total of valid Charges presented on that day and the balance in the Deposit Account available to cover the Credit Vouchers, until the sum of valid Charges and the balance in the Deposit Account is sufficient to cover the Credit Vouchers.

C. Credit Vouchers After Agreement Termination. After this Agreement terminates, BA is not obligated to process any Credit Vouchers Merchant submits. All Chargebacks related to Credit Voucher disputes will be Merchant's responsibility. If Merchant enters into a new card processing service agreement with a new processor and provides BA the name and address of Merchant's new processor, BA will work with the new processor at Merchant's expense to reasonably resolve disputes.

4.04 CHARGEBACKS.

A. Merchant's Responsibility for All Chargebacks. BA will charge back to Merchant, and Merchant will pay back BA, the amount of each Charge which Merchant submits to BA for processing that is charged back to BA for any reason through Card Organization procedures, or to the extent BA has received valid claims regarding the charges from Cardholders under other provisions of law.

A Chargeback may occur for any one or more of several reasons under the Operating Rules or through operation of consumer protection laws such as the Truth in Lending Act and the Fair Credit Billing Act. Chargeback reasons include, without limitation:

- (1) The Charge Record or any material information it contains as provided by Merchant (such as the Card Account number, expiration date of the Card, merchant description, purchase amount, Charge date and Authorization date) is illegible, incomplete, incorrect, or unsigned, or is not delivered to BA within the required time limits;
- (2) Merchant knew or, by following proper practices, should have known that the Card was not to be honored.
- (3) The Charge was completed with a counterfeit or altered Card or before the valid date or after the

expiration date of the Card;

(4) Merchant did not obtain Authorization, or did not provide a correct and legible Authorization code on the Charge Record;

(5) The Charge Record is a duplicate of another Charge Record, represents one of two or more Charges arising from a single purchase, or the Charge has been submitted to another merchant card processor;

(6) The Cardholder disputes participating in or approving the Charge, signing the Charge Record, or the sale, delivery, quality or performance of the purchase; the Cardholder alleges that return of goods or a Credit Voucher was improperly refused, alleges that a Credit Voucher was improperly refused; or the Cardholder alleges that a Credit Voucher issued by Merchant was not processed for the Card Account of the Cardholder;

(7) The amount on the Charge Record submitted to BA differs from the amount on the copy required to be delivered to the Cardholder;

(8) Merchant has breached any provision of this Agreement, including any warranty, or any applicable laws in connection with the Charge;

(9) The Charge was fraudulent or the related purchase was not a bona fide purchase in Merchant's ordinary course of business, was subject to any claim of illegality, cancellation, avoidance, or offset for any reason, including, without limitation, negligence, fraud or dishonesty on the part of Merchant or Merchant's agents or employees or was submitted in violation of Section 6 of this Agreement;

(10) The Cardholder has asserted what the Cardholder believes is a good faith claim or defense against the Charge;

(11) The Charge is in violation of any law.

B. If BA determines that more than one Chargeback per 100 Charges are incurred or are reasonably likely to be incurred by Merchant, BA may notify Merchant of new procedures it should adopt and additional fees imposed for processing Charge-backs, and may terminate this Agreement at BA's discretion without advance notice. Merchant must immediately pay any fines or fees imposed by a Card Organization or BA relating to Chargebacks to Merchant.

C. Merchant will furnish BA with copies of Charges processed by BA and related information within 48 hours of BA's request. Doing so will not prevent a Chargeback, but failure to do so will significantly increase the probability of a Chargeback.

D. Merchant Disputes and Representment. If Operating Rules permit Merchant to dispute a Chargeback, Merchant must submit its rebuttal to BA following BA's procedures within 10 days after receiving notice of the Chargeback, or 48 hours for Chargebacks related to non-receipt of copies of Charge Records. Merchant's failure to act within that time may not provide BA with a reasonable number of days to evaluate Merchant's dispute of the Chargeback and make a representment of the Charge to the Cardholder under the Operating Rules. BA will not be obligated to make representments of Chargebacks except to the extent

allowed by Operating Rules and Merchant's timely dispute of the Chargebacks. BA's obligation to Merchant for a Chargeback is limited to representation under the Operating Rules. BA will not engage in direct collection efforts against Cardholders on Merchant's behalf.

E. Merchant's Immediate Payment for Chargebacks. Each Chargeback to Merchant is immediately due and payable by Merchant. Without limiting BA's other remedies or BA's security interest described in Section 9 below, BA may deduct, debit and withhold the amount of a Chargeback or anticipated Chargeback from the Deposit Account at any time without advance notice, and if sufficient funds are not available in that account, from any other account or accounts of Merchant at Bank of America, other funds due Merchant from BA, and other property of Merchant held by BA. BA will send Chargeback reports to Merchant as debits occur. To the extent funds are not available in an account of Merchant with BA, Merchant authorizes BA to attach and initiate withdrawals of funds from Merchant's accounts at other financial institutions, by automated clearinghouse entry, sight draft, preauthorized checks, reverse wires or otherwise to cover the Chargebacks, and Merchant hereby authorizes the other financial institutions to withdraw the funds from Merchant's accounts and pay BA the amount of the Chargebacks. BA will release to Merchant any of Merchant's deposits, funds or property after BA determines that the deposits, funds, or property held are not likely to be needed to cover any Chargebacks.

4.05 SPECIAL REQUIREMENTS FOR SPECIAL SERVICES.

The following sections set forth additional requirements for the following special card processing services:

Travel and Entertainment Services.

- A. Reservation Service
- B. Advance Lodging/Cruise Deposit Service
- C. Priority Check-Out Service
- D. Check Guarantee Service
- E. Cash Disbursements

Other Special Services.

- F. Express Payment Service (EPS)
- G. Preauthorized Health Care
- H. Supermarket Incentive Program

A. Reservation Service. If Merchant provides lodging (hotel, motel, resort or inn) or car rentals only for "Specialized Vehicles" (a unique class of vehicle not in the mainstream Merchant's rental fleet and not constituting more than 5% of Merchant's rental fleet), Merchant may use certain Card types specified by BA to guarantee a reservation by obtaining the Card's embossed name, account number and expiration date and by completing the following procedures:

- (1) Verbally confirm to the Cardholder the reservation by stating the following information:
 - (a) Card's embossed name, account number and expiration date as provided by the Cardholder;

(b) name and exact address, including street, city and state of the location of the lodging check-in or Specialized Vehicle pick-up;

(c) reservation confirmation code;

(d) rate and any other details relating to the reservation; and

(e) provisions of the guaranteed reservation relating to the Cardholder's

obligations and any other cancellation details related to the reservation as specified below.

(2) For Lodging Merchants:

(a) Inform the Cardholder that lodging accommodations will be held until check-out time on the day after the scheduled arrival date unless cancelled by 6:00 p.m. (local establishment time) on the scheduled arrival date.

(b) For resort establishments requiring cancellation before 6:00 p.m. (local establishment time) on the scheduled arrival date, the cancellation time must not exceed 72 hours before the scheduled arrival date. The Cardholder must be provided with the specific written cancellation policy, including the date and time the cancellation privileges expire. If a reservation is made less than 72 hours before the scheduled arrival, the cancellation procedure of 6:00 p.m. (local establishment time) on the scheduled arrival date will apply.

(3) For Car Rental Merchants:

(a) Inform the Cardholder that the Specialized Vehicle will be held until the scheduled pick-up time, unless the reservation is cancelled by the specified cancellation time, which must not exceed 72 hours before the scheduled pick-up time.

(b) If the reservation is made less than 72 hours before the scheduled rental, the cancellation period must be no earlier than 12 hours before the scheduled pick-up time.

(4) Provide the Cardholder with the written confirmation specified below.

(a) For Lodging Merchants - If requested, provide a written confirmation to the Cardholder, including the information specified in subsection (1) above.

(b) For Car Rental Merchants - Provide a written confirmation to the Cardholder, including the information specified in subsection (1) above. For reservations made less than 72 hours before the scheduled pick-up time, written confirmation is required only upon the Cardholder request.

(5) Advise the Cardholder of the billing for a No Show Charge as specified below. (A "No Show Charge" is a charge by Merchant resulting from the Cardholder's failure to use the reservation.) The No Show Charge must have an Authorization code and must bear the words "No Show" on the signature line of the Charge Record or as otherwise specified by BA.

(a) For Lodging Merchants - If the Cardholder has not checked in by checkout time the day following the scheduled arrival date, and the reservation was not properly cancelled, the Cardholder may be charged for

one night's lodging (including tax).

(b) For Car Rental Merchants – If the Specialized Vehicle has not been rented by the scheduled pick-up time

and the reservation was not properly cancelled, Merchant may bill the Cardholder a No Show Charge. The amount of the No Show Charge may vary, but may not exceed the value of 2 days' rental (including tax).

If the Card Account is charged a No Show Charge for a reserved Specialized Vehicle, Merchant must hold the Specialized Vehicle available for the Cardholder for the period of time represented by the No Show Charge.

(6) Cancellation Procedures. Accept a cancellation request from a Cardholder provided the cancellation request is made before the specified cancellation time. Provide the Cardholder with a cancellation code and advise the Cardholder to retain it in case of dispute. If requested, provide the Cardholder with written confirmation of the cancellation including the Card's embossed name, the cancellation code and the details related to the cancelled reservation.

(7) Scheduled Reservation Date Procedures.

(a) If the reserved lodging accommodations or Specialized Vehicle has not been rented or cancelled by the specified cancellation time, the lodging accommodations or Specialized Vehicle must be held available in accordance with the reservation.

(b) If the Cardholder does not cancel or claim the reservation within the prescribed time, Merchant may submit a No Show Charge (including tax) with the Card's embossed name, account number and expiration date and the words "No Show" on the signature line of the Charge Record, or as otherwise specified by BA.

(c) Merchant must obtain an Authorization code for the No Show Charge in accordance with the Authorization provisions in this Agreement.

(8) Alternate Lodging or Specialized Vehicle.

(a) If the guaranteed lodging or Specialized Vehicle is not available, Merchant must provide alternate accommodations or an alternate Specialized Vehicle as specified below at no charge to the Cardholder.

(i) For Lodging Merchants:

(AA) Provide the Cardholder with at least comparable lodging for 1 night at another establishment.

(BB) Provide transportation for the Cardholder to the other establishment.

(CC) If requested, provide the Cardholder with a 3-minute telephone call.

(DD) If requested, forward all messages and calls for the Cardholder to the alternate establishment.

(ii) For Car Rental Merchants:

(AA) Provide the Cardholder with at least a comparable Specialized Vehicle from another car rental merchant for the period of time guaranteed.

(BB) Provide transportation for the Cardholder to the location of the other car rental merchant.

B. Advance Lodging/Cruise Deposit Service.

(1) Reservations.

(a) Determine the amount of the Advance Lodging/Cruise Deposit by the Cardholder's intended length of stay. The amount must not exceed:

(i) For Lodging Merchants: the cost for 14 nights' accommodation; or

(ii) For Cruise-Line Merchants: the cost of the cruise.

(b) Apply the amount of the Advance Lodging/Cruise Deposit to the total obligation. Merchant may not process a "No Show" charge under the Reservation Service (Section 4.05.A. above) in addition to the Advance Lodging/Cruise Deposit Service Charge.

(c) Inform the Cardholder of:

(A) the advance deposit requirements and

(B) the cancellation requirements. For Lodging Merchants: inform the Cardholder that the accommodations will be held for the number of nights used to determine the amount of the Advance Lodging/ Cruise Deposit.

(d) Obtain the Card's embossed name, account number and expiration date and the Cardholder's telephone number, mailing address, scheduled date of arrival or embarkation and, for Lodging Merchants, the intended length of stay.

(e) Inform the Cardholder that if changes in the reservation are requested, written confirmation will be provided at the Cardholder's request.

(f) Advise the Cardholder of the conditions for forfeiture of the amount of the Advance Lodging/Cruise Deposit as specified below.

(i) For Lodging Merchants: If the Cardholder has not checked in by check-out time the day following the last night of accommodation used to determine the amount of the Advance Lodging/Cruise Deposit or if the reservation was not cancelled by the specified date and time, the Cardholder will forfeit the entire amount of the Advance Lodging/Cruise Deposit or the portion that is in accordance with Merchant's stated cancellation policy.

(ii) For Cruise-Line Merchants: If the Cardholder has not checked in by the departure time or if the reservation was not cancelled by the specified date and time, the Cardholder will forfeit the entire amount of the Advance Lodging/Cruise Deposit or the portion that is in accordance with Merchant's stated cancellation policy.

(g) Quote the rate of the reserved accommodations, the amount of the Advance Lodging/Cruise Deposit and the exact Merchant location or, in the case of cruise lines, the name and complete address of the point of embarkation. Provide the Cardholder with a confirmation number (advising that it must be retained and with the date and time the cancellation privileges expire).

(h) Complete a Charge for the amount of the Advance Deposit using a form specified by BA. The Charge must include:

- (i) the words "Advance Deposit" on the signature line or as otherwise specified by BA;
- (ii) the Card's embossed name, account number and expiration date;
- (iii) the Cardholder's telephone number and mailing address;
- (iv) the Cardholder's confirmation code;
- (v) the scheduled check-in or embarkation date; and
- (vi) the date and time the cancellation privileges expire without forfeiture of the deposit if the lodging or cruise is not used.

(i) Follow normal Authorization procedures for Lodging or Cruise Line Merchant Charges. If the Authorization request results in an approval, mail the Cardholder a copy of the Charge and the written hotel or cruise cancellation policy to the address provided by the Cardholder within 3 business days following the Charge date; and submit the Charge to BA in accordance with this Agreement.

(j) If the Authorization request results in a decline, advise the Cardholder and do not process the Charge.

(2) Cancellations.

(a) Accept a cancellation request from a Cardholder provided the cancellation request is made before the specified cancellation date and time.

(b) Provide a cancellation number and advise the Cardholder to retain in case of a dispute.

(c) For cancellation of a lodging reservation, complete a Credit Voucher for the entire amount of the Advance Lodging/Cruise Deposit. For the cancellation of a cruise reservation, complete a Credit Voucher for the applicable amount, as defined by the cancellation terms and conditions disclosed to the Cardholder when the deposit transaction was completed. Include on the Credit Voucher:

(i) the words "Advance Deposit" on the signature line of the Charge

Record or as otherwise specified by BA;

(ii) the Card's embossed name, account number and expiration date;

(iii) the Cardholder's mailing address; and

(iv) the cancellation code.

(d) Mail the Cardholder a copy of the Credit Voucher to the address provided by the Cardholder within 3 business days following the Credit Voucher's transaction date.

(3) Alternate Accommodations.

(a) For Lodging Merchants:

(i) If lodging guaranteed with an Advance Lodging/Cruise Deposit is unavailable, complete and deliver to the Cardholder a Credit Voucher for the entire amount of the Advance Lodging/Cruise Deposit.

(ii) Provide the following services at no charge to the Cardholder.

(AA) At least comparable lodging at an alternate establishment for the number of nights used to determine the amount of the Advance Lodging/Cruise Deposit, not to exceed 14 nights, or until the reserved accommodations are available for the Cardholder at the original location reserved with Merchant, whichever occurs first.

(BB) Transportation to the alternate establishment and return transportation to the original establishment. If requested, transportation to and from the alternate establishment must be provided on a daily basis.

(CC) If requested, two 3-minute telephone calls.

(DD) If requested, forwarding of all messages and calls to the location of the alternate establishment.

(b) For Cruise-Line Merchants:

(i) If cruise was guaranteed with the Advance Lodging/Cruise Deposit is unavailable, and no comparable accommodation is available on the ship, Merchant may, at its discretion, offer a cruise with a similar itinerary within the same approximate sailing dates and the same approximate number of sailing days at no additional cost to the Cardholder.

(ii) Any extra nights' accommodations or air fare to a different port city necessitated by the Cardholder's acceptance of alternate accommodations shall be provided at no cost to the Cardholder.

(iii) If comparable accommodations are not available, or the Cardholder elects not to accept the offered alternate accommodations, the Cardholder must receive a Credit Voucher for the entire cost of the cruise.

(iv) Merchant must provide the following at no charge to the

Cardholder: (AA) 1 night's hotel accommodation, if required;

(BB) transportation to the hotel as well as the airport;

(CC) airline transportation to the airport nearest the Cardholder's residence; and

(DD) reasonable out-of-pocket expenses incurred by the Cardholder as a result of the unavailability of the guaranteed accommodations.

(4) Liabilities and Indemnification. Merchant indemnifies and holds harmless BA and any Card Organization from any loss, damage, claim or suit (including reasonable attorney fees) arising from use of a Card for an Advance Lodging/Cruise Deposit transaction.

(5) Central Reservation Service. A merchant with a Central Reservation Service has agreements to act as a reservation resource with geographically contiguous lodging establishments. After application to and approval by BA, Merchant may participate in the Central Reservation Service and may complete Advance

Lodging/Cruise Deposits on behalf of lodging establishments and in accordance with the provisions in this Agreement.

(a) Any contract between Merchant and a lodging establishment for the Central Reservation Service must be executed by an officer or manager of the lodging establishment.

(b) Only a Central Reservation Service which has registered with the Card Organization for the particular Card type used and has a properly executed, written contract with a lodging establishment may perform services on behalf of the establishment. The Central Reservation Service may not use an agent to perform the services.

(c) The Central Reservation Service must follow the procedures for reservations, cancellations, alternate accommodations and Chargebacks in this Agreement and in the Operating Rules and accept full responsibility for resolving any Cardholder problems related to the Advance Lodging/Cruise Deposit Service.

C. Priority Check-Out Service.

(1) Any lodging or cruise-line merchant participating in the Reservation Service (Section 4.05A.) or Advance Lodging/Cruise Line Deposit Service (Section 4.05B.) may participate in the Priority Check-Out Service as follows:

(a) Provide the Cardholder with a Priority Check-Out Agreement which must be on a form specified by BA or a form supplied by Merchant which provides for at least the following:

(i) The Card Account number;

(ii) Merchant name, location and telephone number;

(iii) The departure date of the Cardholder;

(iv) The Cardholder name and room number;

(v) A statement authorizing Merchant to charge the Card Account for the amount of the bill without the Cardholder's signature;

(vi) The Cardholder's signature on the Priority Check-Out Agreement;

and

(vii) A provision allowing the Cardholder to request from Merchant specific billing receipts, including the name and address where Merchant should mail the receipts.

(b) Inform the Cardholder that the Priority Check-Out Agreement must be completed and signed; the mailing address must be included to receive a copy of the hotel or cruise bill supporting the final Charge amount.

(c) Obtain the completed Priority Check-Out Agreement and ensure the Card Account number identified is identical to the account number used for the Charge.

(d) Complete the Charge and record the total amount of the Cardholder's obligation and the words "Priority

Check-Out" on the signature line of the Charge Record or as elsewhere designated by BA.

(e) Follow normal Authorization procedures for lodging or cruise-line merchant transactions.

(f) Mail the Cardholder a copy of the Charge, the itemized hotel or cruise bill, and signed Priority Check-Out

Agreement if requested by the Cardholder to the address provided by the Cardholder on the Priority Check-Out Agreement within 3 business days following the Cardholder's departure.

(2) Merchant must retain a copy of the itemized hotel or cruise bill and the signed Priority Check-Out Agreement supporting a Priority Check-Out Charge for a minimum of 6 months following the Charge date.

D. Check Guarantee Service.

(1) A lodging, cruise-line or airline merchant may provide the Check Guarantee Service according to this Section 4.05D. by disbursing cash to a Cardholder who presents a Visa Gold or Gold MasterCard Card ("Gold Card") along with the Cardholder's check which meets the following requirements ("Qualified Check"):

(a) Negotiable draft drawn on the account of the Gold Cardholder with a commercial bank, savings bank, savings association, or credit union;

(b) Complete with current date, amount, payee and maker's signature, which must be that of the Gold Cardholder and the same as the signature panel of the Gold Card;

(c) Not stale, post-dated or a money order or equivalent;

(d) Includes drawee institution name and address and is payable in the currency of the account at that institution; and

(e) Amount not to exceed \$250 at hotels and aboard cruise ships or \$50 at airlines.

(2) Requirements for the Check Guarantee Service are:

(a) Gold Cardholder must present a Gold Card along with a Qualified Check for encashment;

(b) The signature on the Gold Card signature panel must be the same signature as that on the Qualified Check;

(c) The Gold Card Account number and expiration date must be handwritten or imprinted on the Qualified Check, unless Merchant is prohibited from doing so under applicable law;

(d) Merchant may limit the amount of the check guarantee based on cash availability; and

(e) No fee may be charged to a Gold Cardholder for the service.

(3) For lodging and cruise-line merchants - Additional procedures:

(a) The Gold Cardholder must be a registered guest aboard Merchant's cruise ship or at Merchant's lodging location;

(b) The Gold Cardholder must have requested that the lodging or cruise obligation to Merchant will be paid with a Card;

(c) Positive identification such as a passport or driver license must be obtained from the Gold Cardholder, if

permitted by applicable law, and recorded on the back of the Qualified Check;

(d) The total amount of the Qualified Check cashed during the Gold Card- holder's stay must not exceed \$250; and

(e) A check used to pay for accommodations is not guaranteed.

(4) For airline merchants - Additional procedures:

(a) The Gold Cardholder must have a valid airline ticket for passage with Merchant or a passenger coupon showing passage was provided by Merchant;

(b) A check guarantee may be completed only within 48 hours of the Gold Cardholder's flight departure or arrival time; and

(c) The amount of the Qualified Check cashed must not exceed \$50.

(5) If a Qualified check which Merchant guarantees ("Guaranteed Check") is returned to Merchant, Merchant must follow the procedures below to obtain reimbursement.

(a) If a Guaranteed Check is returned for insufficient funds (NSF), Mer- chant must redeposit the check, except if the check was drawn on a financial institution outside the United States.

(b) If the Guaranteed Check is returned for any other reason, or it is returned a second time for insufficient funds, Merchant may, within 14 calendar days of receipt of the check, submit the check to the Card Organization for the Gold Card used or to BA for reimbursement. Mer- chant must retain a copy of the front and back of the check. Merchant must also provide the original check, a Returned Guaranteed Check Submission Form provided by BA and a copy of the Gold Cardholder's completed Lodging Merchant Registration Form if Merchant is a lodg- ing merchant. Failure to do so may result in rejection of a request for reimbursement.

E. Cash Disbursements (Only for Lodging and Cruise-Line Merchants Serving Gold Cardholders). Lodging and Cruise-Line Merchants participating in the Reservation Service and Advance Lodging/Cruise Deposit Service may make a cash disbursement to Gold Cardholders ("Cash Disbursement") under the following conditions:

(1) The Gold Cardholder must be a registered guest at the hotel or a registered passenger on the cruise ship and must have requested to pay hotel charges or shipboard expenses with a Card;

(2) The Cash Disbursement must not exceed \$250 during the gold Cardholder's stay at the hotel or aboard ship and may be further limited by Merchant's cash availability;

(3) Each Cash Disbursement must be made only after reviewing positive identification to determine that the recipient of the cash is the Gold Cardholder. The identification must consist of a current, official government-issued iden-tification (such as a passport or driver license) that bears the Cardholder's signature.

Merchant must:

(a) Compare the signature on the Cash Disbursement Charge with the signature on the signature panel of the Card, as well as the signature on the identification presented, to ascertain that they appear to be the same. In addition, if a physical description or a photograph of the Cardholder appears on the identification or Card, Merchant must ascertain that the physical description matches, or the photograph resembles, the person

presenting the Card.

(b) Merchant must enter on the Cash Disbursement Charge in the space provided a description of the identification (including any serial number and expiration date), the name of the Cardholder (if not the same as the embossed name), and the address of the Cardholder;

(4) Each Cash Disbursement must be made at par with no fee or charges added except taxes or other charges imposed by applicable law; and

(5) Each Cash Disbursement must be completed using a Cash Disbursement

Charge form specified by BA.

F. Express Payment Service (EPS).

(1) If Merchant's business is a fast-food, movie theater or parking lot business and has a location that submits

EPS Charges that are at least 50% of Merchant's total monthly Charges, that Merchant location may participate in the Express Payment Service (EPS) subject to the following requirements:

(a) Merchant must process all Charges using a Magnetic-Stripe-Reading Terminal capable of reading track 1 or track 2 of the magnetic stripe on a Card and at which an attempt to read the magnetic stripe of the Card was made. The terminal must meet the following requirements and any other requirements specified by BA.

(i) Perform data capture of the Card Account number, Charge date and Charge amount.

(ii) Validate the Service Code (a 3-digit number encoded on the magnetic stripe which identifies how the encoded BA Identification number is valid for use), the Card Account number and expiration date.

(b) The limit for each EPS Charge is \$25.

(c) For each EPS Charge that is \$25 or less, Merchant is not required to obtain the Cardholder signature on a Charge Record, nor is Merchant required to provide a Charge Record to the Cardholder, unless the Cardholder requests one.

(d) Unless specified below, each Charge which exceeds \$25, does not meet the EPS time limit, or does not satisfy the EPS data-requirements will not be considered an EPS Charge and will be subject to all requirements specified for normal purchase Charges described elsewhere in this Agreement.

(e) Each EPS Charge must be identified and processed in accordance with all requirements specified in the Operating Rules.

(f) Each Charge exceeding \$25 which meets the additional Custom Payment Services requirements specified in the Operating Rules may qualify for a fee discount provided it is processed in accordance with the requirements specified in the Operating Rules.

(g) Merchant must display at least one sign at each of Merchant's EPS locations advising Cardholders that a Charge Record is available upon request. Each sign must be placed in a prominent location and must be clearly

visible to Cardholders as they effect a Charge.

(h) Merchant must allow locations to be monitored for excessive levels of risk or suspect risk patterns and must take corrective action as directed. This may include installation of special systems, special identification of all charges processed or discontinuation of EPS.

(i) Merchant must submit EPS Charges to BA on the same day they are completed by Cardholders.

(2) A Charge cannot qualify for the EPS rates if it is captured by an electronic point-of-sale terminal owned or controlled by an entity that directly or indirectly discriminates against certain Card types in favor of others in availability of pricing or services, or if a Card Organization determines that the entity is engaged in conduct which unfairly prevents or impedes a Card Organization or its members from competing with the entity.

F. Preauthorized Health Care Transactions.

(1) If Merchant is primarily engaged in providing health care services other than a pharmacy and agrees to accept a Preauthorized Health Care Charge from a Cardholder for the purchase of services, Merchant may complete a Preau-thorized Health Care transaction if the Cardholder delivers to Merchant an order form containing a written request signed by the Cardholder for services to be charged to the Cardholder's account.

The order form must specify:

(a) The assignment of insurance benefits by the Cardholder to Merchant;

(b) The Cardholder's authorization for Merchant to charge the Cardholder's Card Account for only that portion of the bill due subsequent to receipt of any applicable insurance payment by Merchant; and

(c) The duration of time for which the Cardholder's permission is granted, which may not exceed one year. If

a Preauthorized Health Care transaction is renewed, the Cardholder must deliver to Merchant a subsequent order form for continuation of services to be charged to the Card Account.

(2) Merchant must retain a microfilm or other adequate copy of the order form for the duration of the period for which it is in effect and must be provided in response to a Card Issuer's request.

(3) Merchant must not complete a Preauthorized Health Care transaction after receiving a cancellation notice from the Cardholder or BA or a notice not to honor the Card.

(4) Merchant must type or print legibly "Preauthorized Health Care" on the signature line of the Charge Record or as otherwise specified by BA.

(5) When Merchant receives notice of adjudication of health insurance benefits from the Cardholder's insurance company, Merchant must complete a Charge and request Authorization for the amount of the Cardholder's portion of the bill and submit the Charge to BA within 85 days of the date of service.

G. Supermarket Incentive Program.

1) A Merchant location may participate in the Supermarket Incentive Program, provided Merchant meets the following criteria:

- (a) Merchant is a retail store primarily engaged in selling food for home preparation and consumption.
- (b) Merchant offers a complete line of food, including self-service groceries, meat, produce and dairy products.
- (c) Merchant's monthly sales of perishables represent at least 45% of Merchant's total monthly sales. Perishables are packaged, in-store bakery goods, dairy products, delicatessen products, floral items, frozen foods, meat and produce.
- (d) Merchant's annual sales volume is at least \$2 million.
- (e) Merchant must accept Cards at all check-out lanes that accept checks and for the purchase of all goods and services sold within the store.

(2) To qualify for the Supermarket Incentive Program, each Charge must be processed in accordance with the special requirements specified below and in the Operating Rules.

(a) Authorization Requirements. Each Charge must be authorized through the special requirements in the Operating Rules.

(i) An Authorization request for a Supermarket Incentive Program Charge must originate at a point-of-transaction terminal capable of reading and transmitting either track 1 or track 2 of the magnetic stripe of the Card used and at which an attempt to read the magnetic stripe of the Card was made. Data fields on the track selected must be read and transmitted in accordance with the Operating Rules.

A Charge which is key-entered may qualify for the Supermarket Incentive Program provided that the Card is present, and at least 50% of Merchant's U.S. Charge transactions meet all of the requirements for the Supermarket Incentive Program.

(ii) Each Authorization request must include special entry codes specified by BA.

(iii) In addition, an Authorization request for a Supermarket Incentive Program Charge must meet each of the following Authorization requirements:

(AA) Authorization must originate at an attended point-of-transaction terminal capable of reading either track 1 or track 2 of the magnetic stripe of a Card where the Card must be present, the Cardholder's signature must be obtained, and the full unaltered contents of either track 1 or track 2 of the magnetic stripe must be read and transmitted.

(BB) At least one, but not more than one, Authorization code must be obtained for each Charge on the Charge date.

(CC) Authorization must not be obtained through:

V.I.P. System emergency authorization procedures

"Code 10" authorization procedures

"Referral" authorization procedures

(DD) The Charge amount transmitted in the Authorization request and in the Charge must be in the same currency.

(EE) The Authorization request and Charge must provide any special information specified by BA or the Operating Rules.

(b) Special Processing Requirements.

(i) Chargebacks, subsequent Charges, Credit Vouchers and reversals of Supermarket Incentive Program charges must be submitted at the Supermarket Incentive Program Interchange Reimbursement Fee and in accordance with the Operating Rules.

(ii) Merchant must submit a Supermarket Incentive Program Charge to BA on the Charge date.

(3) Performance Certification.

(a) Each year, Merchant must complete a Supermarket Incentive Program Certification form provided by BA or a Card Organization including a statement, signed by Merchant, that Merchant understands and agrees to abide by all requirements of the Supermarket Incentive Program.

(b) Failure to submit the certification in a timely manner will result in the assessment of a \$5,000 fee per month until receipt of the certification.

(4) Performance Criteria. A Charge cannot qualify for the Supermarket Incentive Program fee if it is captured by an electronic point-of-sale terminal owned or controlled by an entity that directly or indirectly discriminates against certain Card types in favor of others in availability or if a Card Organization determines that the entity is engaged in a course of conduct which unfairly prevents or impedes its members from competing with the entity.

Section 5. PROCEDURES FOR DEBIT CARD TRANSACTIONS.

5.01 Authorization. Merchant must obtain Authorization for each debit Card transaction before Merchant can complete the transaction. Merchant will not complete a debit Card transaction unless it has been authorized by the debit Card Issuer by using the POS equipment and following the procedures of the debit Card Organization which BA provides to Merchant. Nevertheless, BA and Merchant may agree in a separate signed writing for exception procedures to implement resubmission, store and forward, or paper-based transactions when Merchant cannot obtain Authorization.

5.02 Cardholder Verification. Merchant will rely on the Authorization procedures of the debit Card Organization and will not request the Cardholder's signature or any other means of verifying the Cardholder's identity unless specifically required by the Operating Rules for a particular type of transaction, which is typically an exception procedure.

5.03 Transaction Receipts. BA will program any POS Equipment furnished by BA (and, at the request of Merchant and at the discretion of BA, any other equipment) to provide Cardholders with transaction receipts that meet the requirements of law, including Regulation E of the Federal Reserve Board and the Operating

Rules, provided Merchant properly follows BA's instructions for completing debit Card transactions. The cost for BA's programming is set forth in BA's schedule to this Agreement. For equipment not programmed by BA, Merchant must ensure that transaction receipts meet the requirements of law and the Operating Rules. At all times, Merchant will follow BA's instructions for completing debit Card transactions and make debit Card transaction receipts available to Cardholders.

5.04 Surcharge Notice. If Merchant is allowed by the Operating Rules to charge a surcharge, and implements a permissible surcharge, Merchant must arrange with BA to include the surcharge on the transaction receipt made available to Cardholders, must disclose the amount or percentage of the surcharge and identify the entity imposing the surcharge on a sign on or at the POS terminal. This paragraph does not provide authority for the Merchant to charge a surcharge, which authority depends on the Operating Rules of the various Debit Networks.

5.05 Cashback Transactions. Merchant, at its option, may offer cash back to Cardholders ("Cashback"), provided Merchant transmits the Cardholder's requested Cashback amount request to the Card Issuer as part of the Authorization procedures and receives an Authorization for the transaction. If Authorization is denied solely with a denial code that indicates the Cashback transaction has been denied solely because the cashback portion would cause the Cardholder to exceed a limit on cash withdrawals imposed by the Card Issuer, Merchant must inform the Cardholder that the transaction was denied solely because of the cash withdrawal limit, but that a new debit Card transaction in the amount of the purchase alone might be approved.

5.06 Cancellations (Reversals/Voids). Merchant may void a debit Card transaction electronically, but only if the voiding transaction is entered in accordance with the Operating Rules which typically require the voiding transaction to occur before midnight of the calendar day on which the original transaction was initiated, Cardholder re-entry of the PIN used for the original transaction, and Merchant's transmission of the trace number and exact dollar amount of the transaction to be cancelled. Cancellations must be initiated at the same Merchant location as the original transaction, but does not have to be at the same terminal.

5.07 Merchandise Credit Transactions. Merchant may credit the account of the Cardholder used for an amount not exceeding an original debit Card transaction with Merchant if: (a) the Cardholder provides the written receipt for the original transaction to Merchant within 1 year of the original transaction date, and (b) the merchandise credit transaction is originated by using equipment specified by BA in accordance with the Operating Rules.

5.08 Specialized Exception Transactions. Depending on its own Operating Rules, a Debit Network may allow any one or more of a combination of certain specialized transactions called "Exception Transactions" or other similar term. Operating Rules may differ among the Debit Networks, and BA at its discretion may enforce the most restrictive requirements on Merchant's debit Card transactions. Merchant will not submit an Exception Transactions without BA's signed written approval, either on the application or elsewhere. Merchant will submit Exception Transactions according to requirements BA gives to Merchant.

A. Balance Inquiry. This service allows a Cardholder to obtain the balance in an Account accessible through a debit Card. A Balance Inquiry may be made only at Cardholder-operated POS equipment.

B. Preauthorization. This service allows a Cardholder to obtain Authorization from the debit Card Issuer up to a specified dollar amount in advance of a purchase transaction. A Partial Preauthorization may be granted by the debit Card Issuer in an amount less than the Preauthorization request. The purchase may not exceed the amount authorized. To complete the transaction, Merchant must also receive a Preauthorization Completion message at the time of purchase in accordance with the Operating Rules. The time allowed between the Preauthorization and the Preauthorization Completion varies among Card types.

C. Store and Forward. This service allows Merchant to electronically store transactions, including Preauthorization requests, only when Merchant's POS equipment cannot receive from a Card Issuer an Authorization approval or denial for a transaction due to technical problems; for example, equipment or communication failures. Merchant must forward transactions as soon as the technical problem is resolved, typically under the same requirements which apply to an ordinary purchase transaction. The maximum time allowed to forward the transaction varies among Card types.

D. Paper Sales Draft This service allows Merchant to enable a Cardholder to initiate a transactions through use of a Paper Sales Draft only when Merchant's POS equipment cannot receive from a Card Issuer an Authorization approval or denial for a transaction due to technical problems; for example, equipment or communication failures. Some Debit Networks allow Paper Sales Draft Transactions as an alternative to Store and Forward Transactions in these circumstances. Merchant using this service must inform the Cardholder that technical problems have prevented verification of the transaction electronically and that the Cardholder's signature will be required on the Paper Sales Draft.

(1) Merchant must use only BA-approved Paper Sales Draft forms and complete them according to BA's requirements. The forms will include all information required for an electronic debit Card transaction, excluding the PIN. Merchant must deliver a copy of the completed and signed form to the Cardholder upon completion of the purchase.

(2) Merchant must compare the signature on the Paper Sales Draft with the signature on the debit Card or another valid piece of identification, such as a driver license, and not allow the transaction to be completed if the signatures do not appear to be the same. Nevertheless, a matching signature provides no assurance to Merchant that the transaction will be approved or that Merchant will be paid.

(3) Merchant must deliver the Paper Sales Draft to BA electronically or in physical form as BA directs. BA or Merchant at Bank's direction will submit to the Card Issuer the Paper Sales Draft transaction electronically for Authorization within the time limits specified by BA. No assurance is given that Authorization will be granted.

E. Resubmission. This service allows Merchant to resubmit transactions initially declined due to insufficient funds or because the transaction exceeded daily activity limits, but not for any other reason; for example, a lost card. Some Debit Networks allow this service only for limited types of transactions, and some do not allow it at all. Time limits and frequency limits for Resubmissions vary among Card types. Requirements for Resubmission data also vary among Card types, but may require all data required for the original transaction.

F. Merchant Bears Risk of Loss. No assurances are given to Merchant that Store and Forward, Paper Sales Drafts and Resubmissions will be authorized and that Merchant will receive payment. Merchant assumes all risk of and responsibility for losses as between and among it, BA, the Card Issuer and the Debit Network for each transaction not authorized. Merchant may attempt to recover any losses from the person using the debit Card, but Merchant is given no assurances that that person is the Cardholder.

G. Merchant Stand-In Processing. If Merchant processes Store and Forward transactions or Paper Sales Draft transactions, Merchant may electronically screen only those transactions against a negative file maintained by Merchant before completing them with a Cardholder. Merchant will notify the Debit Networks and BA by the number of days in advance of implementing Merchant Stand-In Processing specified by the Operating Rules, of which Bank will inform Merchant.

(1) Merchant will include a Cardholder or Cardholder's account in its negative file only if Merchant previously has incurred a loss due to a decline of a debit Card transaction covered by this Agreement. Merchant may store only the primary account number in its negative file and must not disclose or use any transaction data except for determining whether to engage in a transaction covered by this Agreement.

(2) A Card Issuer may request through BA a list of its Cardholder accounts maintained on Merchant's negative file, and Merchant, without charge, must comply with the request and requests for any updates within the time specified by the Operating Rules.

5.09 Chargebacks and Error Resolution.

A. Resolution of Cardholder Disputes and Investigations. Merchant will fully cooperate with the Debit Networks, their members and BA in the resolution of Cardholder disputes. Merchant acknowledges that the Debit Networks and BA may investigate Merchant's practices relating to debit Card transactions as permitted by the Operating Rules.

B. Chargebacks. Debit Card Issuers may charge debit Card transactions back to Merchant through the Debit Networks and BA when permitted by the Operating Rules and under the time limits imposed by the Operating Rules. BA will obtain payment from Merchant for the Chargebacks in the same ways as for other Card transactions. BA will represent Chargebacks when requested by Merchant to the extent and under the time limits allowed under the Operating Rules.

C. Special Merchant Designation. A Debit Network may designate Merchant as a "Special Merchant" or comparable designation under the Operating Rules after an investigation of complaints that Merchant, its employees or its agents have committed or knowingly permitted an act of fraud in connection with a debit Card transaction, is violating the Operating Rules or on more than one occasion has failed to comply with this Agreement. If Merchant is designated as a Special Merchant or given a comparable designation under the Operating Rules, any debit Card transaction occurring during the time Merchant is so designated may be charged back to Merchant, and BA may take or be required to take other action under the Operating Rules, including termination of Merchant's ability to engage in debit Card transactions.

Section 6. SUBMISSION AND PAYMENT OF VALID CHARGES.

6.01 Only Submission of Charges for Cardholder Purchases. Merchant will submit to BA a Charge only if the Charge is made or approved by the Cardholder who is issued the Card used for the Charge. Merchant will not submit a Charge for processing by BA until Merchant has performed its services or has shipped its

merchandise postage prepaid to the customer. Merchant will not submit: (1) a Charge involving solicitations from third parties (for example, telemarketing by independent contractors) or a Charge involving franchisees, partners or joint venturers of Merchant, except as authorized in a writing signed by an authorized BA officer;

(2) a Charge for a purchase from any entity other than Merchant (commonly known as credit card "factoring" or "laundering" and a frequent source of improper Charges and Charges not approved by the Cardholder, resulting in a high probability of Chargebacks up to the entire amount of Charges submitted, corresponding financial loss to Merchant, and possible violation of criminal law.) Merchant will not submit Charges by any of Merchant's owners, partners, officers or employees, other than Charges for bona fide purchases from Merchant. If any violation of this subsection occurs, BA may terminate this Agreement without advance notice, but will give subsequent written confirmation to Merchant.

6.02 No Direct Billing of Cardholders for Charges. Merchant will not directly bill or accept payment from a Cardholder for any Charges Merchant submits to BA, except that if a Charge results in a Chargeback paid by Merchant, Merchant may proceed to collect from the Cardholder as permitted by law, but not by submitting a new Charge to cover the Chargeback.

6.03 Timely Submission by Merchant. Merchant will submit all Charges to BA, using approved Charge Records in paper form or by electronic transmission methods approved by BA, within 5 days of the Charge, unless an earlier time is required by the Operating Rules for specific types of transactions, or unless BA grants Merchant a longer time in writing. Delay in submitting Charges may result in BA declining to process the Charges, nonpayment of Merchant for the Charges through the settlement procedures used by the Card Organizations, or additional service charges. Any failure to meet the time requirement will increase the probability of Chargebacks to Merchant, even if a delay is approved by BA, particularly for delays of 30 days or more.

6.04 Payments to Merchant for Valid Charges.

A. BA will pay Merchant for each valid Charge which Merchant submits to BA by crediting Merchant's Deposit Account according to the payment schedule to this Agreement, provided BA has received settlement for the valid Charge through the interchange procedures specified by the Card Organization applicable to the Card used for the Charge. (BA does not provide payment for all Card types for which Authorization services are provided.) BA is not obligated to pay Merchant for Charges submitted that are not valid Charges. Each payment from BA to Merchant will be subject to adjustment upon BA's further review and verification. Payment to Merchant for a Charge disputed by a Cardholder for any reason is not final.

B. BA may deduct from any payment to Merchant the amount of any Credit Voucher processed for Merchant, any Chargeback to Merchant, any amount to be credited to a Reserve Account and any Processing Fees and Card Organization fines or charges due from Merchant. Merchant must immediately pay BA immediately the amount by which a Credit Voucher processed on any day exceeds valid Charges submitted on that day. Without limiting BA's remedies, BA may obtain the amount due by deducting it from the Deposit Account or other accounts or funds due Merchant.

6.05 Processing Fees. Merchant will pay BA Processing Fees in the amount specified in a Schedule

provided by BA to this Agreement. By at least 30 days' advance written notice to Merchant, BA may increase the Processing Fees effective for Charges and Credit Vouchers submitted on and after the effective date of the change. Processing Fees and other service charges owed by Merchant to BA may be deducted by BA from amounts due Merchant, or from Merchant's Deposit Account. Merchant will pay the amounts due by the next day if insufficient funds are available in the Deposit Account.

Section 7. DEPOSIT ACCOUNT.

7.01 Deposit Account Required. Merchant must maintain a Deposit Account in Merchant's name in satisfactory condition at Bank of America or at another depository institution under arrangements acceptable to BA, which will be subject to Section 13 below. In the absence of any other written agreement with BA, if the Deposit Account is at Bank of America, the standard terms and conditions which apply to Bank of America's deposit accounts of the same type will apply.

7.02 Account Closure. If the Deposit Account is closed, BA may terminate this Agreement upon written notice unless Merchant opens another Deposit Account acceptable to BA. Merchant may change the Deposit Account upon approval by BA, which approval will not be unreasonably withheld.

Section 8. RESERVE ACCOUNT.

8.01 Reserve During Term of Agreement. At BA's written request, Merchant will maintain a Reserve Account with the Bank of America branch which BA designates in the minimum amount required by BA. The Reserve Account will be separate from the Deposit Account. Unless otherwise agreed, the Reserve Account will earn interest at the rate paid on Bank of America's Business Savings Accounts. The standard terms and conditions which apply to Bank of America's deposit accounts of the same type will apply, unless BA otherwise agrees in writing.

8.02 Deductions from Reserve Account. If funds are not available in the Deposit Account BA may deduct from the Reserve Account any obligation of Merchant to BA under this Agreement, including Chargebacks and Processing Fees.

8.03 Replenishment of Reserve Account Deficiencies. Whenever the balance in the Reserve Account is less than the minimum balance required, BA may without prior notice deposit the deficiency into the Reserve Account by reducing any payment to Merchant required by this Agreement or deduct the deficiency from any other deposit account of Merchant with Bank of America or with another depository institution (including accounts of general partners if Merchant is a partnership) and deposit it into the Reserve Account. Merchant authorizes deductions from its accounts by Automated Clearing House entry, sight draft, preauthorized check, reverse wire, or otherwise as BA deems appropriate under the circumstances. In addition, Merchant will deposit any deficiency into the Reserve Account within 1 business day after receiving a BA's oral or written request. Without limiting BA's remedies, Merchant's failure to deposit any deficiency on time will permit BA without advance notice to cease processing additional Charges and Credit Vouchers. BA will give Merchant written notice of any cessation of processing.

8.04 Additions to Reserve Account. If BA has reasonable grounds to believe that Merchant may be liable

to customers or to BA for Chargebacks exceeding the balance in the Reserve Account, BA may: (A) immediately place in the Reserve Account payments due to Merchant and stop processing transactions for Merchant until such time as the extent of Merchant's obligations to BA, Merchant's liability for Chargebacks and Merchant's liability to customers are known, and BA no longer deems itself insecure, and/or (B) demand from Merchant an amount that in BA's judgment is needed to ensure payment of Merchant's obligations and liabilities. Merchant failure to pay any amount will permit BA to terminate this Agreement immediately without advance notice.

8.05 Reserve Account After Agreement Terminates. BA may continue to hold the Reserve Account after termination of this Agreement, regardless of whether termination is by Merchant or BA. If no Reserve Account is established before termination, BA, at BA's option, may notify Merchant to establish a Reserve Account upon termination of this Agreement. All provisions which apply to a pre-termination Reserve Account will apply to one opened after termination, including replenishment of deficiencies. BA will return the balance in the Reserve Account to Merchant after BA reasonably determines that the risk of Chargebacks has ended (typically no later than one year after termination of this Agreement or such longer time within which any Cardholder may cause a Chargeback to occur under the Operating Rules) and after deducting any other amounts that Merchant owes to BA under this Agreement or any other agreement.

Section 9. SECURITY INTEREST.

9.01 Merchant's Grant of Security Interest. To secure Merchant's performance of its obligations under this Agreement, Merchant grants BA a security interest in each Charge and its proceeds, the Deposit Account, the Reserve Account and any other deposit account of Merchant with Bank of America or any other financial institution, whether now existing or established in the future, and in the proceeds of all those accounts, any funds due Merchant from BA and any of Merchant's property held by BA. BA may enforce these security interests without notice or demand. The security interests granted under this Agreement will continue even if this Agreement terminates, until Merchant pays all its obligations to BA.

9.02 Cardholder Claims. To the extent that BA has paid or may pay a Chargeback or Credit Voucher, Merchant will be obligated to reimburse BA for any sums BA pays. If Merchant does not reimburse BA, BA will have all of the rights and remedies of Card-holders under 11 U.S.C. 507(a)(6) [Bankruptcy]. BA may assert any claim on behalf of a Cardholder individually or on behalf of all Cardholders as a class.

Section 10. MERCHANT'S WARRANTIES.

Upon signing this Agreement, and each time Merchant submits a Charge to BA, Merchant represents and warrants that:

- (a) Merchant has abided by this Agreement for the Charge it submits to BA;
- (b) Each statement made on the Application was true as of the date Merchant signed the Application agreeing to be bound by this Agreement;
- (c) There have been no materially adverse changes in information provided in the Application or in Merchant's

financial condition;

(d) Merchant does not do business under a trade name or style not previously disclosed in writing to BA, and there has been no change in the nature of Merchant's business or the product lines that Merchant sells not previously disclosed to BA;

(e) The Charge is genuine and arises from a bona fide sale of merchandise or services by Merchant, represents a valid obligation for the amount shown on the Charge Record and does not involve the use of a Card for any other purpose;

(f) Merchant has title to the Charge, there are no liens or other encumbrances on it, and Merchant has the authority to convey the Charge to BA;

(g)

The Charge is not subject to any dispute, set-off or counterclaim;

(h)

The Charge has not been previously presented to BA for processing;

(i) Each statement on the Charge is true, and Merchant has no knowledge of facts which would impair the validity or collectibility of the amount of the Charge; and

(j) Merchant has completed only one Charge per sale, or one Charge per shipment of merchandise where the Cardholder has agreed to partial shipments.

Section 11. CONFIDENTIALITY AND DATA SECURITY.

11.01 Merchant will retain in a secure and confidential manner original or complete and legible microfilm copies of each Charge Record required to be provided to Cardholders and Credit Vouchers submitted to BA for at least 3 years or any longer period required by law. Merchant will store Charge Records in an area limited to selected personnel, and when record-retention requirements have been met, Merchant will destroy the records so that Card numbers are unreadable. Merchant will not provide Card Account numbers or other personal Cardholder information to anyone except BA, Card Organizations or Merchant's agents for the purpose of assisting Merchant in completing Card transactions, or as specifically required by law. Merchant will not retain or store magnetic stripe data after Merchant receives for a Charge.

11.02 BA may disclose to any of BA's BankAmerica affiliates information about Merchant and Merchant's activities so that the BankAmerica affiliate may consider Merchant for, and, if appropriate, offer to Merchant, products and services of the BankAmerica affiliate. If Merchant does not wish for BA to share Merchant's information with any of BA's BankAmerica affiliates, Merchant will notify BA in writing, and BA will cease disclosure as soon as reasonably practicable within 4 months following receipt of Merchant's written notice.

Section 12. ADVERTISING.

If Merchant deals with the general public, Merchant will display advertising and promotional materials provided by BA to inform the public that Cards will be honored by Merchant, but will display the proprietary

names and symbols associated with Cards only in compliance with Operating Rules and while this Agreement is in effect, or until BA or an applicable Card Organization notifies Merchant to stop using them. Merchant will not indicate or suggest in any way that BA or Card Organizations endorse Merchant's products or services.

Section 13. OPERATING RULES; EQUIPMENT; SUPPLIES.

13.01 Operating Rules.

A. Upon request, BA will give Merchant copies of the Operating Rules relevant to the services Merchant receives under this Agreement. Merchant will be bound by the Operating Rules even if it has not requested them or has not read any that it has requested. BA will use reasonable efforts to inform Merchant of relevant changes to the Operating Rules at least 15 days before they become effective. However, Card Organizations may change the Operating Rules with little or no opportunity for advance notice to Merchant. If Merchant objects to any change in the Operating Rules, it must immediately stop accepting new Charges for Cards governed by the change.

B. Operating Rules of the Debit Networks may differ among them with respect to the transactions they allow. BA at its discretion may require that the most restrictive requirements of one Debit Network apply to all of Merchant's debit Card transactions, regardless of Card type.

C. If Merchant selects in its Application any one or more of American Express, Discover Card/NOVUS Card Brands, JCB Card or Diners Club/Carte Blanche as payment options and Merchant's selection is approved by BA, Merchant understands that Merchant's acceptance of any of those payment options may require execution of a separate merchant card acceptance agreement with those Card Issuers, as applicable, and that that agreement will govern the completion, processing, settlement and other procedures relating to transactions with those Card Issuers. If Merchant experiences problems with transmission or delivery of those Card Issuers' transactions, Merchant will be obligated to contact the appropriate terminal service provider for service.

13.02 POS Equipment.

A.

B. Merchant will take all reasonable steps necessary to ensure that all debit Card-related POS Equipment at Merchant's locations function in a reliable manner in accordance with the Operating Rules, with a minimum of error, and for use by all debit Cardholders for debit Cards covered under this Agreement. BA will make available to Merchant programming updates to the POS Equipment as required by the Operating Rules, and Merchant will implement the updates as required by the Operating Rules.

C. Supplies. Merchant will use only the forms for Charges and electronic processing formats provided or approved in advance by BA. BA may change them from time to time, and, upon notification, Merchant will comply with any changes. Merchant will use Charge forms or materials provided by BA only for Charges which Merchant submits to BA.

D. Signs. BA will provide Merchant with supplies of signs and decals bearing the logos or other appropriate identifications of Card Organizations ("POS Marks"), for placement on terminals, doors, windows, and other

appropriate Merchant locations and will inform Merchant of the requirements for displaying the materials. If Merchant does not use the POS Marks supplied by BA, Merchant will assure that the materials it develops itself or uses from other sources will comply with the Operating Rules. Merchant will display Debit Network POS Marks provided by BA or developed by itself or other sources so as not to discriminate among Cards of Debit Card Networks and in compliance with the Operating Rules. Merchant hereby acknowledges that it has no ownership interest in the POS Marks, and will not use or display the POS Marks to indicate that BA or any Card Organization endorses Merchant's goods or services, or that Merchant has an exclusive right to use the POS Marks. Upon termination of this Agreement, or discontinuation of any Card type or Card Organization, Merchant will cease to display the POS Marks relating to the affected Card type or Card Organization and will promptly either destroy the POS Marks used or return them to BA, unless Merchant at that time is entitled to use the POS Marks under another agreement in compliance with the Operating Rules.

Section 14. MERCHANT'S BUSINESS; OTHER PROCESSORS.

14.01 Merchant will comply with all laws in completing Charges, submitting them to BA, performing its obligations under this Agreement, and otherwise conducting its business.

14.02 Merchant will give BA at least 30 days' prior written notice before any change in Merchant's name or location, any material change in ownership of Merchant's business, any sale, assignment, rental, lease or transfer of ownership of any location that accepts Cards, or any material change in information concerning Merchant in the Application or otherwise required to be provided to BA. Merchant will notify BA immediately if any bankruptcy, insolvency or similar petition is filed by or against Merchant.

14.03 Submission of Charges to Other Processors. Merchant will give BA at least 30 days' advance written notice before it submits to another processor Charges completed at any location where Merchant also submits Charges to BA.

14.04 Upon 90 days' advance written notice to BA, Merchant may designate another party acceptable as Merchant's agent for the direct delivery of data-captured Charges to that Card Organization for clearing and settlement (the "other party"), provided that Merchant furnishes written confirmation from the Card Organization that the other party is acceptable to the Card Organization. The obligation of BA to reimburse Merchant for Charges submitted through the other party is limited to the amount delivered by the other party in the Card settlement process and provided to BA through the Card Organization for the account of Merchant, less Processing Fees and other amounts due BA. Merchant is responsible for any failure by the other party to comply with Operating Rules of a Card Organization, including, without limitation, any violation which results in a Chargeback.

Section 15. INDEMNITY; LIMITED LIABILITY; FORCE MAJEURE.

15.01 Indemnity. Merchant will indemnify BA against all claims, losses, damages, liability, and legal actions

(including independent attorney fees, allocated costs for in-house legal services and attorney fees in bankruptcy proceedings) relating to Charges which Merchant submits to BA, any act or omission of Merchant relating to any Charge or Credit Voucher, any breach of this Agreement by Merchant, or Merchant's violation of the Operating Rules or applicable law.

15.02 Liability Limit. BA's liability to Merchant will not exceed the amount of any valid Charges submitted to BA. BA will not be liable for any incidental or consequential damages.

15.03 Force Majeure. Performance under this Agreement may be delayed to the extent necessary due to a cause beyond a party's reasonable control, for example, floods, civil disturbance, disruptions to communications facilities or acts of unaffiliated third parties, provided that the party claiming excuse from performance informs the other party as quickly as possible and uses reasonable efforts under the circumstances to correct the deficiency. A party who has not been paid due to an excuse under this subsection claimed by another party may delay its own performance related to additional Charges or Credit Vouchers until payments due have been made.

Section 16. CONTROVERSIES; ARBITRATION.

16.01 Controversy Expenses. If a controversy concerning this Agreement arises, the party who breached the Agreement will pay the reasonable costs and expenses the other party incurs in enforcing its rights (including without limitation attorney fees), whether or not arbitration is commenced.

16.02 Arbitration. Merchant and BA will settle any controversy concerning this Agreement by arbitration in San Francisco or Los Angeles, California, following the Commercial Arbitration Rules of the American Arbitration Association.

Section 17. CREDIT REPORTS AND OTHER INFORMATION.

17.01 Reports about Merchant. From time to time, BA may: (1) obtain credit and other information on Merchant, owners of Merchant, and officers of Merchant, from others (such as customers and suppliers of Merchant, lenders, and credit reporting agencies), and (2) furnish information on Merchant's relationship with BA and BA's experience with Merchant to others seeking the information.

17.02 Reports from Merchant. Merchant will provide BA with updated business and financial information concerning Merchant, including financial statements, tax returns, evidence of required licenses and other information and documents BA may reasonably request from time to time. All material marked "confidential" which BA receives from Merchant will be used only by BA or Card Organization, in performing services under this Agreement or related services and reporting. At any reasonable time, BA or any Card Organizations may audit Merchant's records relating to this Agreement.

Section 18. ASSIGNMENT.

This Agreement is binding upon the successors and assigns of BA and Merchant. Merchant will not assign this Agreement to another entity without BA's prior written consent, and any purported assignment made without BA's consent will be void.

Section 19. AMENDMENTS; WAIVERS.

19.01 Amendments. BA may amend this Agreement at any time by sending Merchant written notice at least 15 days before the effective date of the amendment, except that BA will give 30 days' notice of an increase in Processing Fees. The amendment will become effective unless BA receives Merchant's notice terminating this Agreement before the effective date. BA may amend this Agreement upon less than 15 days' prior notice if BA reasonably determines immediate modification is required by laws, Operating Rules or any adverse change in Merchant's financial condition. Amendments submitted by Merchant will bind BA only if in writing and approved and signed by two of BA's authorized officers.

19.02 Waivers. BA's failure to enforce this Agreement will not waive BA's rights under this Agreement. Waivers of any provision of this Agreement must be in writing and signed by a BA officer. A waiver in one instance will not apply to other occasions unless that intent is clear from the signed waiver.

Section 20. COMMERCIAL CODE.

Charges and Credit Vouchers are credit card "slips" excluded from the definition of "item" under section 4104 of the Uniform Commercial Code.

Section 21. TERMINATION.

21.01 BA or Merchant may terminate this Agreement as to all Cards or specified Card types, with or without cause, upon 30 days' advance written notice and as otherwise provided in this Agreement.

21.02 BA may terminate this Agreement at its discretion, effectively immediately upon written notice to Merchant, if BA reasonably determines that: (1) Merchant has violated any provision of this Agreement; (2) there is a material adverse change in Merchant's financial condition; (3) a petition in bankruptcy has been filed by or against Merchant or Merchant is generally unable to pay its debts as they become due (this Agreement is a contract to extend "financial accommodations" as defined in 11 U.S.C. 365(c)(2)); (4) any information which Merchant provided to BA, including Application information, was false, incomplete or misleading when received; (5) at any time during the term of this Agreement, Merchant has had a monthly ratio of Chargebacks to Charges exceeding 1%; (6) there is an overdraft for 3 days or more in the Deposit Account; (7) Merchant or any of Merchant's officers or employees has been involved in processing Charges with BA or other parties arising from fraudulent or otherwise unauthorized transactions; (8) Merchant is or will be unable or unwilling to perform fully its obligations under this Agreement or any applicable laws; (9) Merchant has failed to pay BA any amount when due; (10) Merchant has failed to promptly perform or discharge any obligation under this Agreement, the Deposit Account or the Reserve Account; (11) any of Merchant's representations or warranties related to this Agreement was not true or accurate when given; (12) Merchant has defaulted on any agreement it has with BA or BA's affiliates; or (13) BA is served with legal process seeking to attach or garnish any of Merchant's funds or property in BA's possession, and Merchant does not satisfy or appeal the legal process within 15 days of the service.

21.03 Upon the effective date of termination, Merchant's rights to complete Charges and Credit Vouchers and submit them to BA, and to use Charge forms or formats, promotional material and any other items provided by BA, will cease. Termination of this Agreement will not terminate the rights and obligations of Merchant and BA relating to acts or omissions occurring before termination, including, for example, any Processing Fees or service fees owed to BA, any Charges processed for Merchant by BA (whether before or after termination), Merchant's Chargeback and indemnity obligations, and the Security Interest granted to BA in this Agreement.

21.04 Sections 4.04, 5.09, 7, 8, 15.01 and 16 above will survive termination of this Agreement.

Section 22. NOTICES.

Except to the extent oral notice is explicitly allowed, each notice required by this Agreement will be in writing and will be effective when delivered, addressed to BA as follows: BA Merchant Services, Inc., Dept. 012133, P.O. Bm 37000, San Francisco, CA 94137 and to Merchant at Merchant's address to which BA mails Merchant's Card Processing Statements, or at such other address as either party may provide by notice to the other party. Any address Merchant designates will also be the address to which BA mails Merchant's Card Processing Statements. Delivery by facsimile transmission will be considered effective when the sender receives electronic confirmation of the transmission.

Section 23. FINAL AGREEMENT.

This Agreement is the complete and final agreement between Merchant and BA for services covered by this Agreement and supersedes all prior or contemporaneous negotiations, stipulations or agreements. If any provision of this Agreement is invalid or unenforceable, the other provisions remain effective.

Section 24. CALIFORNIA LAW APPLIES.

California law, as applied to agreements made and performed entirely in California without reference to conflict of laws provisions, governs this Agreement.

Section 25. EFFECTIVE DATE.

This Agreement becomes effective when signed by all parties, which must include 2 signatures by BA officers on the Merchant Services Account Application or other document signifying Merchant's acceptance of this Agreement.

CONTINUING GUARANTY

In this Guaranty, the "Guarantor" is each business organization or person who signed on the Guarantor signature line in the Merchant Services Account Application. "BA" is BA Merchant Services, Inc. "Merchant" is the person or business organization named on the Application. The "Agreement" is the Merchant Card Service Agreement between BA and Merchant, including the Terms and Conditions above, as now in effect and as amended in the future. "Obligations" are the obligations of Merchant under the Agreement, as more fully described below.

1. Guaranty.

Merchant has applied for certain services to process any combination of credit Card transactions, debit Card transactions and other card transactions for Merchant by BA under the Agreement ("Services"). To induce BA to make Services available to Merchant, the Guarantor guarantees payment of, and will pay to the order of the BA on demand, the Obligations of Merchant described below.

The Obligations include all obligations Merchant incurs under the Agreement:

- (a) at any time, past, present, or future;
- (b) voluntarily or involuntarily;
- (c) directly or indirectly; or
- (d) individually or together with others.

The Obligations include amounts:

- (a) due or not yet due;
- (b) absolute or contingent;
- (c) for a determined or undetermined amount;
- (d) for amounts due from Merchant due to Merchant's breach of the Agreement.

The Guarantor understands that the maximum amount of the Obligations is related to the Services provided under the Agreement, and may be for an unlimited amount, unless a maximum amount is provided in Section 2 below. Guarantor also understands that BA may from time to time modify the amount or type of Services provided to Merchant which will increase the Guarantor's obligations under this Guaranty.

This Guaranty is unconditional BA may require the Guarantor to pay even if BA does not:

- (a) proceed against Merchant, any other Guarantor, or any other party;
- (b) perfect any security interest;
- (c) proceed against any security; or
- (d) pursue any other remedy.

BA may release or add guarantors without releasing any other Guarantor. BA may require the Guarantor to pay even if a statute of limitations or disability bars recovery from Merchant, or the Obligations are or become otherwise unenforceable. The Guarantor waives the benefit of any statute of limitations that would apply to the Guaranty.

The Guarantor's obligations are independent of Merchant's obligations, and BA may sue the Guarantor without suing Merchant.

2. Limits of the Guaranty.

At any one time, the Guaranty is limited to the Obligations of Merchant under the Agreement, which may be for amounts without a limit. BA, however, may permit Merchant to incur Obligations to BA exceeding the limits of this Guaranty and may apply amounts received from sources other than the Guarantor to the unguaranteed portion of Merchant's Obligations to BA.

This Guaranty is in addition to any other guaranty given by the Guarantor.

3. BA's Rights.

BA may from time to time, without notice to or demand on the Guarantor:

- (a) change the interest rate on or renew any other debt of Merchant to BA;
- (b) accelerate, compromise, or change the repayment period of the Obligations or any other debt of Merchant to the BA, or otherwise change the terms of the Agreement;
- (c) receive, substitute, or release collateral for the Obligations or for any other debt of Merchant to BA;
- (d) sell, otherwise dispose of, or apply collateral in any order; or
- (e) assign or sell all or a part of the Obligations and this Guaranty.

BA may, at its option, request periodic financial statements from the Guarantor. The Guarantor will to supply these statements promptly upon BA's request.

BA may assign this Guaranty, in whole or part, without notice, and BA and any assignee or purchaser, or any prospective assignee or purchaser of the Obligations, may exchange financial information about the Guarantor with each other in connection with any assignment or purchase transaction.

If Merchant is a corporation or partnership, BA is not required to investigate the powers of anyone acting on Merchant's behalf.

4. Protecting BA's Interest.

Any amounts Merchant owes the Guarantor now or in the future are subordinated to Merchant's Obligations to BA. If BA requires, the Guarantor, as a trustee for BA, will collect amounts Merchant owes the Guarantor and pay them to BA in reduction of the Obligations to BA, without affecting or reducing this Guaranty.

The Guarantor does not have any:

- (a) right of subrogation, reimbursement, indemnification or contribution arising from the existence or performance of this Guaranty. This includes any rights arising from contract, statutory law or otherwise, and includes any claim of subrogation under the Bankruptcy Code (Title 11 of the U.S. Code) or any successor statute;
- (b) right to enforce a remedy which BA now has or may later have against Merchant;

(c) right to participate in security now or later held by BA; or

(d) right to any defense based on a claim that the responsibilities of guarantor under this Guaranty are more burdensome than or exceed the Obligations.

The Guarantor is solely responsible for obtaining any financial or other information from Merchant the Guarantor may require. BA is not required to give the Guarantor any information about Merchant's business operations or financial condition, or any notices or demands to Merchant of any kind, including notices of new or additional Obligations or any other debts that may be incurred by Merchant, notices of default or notice of BA's acceptance of this Guaranty.

5. Security Interest and Right of Set-off.

To secure all the debts covered by this Guaranty, the Guarantor assigns and grants to BA a security interest in all of the Guarantor's:

(a) money;

(b) securities;

(c) deposit accounts and their proceeds; and

(d) any other property.

If Merchant breaches the Agreement or if any of the Guarantor's obligations to BA are not fulfilled, BA may immediately use any money or proceeds of the Guarantor's deposit accounts, securities, or other property to reduce the Obligations.

BA may also foreclose on any other collateral as provided in the Uniform Commercial Code and in any security agreements between BA and Guarantor.

6. Arbitration.

At the request at any time of the Guarantor of BA, any controversies concerning this Guaranty will be settled by arbitration in San Francisco or Los Angeles, California, in accordance with the United States Arbitration Act, and under the Commercial Arbitration Rules and administration of the American Arbitration Association.

The United States Arbitration Act will supplement California law, as appropriate, even though this Guaranty provides that it is otherwise governed by California law.

7. Expenses.

Guarantor will pay all reasonable attorney fees, including allocated costs of BA's in-house counsel, court costs and all other expenses BA incurs in enforcing this Guaranty. The expenses covered by this provision include attorney fees and costs of any arbitration proceedings related to this Guaranty.

8. Revoking this Guaranty.

The Guarantor may revoke this Guaranty as to future transactions at any time by written notice to BA, effective 2 business days after BA receives the written notice revoking the Guaranty, or belier time that BA stops processing new transactions for Merchant after receipt of the revocation notice, provided the Guarantor

renounces any consideration given in return for the Guaranty of the se future transactions. The Guarantor is obligated on all Obligations relating to Services extended by BA to Merchant before the revocation becomes

effective. Any revocation will not affect the Guarantor's obligation for any transactions that preceded the effective time of the revocation, and the Guarantor will remain obligated on all Obligations related to these transactions, even if those Obligations before or after the revocation, have been renewed or modified. If this Guaranty is revoked, and BA later must refund or rescind a payment, or transfer an interest in property back

to Merchant, relating to Obligations before the revocation, this Guaranty will be reinstated as to that payment or interest.

9. Enforcing this Guaranty.

California law governs this Guaranty, and BA may sue the Guarantor in any court in California. BA may delay or waive exercising or enforcing any of its rights, including its rights of set-off and lien, without losing them.

These rights continue until BA waives them in writing. If the Guarantor is an individual and is married, or is an

individual signing on behalf of a sole proprietorship or partnership is married, BA may proceed against the individual's separate property for any obligations under this Guaranty.

Business Information

Business Name (include dba if applicable)		Type of Business Other (Specify)	
Name of Primary Contact		Phone Number of Primary Contact	
Business Phone		Fax Number	
Physical Business Street Address (No P.O. Boxes)		Mailing Address (P.O. Boxes okay)	
City		City	
State	Zip	State	Zip
Types of Goods and Services		When was business established (M/Y)?	
How long has the current owner owned this business?		Business Site	
How long at this location?		Other (Specify)	
Refund policy		Number of Locations	
		Federal Taxpayer ID	

Owner's Name			
% of Ownership	Owner Since (M/Y)	Social Security Number	
Residence address			
City		State	Zip

Owner's Name			
% of Ownership	Owner Since (M/Y)	Social Security Number	
Residence address			
City		State	Zip

Owner's Name			
% of Ownership	Owner Since (M/Y)	Social Security Number	
Residence address			
City		State	Zip

Payment Options

Visa®/MasterCard®	Debit Card	Preauthorized Health Care
Diners Club®/Carte Blanche®	Check Guarantee	
JCB® card	Travel and Entertainment Services	
American Express® Card	Express Payment Service	
Discover® Card/NOVUS SM Card Brands	Supermarket Incentive Program	

Required Documents

Please give these documents to your sales representative.

This application.	Most recent tax returns (see instructions inside Sign-Up Package).
Most Recent 3 months' merchant processor statements.	Voided Business Checking Account check (attach below).
Current American Express Card processing statements.	

Agreement

By signing below, the Merchant named above (1) certifies that all information and documents submitted in connection with this Application are true and complete; (2) acknowledges receipt of the booklet entitled "Merchant Card Service Agreement" (the "Agreement"); (3) agrees that Merchant and each transaction submitted to BA Merchant Services, Inc. (BA) will be bound by the terms and conditions in this Agreement; and (4) agrees that Merchant will submit transactions to BA only in accordance with the information in this Application and will immediately inform BA in writing at the address below if any information in this Application changes; and (5) understands that this Application is subject to approval by BA. Your signature authorizes BA to verify any of the information given, including credit references; **to obtain credit reports on the business and each of you individually, including Guarantors (including a spouse if in a community property state); and to share or provide this information to BA's affiliates.** This Agreement becomes effective when signed by Merchant and BA. Signatures of two BA officers are required to bind BA.

Merchant Signature

SIGN X 1) _____
HERE Merchant Signature Date

 Print Name Title

X 2) _____
 Merchant Signature Date

 Print Name Title

Check here if this application is for a privately held Corporation.
 If so, the principal owner(s) must agree to the Continuing Guarantee defined in the Agreement and sign below.

1) _____
 Guarantor Signature

2) _____
 Guarantor Signature

3) _____
 Guarantor Signature

BA MERCHANT SERVICES, INC. Dept. #12133, P.O. Box 37000, San Francisco, CA 94137
 a BankAmerica Company

1) _____ BA Signature Date	1) _____ BA Signature Date
_____ Print Name Title	_____ Print Name Title

For Branch Use Only (please print)
Attach voided check here

Branch Contact Name

Title Date

Social Security Number

Branch Name Branch Number

BA Merchant Services, Inc. Sales Representative Date

BankAmerinet # Blitz Code SIC Code

