

U.S. Bank Business Essentials[®]

Payment Processing Terms of Service and Operating Agreement

AUGUST 2024

These Payment Processing Terms of Service include a binding arbitration provision located in [Section 17.6](#) that allows any dispute to be submitted to arbitration. The arbitration provision impacts your legal rights and should be reviewed carefully.



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PAYMENT PROCESSING TERMS OF SERVICE

1. **Definitions.** Capitalized terms used in these Payment Processing Terms of Service will have the meanings stated in Appendix 2.
2. **Scope of Agreement.** These Payment Processing Terms of Service (including the Operating Agreement in Appendix 1) govern your receipt and use of the Processing Services you selected in the U.S. Bank Business Essentials application. Signature by an authorized representative of your company on the U.S. Bank Business Essentials application will be your acceptance of the Payment Processing Terms of Service and Operating Agreement. No strikeover of the preprinted text of these terms will be effective. In addition to these terms, you will comply with any Documentation applicable to the Processing Services that Elavon provides in writing from time to time.
3. **Transactions.**
 - 3.1. **Settlement of Transactions.**
 - (a) Subject to the other provisions of the Agreement and to your compliance with the terms of the Agreement, Elavon will process Transactions daily, deposit funds to the DDA based on your properly-submitted daily transactions, and provide you provisional credit for such funds.
 - (b) You are responsible for monitoring your Transactions, and Elavon has no duty to monitor your Transactions for fraudulent or other suspicious activity. However, Elavon may do so, and may suspend the processing of Transactions while Elavon investigates suspicious or fraudulent activity. Elavon may delay, within its reasonable discretion, crediting the DDA with funds for Transactions that require investigation of suspicious or fraudulent activity or funds for Transactions for which Elavon has not received funding from the applicable Payment Networks. Elavon will investigate or process any delayed Transactions expeditiously and will use reasonable efforts to notify you if any Transactions are delayed for more than 48 hours.
 - (c) If you maintain your DDA with Member, provisional credit for Transactions may be available as soon as the same banking day on which Elavon processes the Transactions. Regardless of where you maintain your DDA, you acknowledge and agree that Elavon may use either “direct” (ACH debit authority pursuant to which Chargebacks, returns, adjustments, fees, fines, penalties, assessments and charges from the Payment Networks and other amounts due to Elavon under the Agreement are debited from the DDA) or “net” (pursuant to which Chargebacks, returns, adjustments, fees, fines, penalties, assessments and charges from the Payment Networks and other amounts due to Elavon under the Agreement are deducted from Transaction proceeds prior to delivering the proceeds to your DDA) methods to recover amounts you owe. You authorize and appoints Elavon to act as your agent to collect Transaction amounts from the Customer, the Issuer or the Customer’s financial institution, to the extent required.
 - 3.2. **Deposits.** You acknowledge that your obligation to Elavon for all amounts owed under the Agreement arises out of the same transaction as Elavon’s obligation to deposit funds to the DDA, and such amounts are owed in the ordinary course of business.
 - 3.3. **Provisional Credit.** All credits for funds provided to you are provisional and subject to reversal if Elavon does not receive payment of corresponding settlement amounts from the Payment Networks. All credits are subject to adjustments for inaccuracies and errors (including rejects) and Chargebacks in accordance with the Agreement and the Payment Network Regulations. You authorize Elavon to initiate reversal or adjustment (debit or credit) entries and to initiate or suspend such entries as may be necessary to grant or reverse provisional credit for any Transaction. Further, Elavon may delay Cardholder credits you issue (other than to PIN-Debit Cards) for up to seven business days for accounting verification.



- 3.4. **Chargebacks.** You will accept for Chargeback, and will be liable to Elavon for the amount of, any Transaction disputed by the Cardholder or Issuer for any reason under the Payment Network Regulations. You authorize Elavon to offset from funds due to you or to debit the DDA or the Reserve Account for the amount of all Chargebacks. You will cooperate with Elavon in complying with the Payment Network Regulations regarding Chargebacks.
- 3.5. **Transaction Receipts.** You are responsible for all Transactions until Elavon has received and validated those Transactions. You will maintain sufficient “backup” information and data (e.g., Transaction Receipts or detailed reporting) with respect to Transactions (and will provide such information and data to Elavon upon request) to reconstruct any information or data lost due to any malfunction of your or Elavon’s systems. Elavon has no duty to recreate lost Transactions or Transaction Receipts unless the loss results from Elavon’s breach of the Agreement. You are responsible for developing, maintaining, and testing a disaster recovery plan.
- 3.6. **Original Transactions.** Elavon will not be responsible for processing returns, refunds, or adjustments related to Transactions not originally processed by Elavon.
- 3.7. **Asserted Errors.** You are responsible for reconciling the statements regarding Transaction activity received from Elavon, any Payment Network, and any third party vendors with the statements you receive for your DDA.
- (a) You must promptly examine all statements relating to the DDA and notify Elavon in writing of any errors in the statement you received from Elavon. Your written notice must include:
- (i) Your business name and account number;
- (ii) The dollar amount of the asserted error;
- (iii) A description of the asserted error; and
- (iv) An explanation of why you believe an error exists and the cause of it, if known.
- (b) If you fail to provide written notice to Elavon of an asserted error within 45 days of the date of the Elavon statement containing the asserted error, Elavon will not be liable to you for any errors related to that statement. You may not make any claim against Elavon for any loss or expense relating to any asserted error for 45 days immediately following Elavon’s receipt of your written notice. During that 45 day period, Elavon may investigate the asserted error (and you will not incur any cost or expense in connection with the asserted error without notifying Elavon), and notify you of its proposed resolution of the asserted error.
- 3.8. **Processing Limits.** Elavon may impose a cap on the dollar amount of Transaction Receipts that it will process for you (as indicated on the U.S. Bank Business Essentials application as your annual volume or as otherwise established by Elavon). Elavon may change this limit from time to time, without prior notice to you. If you exceed the established limit, Elavon may suspend the processing of Transaction Receipts, and either return all Transaction Receipts evidencing funds over the cap to you or hold those deposits in a separate account or Reserve Account.
- 3.9. **Company Compliance.** You will not submit Transactions for processing to Elavon for any businesses, products, or methods of selling other than those stated in the U.S. Bank Business Essentials application without Elavon’s prior written consent.
- 3.10. **Member Responsibilities.** Member will facilitate ACH Transactions and comply with all ACH Rules as applicable to Member in providing Processing Services under this Agreement. Member will have no liability to you under this Agreement.

4. Security Interests; Reserve Account.

4.1. Security Interests.

- (a) **Security Agreement.** The Agreement constitutes a security agreement under the Uniform Commercial Code. You grant to Elavon a security interest in and lien upon: (a) all funds at any time in the Reserve Account or DDA, regardless of the source of such funds; and (b) all funds underlying present and future Transaction Receipts; and (c) any amount which may be due to you under the Agreement, including, without limitation, all rights to receive any payments or credits under the Agreement (collectively, the “**Secured Assets**”). You agree to provide other security to Elavon, upon request, to secure your obligations under the Agreement. These security interests and liens will secure all of your obligations under the Agreement and any other agreements now existing or later entered into between you and Elavon or Member, including your obligation to pay any amounts due and owing to Member or Elavon. Elavon may execute this security interest, without notice or demand of any kind, by making an immediate withdrawal or by restricting your access to the Secured Assets.
- (b) **Perfection.** Upon Elavon’s request, you will execute one or more control agreements or other documents to evidence or perfect this security interest. You represent and warrant that no other person or entity has a security interest in the Secured Assets. With respect to such security interests and liens, Elavon will have all rights afforded under the Uniform Commercial Code, any other applicable law and in equity. You will obtain Elavon’s written consent prior to granting a security interest of any kind in the Secured Assets to a third party. You agree that this is a contract of recoupment, and Elavon is not required to file a motion for relief from a bankruptcy action automatic stay to realize any of the Secured Assets. Nevertheless, you agree not to contest or object to any motion for relief from the automatic stay filed by Elavon. You authorize and appoint Elavon as your attorney in fact to sign your name to any control agreement used for the perfection of any security interest or lien granted hereunder.

4.2. Reserve Account.

- (a) **Establishment.** Elavon may establish a Reserve Account at any time to provide a source of funds to pay Elavon for any amounts you owe. The Reserve Account will be maintained with sums sufficient to satisfy your current and future obligations as determined Elavon. Elavon will have sole control of the Reserve Account. Elavon may, at any time, require that the amount on deposit in the Reserve Account be increased. Your settlement funding may be directed to a Reserve Account if your websites are not in compliance with the Payment Network Regulations.
- (b) **Funding.** Elavon may fund the Reserve Account by any of the following means:
 - (i) Elavon may require you to transfer funds to Elavon for credit to the Reserve Account;
 - (ii) Elavon may debit the DDA and provide a corresponding credit to the Reserve Account; or
 - (iii) Elavon may credit to the Reserve Account amounts it would otherwise be obligated to credit to you.
- (c) **Use of Funds in Reserve Account.** Elavon may, without notice to you, apply credits in the Reserve Account against any outstanding amounts you owe or future amounts you will owe under the Agreement or any other agreement between you and Member or Elavon. Additionally, Elavon may debit the Reserve Account to exercise its rights under the Agreement, including its rights of set-off and recoupment to collect any amounts due to Elavon. Further, you agree that Elavon may be required to send funds in a Reserve Account to a third party in response to a tax levy or other court order.

- (d) **Termination of Reserve Account.** Credits in the Reserve Account that have not been applied against amounts due to Elavon will remain in the Reserve Account until you have paid in full all amounts owing or that may be owed under the Agreement, including all Chargebacks, returns, adjustments, fees, fines, penalties, assessments and charges from the Payment Networks, and any other payments due under the Agreement. Notwithstanding the foregoing, if Elavon determines that the event that gave rise to the establishment of the Reserve Account has been sufficiently cured, then Elavon may terminate the Reserve Account or release credits from the Reserve Account, or both, based on Elavon's reasonable determination for the continuing potential risk of loss to Elavon.

4.3. **Recoupment and Set-off.**

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

4.4. **Remedies Cumulative.** The rights conferred upon Elavon in this Agreement are not intended to be exclusive of each other or of any other rights and remedies of Elavon under the Agreement, at law or in equity. Rather, each and every right of Elavon under the Agreement, at law or in equity, is cumulative and concurrent and in addition to every other right.

5. **Term and Termination.**

5.1. **Term.** Unless terminated as provided below, the Agreement will remain in effect for three years ("**Initial Term**") following the date of acceptance of the U.S. Bank Business Essentials application by Elavon, which date will be the date upon which the Agreement becomes effective. Thereafter, the Agreement will renew automatically for successive two year terms ("**Renewal Term**") unless terminated as provided below. If you process Transactions beyond the Initial Term or Renewal Term, then the terms of the Agreement will govern such Transaction processing.

5.2. **Termination.**

- (a) **By You.**
 - (i) You may terminate the Agreement effective at the end of the Initial Term or any Renewal Term by providing written notice of non-renewal to Elavon at least 30 days prior to the expiration of the then current term.
 - (ii) You may terminate the Agreement if Elavon has failed to perform a material obligation under the Agreement and such failure remains uncured for 30 days after you notify Elavon in writing of the existence of the failure.
 - (iii) you will have the termination right stated in Section 17.17 if a Force Majeure occurs.



- (b) **By Elavon.** Elavon may terminate the Agreement, in whole or in part, at any time with or without cause.

5.3. **Notice of Termination.** To be effective, your termination request must be completed on a form available from Elavon, and at a minimum, must include the name of your business and Merchant Identification Number, and must be signed by the principal owners of your business. In those limited instances where your account is reinstated by Elavon following termination by either you or Elavon, all of your obligations under the Agreement are likewise reinstated and will renew for successive two year Renewal Terms effective on the date of reinstatement.

5.4. **Actions Upon Termination.**

(a) **Account Closing.**

- (i) You acknowledge that closing your account with Elavon may take up to 30 days following Elavon's receipt of written notice of termination.
- (ii) All obligations of a party regarding Transactions serviced prior to termination will survive termination. You are responsible for all fees incurred during the Term, including those that are debited or invoiced after the expiration or termination of the Agreement. You will maintain enough funds in the DDA following termination to cover all Chargebacks and returns, adjustments, fees, fines, penalties, assessments and charges from the Payment Networks and other amounts due under the Agreement for at least 180 days after termination.
- (iii) Funds related to Transactions processed prior to termination may be placed in a Reserve Account until you pay all amounts you owe Elavon and any other amounts for which you are liable under the Agreement. If Elavon establishes a Reserve Account, then any balance remaining after Chargeback rights have expired and all other amounts you owe have been paid will be disbursed to you.
- (iv) You will return to Elavon (or, if purchased, destroy or securely delete all information within) all Equipment following expiration or termination of this Agreement, and will be responsible for all fraud involving Equipment following the closure of your account.

- (b) **Return to Elavon.** All Confidential Information, promotional materials, advertising displays, emblems, Transaction Receipts, Credit Transaction Receipts, and other forms supplied to you and not purchased by you or consumed in use will remain the property of Elavon and must be returned to Elavon or destroyed within 10 business days after termination of the Agreement. You will be fully liable for all loss, cost, and expense suffered or incurred by Elavon arising out of any failure to return or destroy such materials following termination.

6. **Authorized Users; Access; Security of Passwords and User IDs.**

6.1. you will be responsible for the distribution of all passwords and user IDs issued to any Authorized User and for maintaining the confidentiality and security of Authorized User's passwords and user IDs. You will ensure that the access granted to each Authorized User to the Processing Services is limited to only the access and information necessary for the Authorized User to perform his or her job functions on your behalf. You will ensure that all Authorized Users will be trained and qualified to access and use the Processing Services in accordance with the terms of the Agreement and any Documentation. You are responsible for your Authorized Users' compliance with the terms of the Agreement and the Documentation, for all acts or omissions of the Authorized Users, and for all use of any Authorized User's user ID and password other than by Elavon or Elavon's third-party contractors or use by third

parties of the user IDs and passwords obtained by such third parties from Elavon or Elavon's third-party contractors.

6.2. you will not, and will ensure that your Authorized Users do not:

- (a) access or use the Processing Services for any purposes other than for your own internal business purposes (except as authorized by Elavon) as disclosed to Elavon in writing;
- (b) modify, reverse engineer, disassemble or decompile any part of the Processing Services or Elavon Materials;
- (c) knowingly transmit any data that contains software viruses, time bombs, worms, Trojan horses, spyware, disabling devices, malicious code, or other harmful or deleterious computer code, files or programs to or through the Processing Services; provided, that you will use commercially reasonable measures (at least industry standard) to screen for the foregoing.
- (d) interfere with or disrupt the servers or networks connected to or providing the Processing Services;
- (e) remove, change or obliterate the copyright, trademark or other proprietary protection legends or notices that appear in connection with access to and use of the Processing Services or any Elavon Materials; or
- (f) copy, re-sell, republish, download, frame or transmit the Processing Services or Elavon Materials, including in order to act as a consultant for any third party or, unless otherwise permitted under the Agreement, as a service bureau, outsourcing or application service provider for any third parties, or otherwise allow any third party to use or access the Processing Services.

6.3. You are responsible for changing the user IDs and passwords of your Authorized Users if it believes that any of those user IDs or passwords have been stolen or might otherwise be misused and for disabling any Authorized User's IDs and passwords promptly upon the termination of employment of such Authorized User or the cessation of such Authorized User's need to access the Processing Services. You will promptly notify Elavon if you believe the Processing Services or Elavon's databases have been compromised by use of a user ID or password associated with the Processing Services.

7. Fees and Taxes.

7.1. **Compensation.** You will compensate Elavon for all fees and other amounts due for the Processing Services and Equipment in accordance with the Agreement and any additional application or setup forms (including enrollment forms). Such amounts will be calculated and debited from the DDA or the Reserve Account once each day or month for the previous day's or month's activity, as applicable, or will be deducted from the funds due to you under the Agreement.

7.2. **Change of Fees.** Elavon may adjust the fees in accordance with [Section 17.12](#) below.

7.3. **Other Amounts Owed.**

- (a) In addition to the amounts described in [Section 7.1](#) above, you will promptly pay Elavon for any Chargebacks, returns, adjustments and associated fees, and for any fines, penalties, assessments, or charges (including all those imposed by the Payment Networks as a result of your violation of Payment Network Regulations), and any other payments due under the Agreement. Elavon may offset these amounts from funds otherwise owed by Elavon to you or may debit these amounts from your DDA or Reserve Account by ACH. If such offset or ACH debit does not fully reimburse Elavon for the amount owed, you will promptly pay Elavon such amount upon demand.



(b) Elavon will charge interest on all uncollected amounts owed to Elavon that are more than 30 days past due at a rate no greater than the maximum rate of interest permitted under Laws.

7.4. **Taxes.** You will pay all taxes and other charges imposed by any governmental authority on the Processing Services and Equipment provided under the Agreement, excluding any taxes based on Elavon's property or net income. If you are a tax-exempt entity, you will provide Elavon with an appropriate certificate of tax exemption.

7.5. **Demand Deposit Account.** You will establish and maintain a DDA to facilitate payment of fees to Elavon. You authorize Elavon and its Affiliates that provide Processing Services under the Agreement to initiate ACH credit and debit entries to the DDA in order to pay the fees and any other amounts that may be due by you to Elavon under the Agreement, and you authorize your depository institution to grant Elavon access to any information or records regarding the DDA reasonably requested by Elavon to debit or credit the DDA and to otherwise exercise Elavon's rights under the Agreement with respect to the DDA. The foregoing authorizations will remain in effect throughout the Term and after termination of the Agreement until all of your payment obligations to Elavon have been paid in full. You will maintain sufficient funds in the DDA to accommodate all Transactions contemplated by the Agreement and all Chargebacks, returns, adjustments, fees, fines, penalties, assessments from the Payment Networks and other payments due under the Agreement. You will obtain Elavon's prior consent to change the DDA. If you do not get that consent, Elavon may immediately and without notice terminate the Agreement and may take any other action it deems necessary in its discretion. Elavon has the right to rely on written instructions you submit requesting changes to the DDA. If you change the DDA, the ACH authorizations established under this Agreement will apply to the new account, and you will provide Elavon such information regarding the new DDA as Elavon deems necessary to effect debits from or credits to the DDA as provided under the Agreement. It may take Elavon up to 10 business days after Elavon's receipt of a written notice from you to reflect in Elavon's system any change to your DDA. You may request from Elavon written confirmation of Elavon's consent to change the DDA.

7.6. **Depository Institution.** You authorize Elavon to direct the depository institution to hold funds in the DDA in an amount which Elavon deems sufficient to fully protect Elavon's and Member's rights under the Agreement or to block or restrict your or others' access to funds in the DDA (whether or not such funds are specifically related to any previous deposit for any Transaction Receipt). You direct the depository institution to immediately comply with any such direction from Elavon.

8. **Compliance with Laws and Payment Network Regulations; MATCH™.**

8.1. **General.** Elavon and you will comply with all Laws and Payment Network Regulations applicable to the selected Processing Services.

8.2. **Office of Foreign Assets Control Compliance.** You acknowledge that Elavon and Member are entities governed by the Laws of the United States and as such, cannot provide any products or services to you or your Customers that contravene the Laws of the United States, including the Laws promulgated by the Office of Foreign Asset Control (OFAC) or the United States Department of the Treasury or any successor thereto.

8.3. **Export Laws Compliance.** You will comply with all United States export Laws governing the export and re-export of hardware, software or technology applicable to the Processing Services and Equipment, including United States Department of State International Traffic In Arms Regulations (ITAR), United States Foreign Corrupt Practices Act, United States Commerce Department's Export Administration Regulations, OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and Laws promulgated by OFAC or the United States Department of the Treasury or any successor thereto. You will not, and will not request Elavon to, export, directly or indirectly, any technical data pursuant to the Agreement or any product using any such data to any country for which

the United States government or any agency thereof at the time of export requires an export license or other governmental approval without first obtaining such license or approval.

- 8.4. **MATCH™ and Consortium Merchant Negative File.** You acknowledge that Elavon is required to report your business name and the name of your principals to the MATCH™ listing maintained by Mastercard and accessed by Visa, to the Consortium Merchant Negative File maintained by Discover, if applicable, or to any other negative or terminated merchant file of any other Payment Network, if applicable, pursuant to the requirements of the Payment Network Regulations. You specifically consent to Elavon's fulfillment of the obligations related to the listing of you and your business information in such databases, and you waive all claims and liabilities you may have as a result of such reporting.
- 8.5. **Customer Identification.** To help the United States government fight the funding of terrorism and money laundering activities, federal law requires financial institutions and their affiliates to obtain, verify, and record information that identifies each person who opens an account. Accordingly, you will provide certain information and identifying documents requested by Elavon to help Elavon to identify you.
- 8.6. **Accuracy of Information.** You must notify Elavon in writing at least 10 business days prior to any material changes to the information provided in the U.S. Bank Business Essentials application, including any additional location or facility at which you want to use Elavon's Processing Services, the form of entity (e.g., partnership, corporation, etc.), a change in control of your business, material changes to the type of goods and services provided or payments accepted, and how Transactions are completed (i.e., by telephone, mail, electronic commerce, or in person at your place of business). You will promptly provide any additional information that Elavon reasonably requests regarding the change. Elavon may rely upon written instructions you submit to request changes to your business information. You may request written confirmation of Elavon's consent to the changes to your business information.

9. Confidentiality; Data Security and Use; Data Privacy.

9.1. Confidentiality.

- (a) **Confidential Information Generally.** Each party will protect the other party's Confidential Information from unauthorized disclosure, publication, or dissemination with the same standard of care and discretion it employs with similar information of its own, but in no event less than reasonable care, and will not use, reproduce, distribute, disclose, or otherwise disseminate the other party's Confidential Information except in connection with the performance of its obligations or rights under the Agreement. The Receiving Party acknowledges that any breach of this [Section 9.1](#) by the Receiving Party may result in irreparable harm to the Disclosing Party for which monetary damages may not provide a sufficient remedy. Therefore, the Disclosing Party may seek both monetary damages and equitable relief with respect to any such breach without any obligation to post bond.
- (b) **Disclosure of Confidential Information.** If the Receiving Party or its agents become legally required or compelled (by any publicly filed and noticed deposition, interrogatory, request for documents, civil subpoena, civil investigative demand or by any similar process or court or administrative order) to disclose Confidential Information, then the Receiving Party if permitted will provide the Disclosing Party with prompt prior written notice of such legal requirement so that the Disclosing Party may seek a protective order or other appropriate remedy. If the Disclosing Party does not obtain a protective order or other remedy, the Receiving Party agrees to disclose only that portion of the Confidential Information which the Receiving Party is legally required to disclose and to use reasonable efforts to obtain assurances that confidential treatment will be accorded such Confidential Information. Neither party will be obligated to notify the other of the receipt of any non-public or confidential investigative demand, summons,

or grand jury subpoena or other similar process that requires confidentiality on the part of the applicable party.

- (c) **Duration of Obligations.** The non-disclosure obligations in this Section 9.1 will continue (i) with respect to Confidential Information that does not constitute a trade secret, for three years following termination, and (ii) with respect to Confidential Information that is a trade secret under Laws, for the longer of three years after termination and such period as the information retains its status as a trade secret under Laws.
- (d) **Obligations on Termination.** At the request of the Disclosing Party upon the termination of the Agreement, the Receiving Party will promptly delete or return to the Disclosing Party all originals and copies containing or reflecting any Confidential Information of the Disclosing Party (other than those required to be retained by Law, or that would be unreasonably burdensome to destroy, such as archived computer records). If a dispute arises between the parties in relation to the Confidential Information or the Agreement, the Receiving Party may retain a copy of such Confidential Information as the Receiving Party reasonably determines is necessary for its defense of the dispute. In all cases, any retained Confidential Information will continue to be subject to the terms of the Agreement.

9.2. Data Security and Use.

- (a) **Security Programs Compliance.** Elavon and you will each comply with the applicable requirements of the Security Programs.
- (b) **PCI-DSS.** Elavon will undergo an annual assessment of its compliance with the PCI-DSS. You may review Elavon's current PCI-DSS compliance status on the Payment Network websites as available.
- (c) **Cardholder Data and Transaction Information.**
 - (i) Elavon and you will ensure the security of Cardholder Data and Transaction Information in accordance with all Laws and Payment Network Regulations. In accordance therewith, each of Elavon and you will maintain reasonable and appropriate administrative, physical, and technical safeguards designed to (i) maintain the security and confidentiality of Cardholder Data, Transaction Information, and Confidential Information; (ii) protect such information against anticipated threats or hazards to its security or integrity; and (iii) prevent unauthorized access, use, or exfiltration of such information in violation of applicable Laws. Elavon and you will retain Cardholder Data and Transaction Information for the duration required by Laws and the Payment Network Regulations and thereafter will destroy, in a manner that will render the information unreadable, all such information that is no longer necessary or appropriate to maintain for ordinary business purposes.
 - (ii) you will not disclose Cardholder Data to any third party, except to a Service Provider, unless required by Laws or the Payment Network Regulations. You will not retain or store magnetic stripe or CVV2/CVC2/CID data after authorization for any purpose. After authorization, you will retain only the Customer account number, name, and card expiration date if you have a reasonable business purpose to retain such information and is otherwise in compliance with the Agreement. If there is a failure or other suspension of your business operations, including any Bankruptcy Proceeding, you will not sell, transfer, or disclose Cardholder Data to third parties, and you will (a) return this information to Elavon or (b) provide acceptable proof of destruction of this information to Elavon.
 - (iii) Elavon acknowledges that you may collect information about your Customers as part of your sales transaction (e.g., price paid, time, store identifier, SKU information) regardless of the

Customer's payment type and not in connection with the Processing Services, and that the Agreement does not restrict your retention, use or disclosure of such information even though some of that information may overlap with elements of Transaction Information.

- (iv) Notwithstanding anything in Section 9.1, to the extent permitted by Law, any Cardholder Data, Transaction Information, and information regarding your business, its principals, or Affiliates included on the U.S. Bank Business Essentials application or that Elavon otherwise obtains in connection with the Agreement may be:
- (1) Used by Elavon and its Affiliates, third-party contractors, agents, and referral partners (a) to provide the Processing Services and related functions to you and to respond to any further application for Processing Services, (b) for administrative purposes and to maintain your account pursuant to the Agreement, and (c) for Elavon's internal fraud and compliance monitoring;
 - (2) Disclosed and shared by Elavon for reporting purposes to credit rating agencies and to the financial institution where the DDA is maintained;
 - (3) Used to enhance or improve Elavon's products or services generally;
 - (4) Used or disclosed by Elavon in the course of any sale, reorganization or other change to Elavon's business, subject to appropriate confidentiality agreements;
 - (5) Collected, used and disclosed by Elavon as required by Laws (e.g., for tax reporting or in response to a subpoena); and
 - (6) Retained for such periods of time as Elavon requires to perform its obligations and exercise its rights under the Agreement.

Elavon may prepare, use, and share with third parties, aggregated, non-personally identifiable information derived from Transaction Information (so long as such information cannot be identified to you) that is combined with similar information from all or specific segments of Elavon's other customers.

- (d) **Elavon Data Breach.** If Elavon suffers an Elavon Data Breach, then it will comply with all Laws and Payment Network Regulations with respect to such Elavon Data Breach, including providing the required reporting and forensic audits to the Payment Networks. Elavon will not pass-through or require you to be liable to Elavon for any fees, fines, penalties, assessments, or charges levied against Elavon by the Payment Networks in connection with an Elavon Data Breach.
- (e) **Company Data Incident.**
- (i) **Notice and Investigation.** You acknowledge that Cardholder Data and bank account information it obtains in connection with any Transaction is the property of the financial institution that issued the Payment Device or holds the Customer's account. You will notify Elavon within 24 hours (and if notice is given orally, it must be confirmed in writing within the same 24 hour period) if you know or suspect that Cardholder Data, Customer information, or Transaction Information has been accessed or used without authorization from your business or systems within your control (a "**Data Incident**"). The notice must include, to the extent known:
- (1) A detailed written statement about the Data Incident including the contributing circumstances,
 - (2) The form, number and range of compromised account information,

- (3) Specific account numbers compromised, and
- (4) Details about the ensuing investigation and your security personnel who may be contacted in connection with the Data Incident.

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

- (ii) **Preservation of Records.** If there is a Data Incident, you will take immediate steps to preserve all business records, logs and electronic evidence relating to the Data Incident. You will cooperate with Elavon to rectify, correct and resolve any issues that may result from the Data Incident, including providing Elavon with (and obtaining any necessary waivers for) all relevant information to verify your ability to prevent future data incidents in a manner consistent with the Agreement.
- (iii) **Liability for Data Incident.** Without waiving any of Elavon's rights and remedies, you are liable for all fraudulent transactions related to any Data Incident and all costs Elavon incurs as a result of such Data Incident, including all (i) fees, fines, penalties or assessments by the Payment Networks, (ii) claims from third parties, and (iii) costs related to the notification of Cardholders or Customers, cancellation of Payment Devices (including underlying accounts), re-issuance of Payment Devices (including underlying accounts), forensic investigation, and PCI-DSS review for a report of compliance.
- (iv) **Data Incident and Payment Network Audit.** If there is a known or suspected Data Incident, or if required by the Payment Networks, then at Elavon's or any Payment Network's request, you will obtain at your expense and submit to Elavon a copy of a forensic audit from a qualified incident response assessor of the information security of your business. You acknowledge that the Payment Networks have the right to audit your operations to confirm compliance with the Payment Network Regulations.

9.3. Data Privacy

- (a) **Definitions.** The terms Business, Business Purposes, Collects, Consumers, Personal Information, Share, Sell, Sensitive Personal Information, and Service Provider, as used in this Section 9.3, have the meanings defined in the CCPA.
- (b) **Status of the Parties.** If you are a Business under the CCPA, then with respect to applicable Personal Information, Elavon is a Service Provider to you and is subject to the restrictions that apply to Service Providers under the CCPA. Elavon will not Sell or Share any Personal Information without providing an opt-out mechanism for online activities or without your consent when providing any California Company Information to referral partners.
- (c) **Business Purposes and Restriction on Use.** Elavon may only process the Personal Information being disclosed by you or otherwise Collected in connection with this Agreement for a Business Purposes (e.g., performing services on your behalf, including maintaining or servicing accounts,

providing customer service, processing or fulfilling orders and transactions, verifying customer information, processing payments, providing financing, providing analytic services, or providing similar services on behalf of Company). In addition to Elavon's obligations in the Agreement with respect to the Services and Elavon's treatment of Confidential Information (including the California Company Information), Cardholder Data, and Transaction Information, Elavon will not: (A) retain, use, or disclose the Personal Information for any purpose other than for the Business Purposes in order to provide the products and services under the Agreement to you, or as you may otherwise instruct, or as may be permitted under the CCPA; (B) retain, use, or disclose the Personal Information outside of the direct business relationship between you and Elavon, unless otherwise permitted by the CCPA; or (C) combine or update the Personal Information with Personal Information received from another source or Collected from Elavon's own interaction with a Consumer, except as specifically allowed under CCPA. Elavon will not Collect any Sensitive Personal Information for the purpose of inferring characteristics about any individual who is a resident of California.

- (d) **Consumer Requests.** If Elavon receives requests from Cardholders to exercise their rights under the CCPA, Elavon may inform the Cardholder that the request cannot be acted upon because the request has been sent to a Service Provider. Requests regarding your Personal Information can be submitted by completing a Personal Information Request Form at www.elavon.com or by calling Elavon at 1-800-725-1243.
- (e) **Other States.** Elavon is exempt from state privacy laws that include an exemption for "financial institutions" that are subject to the Gramm-Leach-Bliley Act (e.g., Colorado Privacy Act, Connecticut Act Concerning Personal Data Privacy and Online Monitoring of 2022, Iowa's Act Relating to Consumer Data Protection, Utah Consumer Privacy Act of 2022, and Virginia Consumer Data Protection Act).

10. Audit and Information.

10.1. **Audit.** You authorize Elavon and its agents to perform an audit or inspection of your operations and records to confirm your compliance with the Agreement upon reasonable advance notice, during normal business hours, and at Elavon's expense (unless Elavon reasonably determines based on such audit that you are not in compliance with the Agreement, in which case you will bear the cost). You will obtain and submit a copy of an audit from a third party acceptable to Elavon of the financial, physical security, information security, and operational facets of your business at your expense when requested by Elavon. Further, you acknowledge and agrees that the Payment Networks have the right to audit your business to confirm compliance with the Payment Network Regulations. You will maintain complete and accurate records of your performance under the Agreement. You will execute and deliver to Elavon all documents Elavon reasonably deems necessary to verify your compliance with [Section 8.1](#).

10.2. Company Information.

- (a) **Authorizations.** You authorize Elavon to make, from time to time, any business and personal credit or other inquiries it considers necessary to review the U.S. Bank Business Essentials application or continue to provide services under the Agreement. You also authorize any person or credit reporting agency to compile information to answer those credit inquiries and to furnish that information to Elavon.
- (b) **Financial Information.** Upon Elavon's request, you will provide Elavon financial statements (audited, if available) prepared by an independent certified public accountant you select. You further agree to provide to Elavon such other information regarding your financial condition as Elavon may request from time to time. Within 120 days after the end of each fiscal year, you will furnish Elavon, as requested, a financial statement of profit and loss for the fiscal year and a balance sheet as of the end of the fiscal year. You also will provide Elavon such interim financial

statements and other information as Elavon may request from time to time. Notwithstanding the requirements in this section, you will not be obligated to provide financial statements or similar information required by this section other than those included in your filings with the Securities and Exchange Commission so long as you remain registered and obligated to file financial statements (including annual reports on Form 10-K and quarterly reports on Form 10-Q) pursuant to the Securities Exchange Act of 1934, as amended.

- (c) **Beneficial Ownership; Bearer Shares.** You will promptly notify Elavon of any changes in your beneficial ownership structure or if you have the ability to issue bearer shares.

11. Proprietary Rights.

- 11.1. **Elavon Rights.** As between Elavon and you, Elavon retains all right, title and interest in and to the Processing Services, Elavon Materials, Updates, and all Intellectual Property Rights in any of the foregoing. You will not acquire any ownership interest or license rights (except such rights as are expressly stated in the Agreement) in or to the Processing Services, Elavon Materials, Updates, or Intellectual Property Rights in any of the foregoing. The rights granted to you under the Agreement are non-exclusive and nothing in the Agreement will limit the ability of Elavon to market, sell, offer for sale, license or otherwise exploit the Processing Services, Elavon Materials, Updates, or Intellectual Property Rights in any of the foregoing to any third parties or to appoint or authorize any other person or entity to do the same.
- 11.2. **Use of Payment Network Trademarks.** You will use and display the Payment Networks' marks as required by the Payment Networks and in accordance with the standards for use established by the Payment Networks. Your right to use all such marks will terminate upon termination of the Agreement or upon notice by a Payment Network to discontinue such use. Your use of promotional materials provided by the Payment Networks must not imply that the Payment Networks endorse any goods or services other than their own or that use of a Payment Network's product is a requirement to purchase. You must not refer to any Payment Networks in stating eligibility for your products or services.

12. Representations and Disclaimers

12.1. **Elavon Representations.** Elavon represents to you the following as of the effective date:

- (a) **Organization.** Elavon is a corporation validly existing and duly organized under the laws of the state of Georgia with all authority, qualifications, licenses and registrations necessary to conduct its business, in all jurisdictions where Elavon conducts business, in compliance with all Laws and Payment Network Regulations.
- (b) **Authority and Power.** Elavon has the power to execute and perform the Agreement. The person executing the Agreement is duly authorized to bind Elavon to all provisions of the Agreement and such person is authorized to execute any document and to take any action on Elavon's behalf which may be required to carry out the Agreement. Further, the signing and performing in accordance with the Agreement will not violate any Laws or conflict with any other agreement to which Elavon is subject.
- (c) **No Litigation.** There is no action, suit, or proceeding pending or, to Elavon's knowledge, threatened, which if decided adversely would impair Elavon's ability to carry on its business substantially as now conducted or which would materially and adversely affect Elavon's financial condition or operations.

12.2. **Company Representations.** You represent to Elavon the following as of the effective date:

- (a) **Organization and Information.** Your business is validly existing and duly organized under the



laws of the jurisdiction in which it was formed with all authority, qualifications, licenses and registrations necessary to conduct its business, in all jurisdictions where you business, in compliance with all Laws and Payment Network Regulations. All written information provided in the U.S. Bank Business Essentials application, the bid process, and enrollment forms, as applicable, and in the assumptions in any document submitted to Elavon is true and complete and properly reflects your business, financial condition and ownership in all material respects.

- (b) **Authority and Power.** You have the power to execute and perform the Agreement. The person executing the Agreement is duly authorized to bind you to all provisions of the Agreement, and such person is authorized to execute any document and to take any action on your behalf that Elavon requires to carry out the Agreement. Further, the signing and performing in accordance with the Agreement will not violate any Laws or conflict with any other agreement to which you are subject.
- (c) **No Litigation.** There is no action, suit, or proceeding pending or, to your knowledge, threatened, which if decided adversely would impair your ability to carry on your business substantially as now conducted or which would materially and adversely affect your financial condition or operations.
- (d) **Business Use.** You are obtaining and using the Processing Services from Elavon to facilitate lawful business Transactions between you and your Customers, and using the DDA only for lawful business purposes.

12.3. **Disclaimer of Warranties.** EXCEPT AS OTHERWISE EXPRESSLY STATED IN THE AGREEMENT, THE SERVICES AND ELAVON MATERIALS ARE PROVIDED "AS IS," AND ELAVON DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, REGARDING THE SERVICES, ELAVON MATERIALS, EQUIPMENT, SOFTWARE, DOCUMENTATION, AND YOUR USE OF THIRD PARTY SERVICES, EQUIPMENT, SOFTWARE, OR DATA IN CONNECTION WITH THE SERVICES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, ACCURACY, SATISFACTORY QUALITY, TITLE, SECURITY, NONINFRINGEMENT, UNINTERRUPTED OR ERROR-FREE USE, AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, USAGE OR TRADE.

12.4. **No Viruses, Etc.** Elavon will not code or insert into any portion of the Processing Services, and will use commercially reasonable efforts to ensure that no Service will otherwise contain, any computer virus, worm, software lock, drop dead device, Trojan-horse routine, trap door, time bomb or any other malicious codes or instructions that may be used to access, modify, delete, damage or disable the Processing Services or your or any third party's software, firmware, computer system or devices.

13. **Indemnification.** You will indemnify and defend Elavon, its Affiliates, and their respective employees, officers, directors, and agents against losses, damages, liabilities, fines, judgements and expenses (including all reasonable attorneys' fees) (collectively, "**Losses**") in connection with claims, actions, demands or proceedings (made or threatened) brought by a third-party arising out of (a) any goods or services sold by your business resulting in a Transaction processed under the Agreement; (b) your breach of the Agreement; (c) all use of any user ID and password other than by Elavon or Elavon's third-party contractors; (d) your or your Service Providers' gross negligence or willful misconduct; (e) your or your Service Providers' violation of Laws or Payment Network Regulations; or (f) any personal injury or real or tangible personal property damage to the extent caused by you or your Service Providers. You will not enter into any settlement that imposes any liability or obligation on any of the Elavon indemnified parties, or that contains any admission or acknowledgement of wrongdoing (whether in tort or otherwise), without Elavon's prior written consent. Elavon may join in the defense, with its own counsel, at its own expense.

14. **Limitation of Liability.** You acknowledge that fees for the Processing Services are very small in relation to the funds conditionally credited to you for Transactions, and, consequently, Elavon's willingness to provide these Processing Services is based on the liability limitations contained in the Agreement. Therefore, Elavon's

aggregate liability for any Losses, regardless of the form of action, arising out of the Agreement or Elavon's performance or non-performance of Processing Services under any theory of law or equity (whether in contract, tort, negligence, strict liability, by statute, or otherwise), will not exceed an amount equal to the fees paid by you during the three months immediately preceding the event giving rise to the Losses, exclusive of fees and variable costs incurred by Elavon to process Transactions such as interchange costs, assessments, charges, and fees imposed by a third party. In no event will Elavon, Member, or their agents, officers, directors, or employees be liable to you for indirect, exemplary, punitive, special, or consequential damages in connection with the Agreement under any theory of law or equity (whether in contract, tort, negligence, strict liability, by statute, or otherwise).

15. **Purchased Equipment.** Elavon will ship to you the Purchased Equipment described in the U.S. Bank Business Essentials application or any additional application, setup, or order forms, or any addenda or schedules mutually agreed upon in writing by Elavon and you for the purchase price stated thereon. You have no right to cancel an order for Purchased Equipment. Unless otherwise agreed by the parties, you will be responsible for all shipping costs, insurance, import and export duties and similar taxes and amounts.

16. **Third-Party Vendors.**

16.1. **Company Service Providers and Company Resources.**

- (a) you may want to use a Service Provider to assist with Transactions. You will cause each Service Provider and applicable Company Resource to undergo testing, approval and certification by Elavon before you use such Service Provider or applicable Company Resource in connection with accessing or using the Processing Services. You will ensure that each Service Provider or applicable Company Resource maintains certification and compatibility with the Processing Services and that each Service Provider and applicable Company Resource is fully compliant with all Laws, Payment Network Regulations, and Security Programs. Failure of your systems, including your point-of-sale system or property management system, or any Service Provider systems to maintain certification under this section or to be compatible and function with the most recent version of the Processing Services will excuse Elavon from all liability and all of its obligations under the Agreement to the extent that Elavon's provision of the Processing Services is impaired by such failure.
- (b) You are responsible for any violations of the Agreement that result from the acts or omissions of your Service Providers and any other person who obtains access to Transaction Information from you or access to systems under your or Service Provider's control (excluding acts or omissions to the extent attributable to Elavon's breach of the Agreement, gross negligence, or willful misconduct).
- (c) Elavon is not responsible for Service Providers or for the products or services offered by Service Providers, nor is it responsible for any Transaction until Elavon receives complete data for the Transaction in the format required by Elavon.
- (d) Elavon may terminate a Service Provider's access to or ability to integrate with Elavon's products, services, and systems immediately if the termination results from:
 - (i) The Service Provider's breach of any Laws or Payment Network Regulations,
 - (ii) The requirement of any court order or Payment Network or application of Payment Network Regulations to the Processing Services,
 - (iii) Elavon's reasonable determination that the Service Provider poses an unacceptable security risk to Elavon, you or any Payment Network, or

(iv) The Service Provider's failure to maintain certification to Elavon or the expiration or termination of any agreement between Elavon and the Service Provider specific to certification to Elavon with respect to the Processing Services.

16.2. Liability for Direct Agreement with Third Party. Elavon has no responsibility for, and will have no liability to you in connection with, any hardware, software or services you receive subject to a direct agreement (including any sale, warranty or end-user license agreement) between you and a third party, including any Service Provider, even if Elavon collects fees or other amounts from you with respect to such hardware, software or services (and such third party will not be considered a third party contractor of Elavon). Therefore, you will be responsible and liable for the failure of any such hardware, software, or services (including payment terminals) to comply with Laws, Payment Network Regulations, or this Agreement, or to function correctly.

16.3. Elavon Third Party Contractors. Elavon may use third party contractors in connection with the performance of its obligations under the Agreement. Elavon will be responsible for the performance of its obligations hereunder notwithstanding any use of or delegation of any responsibility to any Elavon third-party contractor. Elavon is responsible for any violations of the Agreement that result from the acts or omissions of its third party contractors.

17. General Provisions.

17.1. Entire Agreement. The Agreement and any amendment or supplement to it, constitutes the entire agreement between the parties, and all prior or other agreements, written or oral, are superseded by the Agreement. If a conflict exists between the documents comprising the Agreement, the following order of priority will apply: (i) any schedule or amendment to the Agreement; (ii) the Payment Processing Terms of Service; (iii) the U.S. Bank Business Essentials application; (iv) the Operating Agreement; and (v) any Documentation provided to you in writing by Elavon.

17.2. Governing Law; Jurisdiction and Venue; Class Action Waiver. Subject to [Section 17.6](#), (i) the laws of the State of Georgia, without giving effect to its conflict of laws provisions, will govern any claim, controversy or dispute between you and Elavon, whether sounding in contract, tort or otherwise, regarding this Agreement or any aspect of any relationship between the parties (each, a "**Claim**"), and (ii) each party submits to the exclusive jurisdiction of the United States District Court for the Northern District of Georgia or the courts of the state of Georgia (Fulton County) (including the Georgia State-wide Business Court), agrees to bring any action, litigation, or proceeding against any other party only in those courts (except for collection actions by Elavon relating to amounts you owe under the Agreement), and waives any objection to venue with respect to the actions brought in those courts. All performances and Transactions under the Agreement will be deemed to have occurred in the State of Georgia, and your entry into and performance of the Agreement will be deemed to be the transaction of business within the state of Georgia. Any Claim filed in court will be brought on an individual basis only. The parties agree not to participate in any class action, private attorney general action, or other representative action for any Claim filed in court by any party.

17.3. Exclusivity. During the Term, you will not enter into an agreement with any other entity for services similar to those Processing Services that you have elected to receive from Elavon under the Agreement without Elavon's written consent.

17.4. Construction. The headings used in the Agreement are inserted for convenience only and will not affect the interpretation of any provision. Each provision is to be construed as if the parties drafted it jointly. The word "day" will mean "calendar day", unless specifically stated otherwise.

17.5. Assignability. The Agreement may be assigned by Member or Elavon. You will not assign the Agreement, directly, by operation of law, or by change of control, without Elavon's prior written consent. If you nevertheless assign the Agreement without Elavon's consent, the Agreement will be

binding on both the assignee and you. If you sell your business and the new owners incur Chargebacks, the original owners and all original guarantors will be held personally liable for all Chargebacks and any other liabilities of the new owners.

17.6. Arbitration.

- (a) Notwithstanding anything in Section 17.2 to the contrary, any party may elect in writing, and without consent of the others, to arbitrate any Claim. The Claim will be submitted to and decided by arbitration held in the city and state in which you maintain your principal place of business and in accordance with the Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association (a copy of which can be reviewed at www.adr.org) except that the arbitration proceeding will be conducted before a single, neutral arbitrator who will be an active member of the bar of the state in which the arbitration is conducted and actively engaged in the practice of law for at least 10 years and who will issue a reasoned award. The arbitrator will decide the dispute in accordance with the terms of this Agreement and applicable substantive law, including the Federal Arbitration Act and applicable statutes of limitation. The arbitrator will have the authority to award any remedy or relief that a federal court in the state in which the arbitration is conducted could order or grant, including relief contemplated under Federal Rule of Civil Procedure 11.
- (b) At the time of initiating arbitration, the party seeking to initiate arbitration must provide the parties against whom a Claim is filed with a demand for arbitration that includes a short and plain statement of the claims asserted and relief sought. Federal Rule of Civil Procedure 11 will apply to the arbitration proceeding, including that the Claims and relief sought are neither frivolous nor brought for an improper purpose.
- (c) Any Claim filed in arbitration will be brought on an individual basis only, and no class action, private attorney general, or other representative claims may be pursued in arbitration, nor may such action be pursued in court if any party elects arbitration. The arbitrator will have no authority to decide such claims. The arbitrator can only decide Elavon's or your Claims and may not consolidate or join the claims of other persons who may have similar claims. No party to this Agreement may assert a Claim in arbitration on behalf of any third party or represent any class of claimants in an arbitration brought pursuant to the Agreement. If under applicable Law a claim, remedy or request for relief cannot be compelled to arbitration, then that claim, remedy or request for relief will be severed and may be brought in a court of competent jurisdiction under this Agreement after arbitration and all appeals are concluded. The remaining claims, remedies or requests for relief will be submitted to arbitration consistent with the terms of this provision. If this paragraph is determined by the arbitrator to be unenforceable, then this entire provision will be null and void.
- (d) While each party will bear its own attorney, expert and witness fees incurred in the arbitration proceeding, absent a contrary determination by the arbitrator as set forth in a reasoned award, Elavon will bear all administrative cost of the arbitration including the arbitrator's fees and will reimburse your filing fee if you initiate the arbitration. The parties agree that the underlying agreement between the parties involves interstate commerce and that, notwithstanding the choice of law provision in Section 17.2, any arbitration will be governed by the Federal Arbitration Act.
- (e) Except as this provision otherwise provides, if any part of this provision is deemed to be invalid or otherwise unenforceable by the arbitrator, that part will be severed from the remainder of this provision and the remainder of this provision will be enforced.

17.7. **Notices.** Unless otherwise specified, except for routine operational communications (including account modification, chargeback, and hold notices), which may be delivered personally or transmitted by

electronic mail, all notices to the other party will be deemed received upon the earlier of (a) actual receipt, (b) five business days after being deposited in the United States mail, return receipt requested, or (c) two business days after being deposited with a nationally recognized overnight carrier. Such notices will be addressed to your address on the U.S. Bank Business Essentials application or the last address shown on Elavon's records, or to Elavon at 7300 Chapman Highway, Knoxville, Tennessee 37920, or such other address as Elavon may designate in writing.

- 17.8. **Bankruptcy.** You will immediately notify Elavon of any Bankruptcy Proceeding initiated by or against you. You will include Elavon on the list and matrix of creditors as filed with the bankruptcy court, whether or not a claim may exist at the time of filing. You acknowledge that the Agreement constitutes an executory contract or financial accommodations to, or for the benefit of you, and, as such, cannot be assumed or assigned in the event of your bankruptcy. You will be responsible to Elavon for any damages suffered by, and expenses incurred by, Elavon due to your Bankruptcy Proceeding.
- 17.9. **Attorneys' Fees and Expenses.** You will be liable for and will indemnify and reimburse Member and Elavon for all reasonable attorneys' fees and other costs and expenses paid or incurred by Member or Elavon: (i) in the enforcement of the Agreement; (ii) in collecting any amounts due from you to Member or Elavon; (iii) resulting from your breach of the Agreement; or (iv) in defending against any claim, proceeding, or cause of action brought against Elavon or Member arising out of your obligations under this Agreement. Except as stated in the previous sentence, each party will pay its own costs and expenses in connection with the Agreement and the transactions contemplated hereby, including all attorneys' fees, accounting fees and other expenses
- 17.10. **Telephone Recording.** For quality assurance and training purposes, you authorize Elavon to monitor and record customer service telephone conversations at any time, subject to Laws and applicable disclosures if required.
- 17.11. **Communication with Company.** You agree that Elavon and Member may provide you with information about their services, including information about new products and services, by telephone, electronic mail, and facsimile. By providing Elavon with a telephone number for a cellular phone or other wireless device, including a number that you later convert to a cellular number, you are expressly consenting to receiving communications — including but not limited to prerecorded or artificial voice message calls, text messages, and calls made by an automatic telephone dialing system—from Elavon and its affiliates and agents at that number. This express consent applies to each such telephone number that you provide to Elavon now or in the future and permits such calls for non-marketing purposes. Calls and messages may incur access fees from your cellular provider.
- 17.12. **Amendments.** Member and Elavon may propose changes to any term of this Agreement or additions to the Agreement. Member or Elavon will notify you of a proposed change or addition to the Agreement in writing, electronically, or by any other method permitted by Law. The parties agree that 30 days' written or electronic notice prior to the effective date of any change or addition is reasonable. You will be deemed to have agreed to the change if you continue to present Transactions to Member and Elavon after 30 days following the issuance of the notice. Notwithstanding any limitations set forth in the previous sentence, changes to fees authorized by the Agreement will be effective upon notice to you, unless a later effective date is provided. Further, Elavon is entitled to pass through to you any fee increases imposed upon Elavon by Visa, Mastercard, Discover Network, any other Payment Network, and any other third party including telecommunications vendors.
- 17.13. **Severability and Waiver.** If any provision of the Agreement is found to be invalid, illegal or otherwise unenforceable by a court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions of the Agreement will not in any way be affected or impaired thereby. None of the failure to exercise, the delay by any party to exercise, or the partial exercise of any right under the Agreement will operate as a waiver or estoppel of such right, nor will such amend the Agreement. All

waivers requested by a party must be signed by the waiving party.

- 17.14. **Independent Contractors.** Elavon and you will be deemed independent contractors and no one will be considered an agent, joint venturer, or partner of the other, unless and to the extent otherwise specifically stated in the Agreement. The Agreement has been entered into solely for the benefit of the parties to the Agreement and is not intended to create an interest in any third party except where explicitly stated otherwise.
- 17.15. **Survival.** All of the obligations of each party that by their nature should survive termination or expiration of the Agreement in order to achieve its purposes, including Sections 4, 5.3, 5.4, 9, 11.1, 13, 14, 16, 17.2 and 17.6 of these Payment Processing Terms of Service, will survive and remain binding upon and for the benefit of the parties.
- 17.16. **Counterparts; Electronic Delivery.** The Agreement may be signed in one or more counterparts, each of which will constitute an original and all of which, taken together, will constitute one and the same agreement. Signed counterparts may be delivered by fax or electronic means (e.g., .pdf documents via e-mail, the use of an electronic representation of signatures), and will constitute signed originals. The parties agree that the Agreement signed with an electronic representation of a party's signature is legally binding.
- 17.17. **Force Majeure.** Neither party will be considered in default in performance of its obligations to the extent such performance is delayed by Force Majeure affecting such party's ability to perform. A "Force Majeure" means an act of God, natural disaster, pandemic, war, act of terrorism, civil disturbance, action by governmental entity, strike, and other cause beyond such party's reasonable control. If a Force Majeure interrupts Elavon's provision of any Processing Services, you will continue to pay Elavon the fees for the Processing Services owed under the Agreement and Elavon will make all reasonable efforts to restore such Processing Services. If the delay caused by the Force Majeure continues for a more than 14 days, then you may, upon notice to Elavon, as your sole and exclusive remedy, abate payment to Elavon (to the extent Processing Services are not performed) and terminate the Agreement.
- 17.18. **Business Continuity.** Elavon will maintain and adhere to business continuity plans that are commercially reasonable within the industry for the Processing Services.

Appendix 1 Operating Agreement

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CHAPTER 1. ABOUT YOUR CARD PROGRAM

Thank you for choosing Elavon. This Operating Agreement contains instructions for processing card transactions with Elavon and minimizing the risk of fraud to your business as well as responsibilities related to your receipt of other Elavon services.

Please familiarize yourself with this Operating Agreement, as you are the first line of defense against fraud. Failure to comply with this Operating Agreement may result in financial loss to your business.

Throughout this guide, terms that have specific meaning to the payments industry are noted with initially capitalized letters (e.g., Credit Card, Card Present Transactions). If you are not familiar with these terms, refer to Appendix 2, *Glossary* for definitions.

Payments Insider

Payments Insider is an online customer portal, located at www.mypaymentsinsider.com, that provides you with access to account information, statements, and payments activity. It supports delivery of Settlement, Chargeback, adjustment and additional reporting via an online tool for viewing and exporting, as well as access to additional customer support. Payments Insider can help streamline daily reconciliation of your Transactions and answer questions about point-of-sale equipment, and it provides an overview of products and services that Elavon can provide. You can go to the account section of Payments Insider to order supplies necessary to complete Card Transactions. Payments Insider also hosts the latest version of the Payment Processing Terms of Service and Operating Agreement.

ABOUT TRANSACTION PROCESSING

To accept Credit Cards, Debit Cards or other Cards for payment, you process the Transactions through a POS Device or with point-of-sale software. A group of Transactions is called a Batch, and the process of sending these Transactions to Elavon is called Settlement.

When you settle a Batch, information for each Transaction is sent to clearing networks across the country and sometimes around the world. Based on each Card number, Elavon sends information about a Transaction to the corresponding payment clearing network so they can forward to the corresponding Issuer to charge the Cardholder. Then, Elavon receives funds for the Transaction and sends deposits to your Demand Deposit Account (DDA). Refer to Chapter 2, *Processing Transactions*, for specific details about processing Transactions.

In exchange for these services, you are charged a percentage of each Transaction (known as a Discount), along with Transaction fees, Authorization fees, and any other fees specified in the Agreement. Fees are deducted from your DDA on either a monthly or a daily basis.

When a Cardholder does not agree with a Transaction posted to his or her account, the Cardholder can contact the Issuer and initiate a dispute. In this case, the Transaction amount is debited from your DDA and Elavon sends you a Chargeback notice. In order to protect your rights, it is important that you respond promptly to any Chargeback notice you receive. Refer to Chapter 5, *Retrieval Requests & Chargebacks*, for a detailed explanation of this process.

GENERAL OPERATING GUIDELINES

When processing Transactions, it is important to keep the following general guidelines in mind:

- **Do Not Set Restrictions on Card Transactions:** Discover Network, Visa and Mastercard prohibit setting a maximum purchase amount for Credit Card Transactions, unless you are a U.S. Federal government agency or institution of higher education. A minimum transaction amount of \$10 is allowed for Credit Card Transactions. You may give a discount from your standard pricing or offer an in-kind incentive for payment by cash, Credit Card, Debit Card or any other method of payment.
- **Do Not Discriminate:** Unless Laws expressly require otherwise, you must honor all valid Cards within your acceptance categories when properly presented for payment, without discrimination, and maintain a policy that does not discriminate among Cardholders seeking to make purchases with a particular brand of Card.
- **Keep Passwords Secure:** Keep all passwords that allow you to access Elavon's databases or services secure. Remember, you are responsible for the actions of anyone who uses your password. If you believe your password has been compromised or shared with an unauthorized user, please contact Elavon immediately.
- **Protect Cardholder Privacy:** You may only require a Cardholder's personal information if it is necessary to complete a Transaction (such as a delivery address or telephone number for Card Not Present Transactions) or if the Voice Authorization Center specifically requests it. You may not refuse to complete an otherwise valid Card Transaction just because a Cardholder refuses to provide additional identification or information. Discover Network, Visa and Mastercard regulations prohibit listing a Cardholder's personal information on the Transaction Receipt because it can expose a Cardholder to increased risk of fraud. You must not use any Elavon systems, including custom fields or any other unprotected fields within Elavon's systems, to collect, transmit, or store any sensitive or confidential data (such as, Primary Account Numbers (PAN), Card expiration dates, track data, Card Identification Numbers, Card Validation Codes, Social Security numbers, Personal Identification Numbers, individually identifiable health information, or other private data) of customers or cardholders.
- **Plan Ahead for Fees and Chargebacks:** Maintain sufficient funds in your DDA to cover all fees, Chargebacks, or any other adjustments that may occur. Monthly fees are debited from your DDA near the beginning of each month for the prior month's activity. Elavon recommends that you keep five percent (5%) of your average monthly processing volume available in your account to cover monthly fees and the possibility of Chargebacks. Keep in mind that this is only a recommendation and your business may require additional available funds. For example, businesses that conduct high-risk Transactions (such as Card Not Present or those with future delivery of products or services) should consider maintaining a higher percentage of their average monthly processing volume in their account.
- **Keep Cardholder Data Secure:** Keep all Transaction Receipts in a locked area that is accessible only to select personnel. When you dispose of Transaction Receipts after the designated retention period, make sure that account numbers and Imprints are rendered unreadable, as criminals can commit fraud with even a few pieces of Cardholder information.
- **Perform Regular Audits:** In addition to balancing daily receipts, compare Transaction Receipts to the register tape to ensure that they match. Periodic reviews help identify potential problems associated with a specific register or sales associate. It is your responsibility to address inconsistencies and educate your staff.
- **Know Your Third Party Vendors:** If you use software or other services (such as an online shopping cart) provided by a third party or, you may be impacted by and financially liable for security breaches or system failures by the third party vendor. Be sure to acquaint yourself with the third party vendors' requirements and limitations so you can minimize disruption in service and protect yourself from unauthorized access. It is your responsibility to ensure that all Cardholder information (including that accessed or maintained by your third party vendor) is stored in an encrypted and secure environment.
- **Security Program Compliance:** You, and any third party vendors that you use, must comply with all applicable requirements of the Payment Card Industry (PCI) Data Security Standard.
- **Data Compromise:** Notify Elavon immediately (within twenty-four (24) hours), if you know or suspect that Cardholder information has been accessed or used without authorization, even if this compromise involves a third party vendor. You must take immediate steps to preserve all business records, logs and electronic

evidence and contact local law enforcement authorities (including the local FBI and U.S. Secret Service). You must work with us to rectify any issues that result, including providing Elavon (and obtaining any waivers necessary to provide Elavon with) all relevant information to verify your ability to prevent future data incidents in a manner consistent with the Agreement.

- **Interchange:** Interchange qualification requirements, as defined by the Payment Networks, affect your fees owed for Transactions. You will pay a higher discount rate and higher fees for Transactions that do not meet the best rate qualification criteria or have been processed in a manner other than that for which you were approved.
- **Display of Card Marks.** Unless otherwise informed by Elavon, you must prominently display the most current versions of the Payment Network's and EFT Network's names, symbols, or service marks, as appropriate, at or near the POS Device as may be required or requested by the Payment Networks. Companies that accept Cards for Electronic Commerce Transactions must display those names, symbols or service marks on Internet payment screens. You may also display those marks on promotional materials to inform the public that such Credit Cards and Debit Cards will be honored at your places of business. Your use of such marks must comply with the requirements of each mark's owner. Your right to use or display such marks will continue only so long as the Agreement remains in effect. You must remove the marks immediately upon termination.
- **Prohibited Transactions.** You must not: (a) submit for payment into Interchange any Transaction that (i) arises from the dishonor of a Cardholder's personal check, (ii) arises from the acceptance of a Card at a POS Device that dispenses scrip, (iii) is illegal, or (iv) is otherwise prohibited in the Operating Agreement or in the Payment Network Regulations; (b) accept Cardholder payments for previous Card charges incurred at your location; (c) accept a Card to collect or refinance an existing debt that has been deemed uncollectible by the company providing the associated goods or services; or (d) accept Cards at POS Devices that dispense scrip.
- **Marketing; Opt-out.** Elavon seeks to provide you with updated information regarding the products and services that it offers to you. In addition to Elavon's traditional methods of communication, it may also reach out to you via mobile text messaging and email messages. By providing your mobile phone number or e-mail address in your U.S. Bank Business Essentials application, you authorize Elavon to use that information to contact you about your account and to market additional products and services to you. You are not required to provide your mobile phone number or e-mail address in connection with your U.S. Bank Business Essentials application, and, if you do, you may elect not to receive such communications from Elavon in the future by contacting Elavon at optout@elavon.com.

CHAPTER 2.

PROCESSING TRANSACTIONS

This Chapter explains the two steps involved in the Transaction process—Authorization and Settlement— as well as the different types of Transactions.

TRANSACTION PROCESSING PROCEDURES

When processing Transactions:

- Transactions can be swiped, key entered or, if a Chip Card, inserted. Keep the Card in hand until the Transaction is complete if doing swiped or key entered.
- If the POS Device displays “Referral” or “Call Auth” during a Transaction, call the toll-free Voice Authorization telephone number (located on a sticker on the POS Device) and follow the operator’s instructions.
- If you receive an Authorization Approval Code, but the Cardholder, Card, or circumstances of the Transaction still seem suspicious, call for a Code 10 Authorization and follow the operator’s instructions. Refer to Chapter 4, *Code 10 Procedures*, for additional information.
- Use a ballpoint pen for steps that require handwritten information. Never use a marker or a pencil to write on a Transaction Receipt.
- Do not write additional information (e.g., Cardholder’s telephone number, address, driver’s license number, Social Security number) on any Transaction Receipt.

To process a Transaction, follow these steps:

1. **Follow all Prompts and Enter all Data Elements.** You must include required elements to receive approval for Transactions, and you can include optional data elements to qualify for better Interchange rates.

For example: Under the current data requirements, Visa Business, Visa Corporate, and Visa Purchasing Card Transactions must include sales tax information to qualify for the Level II Interchange Rate, where applicable.

2. **Make Sure the Card is Valid.** Check the Card’s expiration date and other features to ensure that the Card is valid. Refer to Chapter 3, *Preventing Card Fraud* for additional loss-prevention information and validation information.
3. **Enter the Chip Card Into the POS Device/Swipe the Card through the POS Device.** If the Card is successfully inserted or swiped, the POS Device may prompt you to enter the last four digits of the Card number. This process compares the account number in the Chip or Magnetic Stripe with the account number embossed on the Card.

If the POS Device cannot read the Chip or Magnetic Stripe, press the appropriate key to initiate a manual Transaction. When prompted by the POS Device, enter the Card number and expiration date embossed on the front of the Card. If you have an Imprinter, make an Imprint of the Card on a paper Transaction Receipt to prove that the Card was present during the Transaction. Keep the Imprinted Transaction Receipt with the electronically printed Transaction Receipt from the POS Device.

Ensure that the paper Transaction Receipt contains all of the information related to the Transaction, such as the Transaction amount, Transaction date, your business information, Authorization Approval Code, and, if applicable, Cardholder's signature.

4. **Enter the Amount of the Transaction.** When prompted by the POS Device, enter Transaction amount using the numeric key pad. There is no need to include a decimal point.

For Example: Enter \$125.00 by pressing the **1-2-5-0-0** keys consecutively, and then pressing **ENTER**. The POS Device displays a message that indicates the Transaction is being processed for Authorization.

5. **Obtain the Authorization Approval Code.** If the Transaction is approved, the Authorization Approval Code prints on the Transaction Receipt. If a printer is not present, the POS Device displays the Authorization Approval Code. If Imprinting the Card, remember to record the Authorization Approval Code on the Transaction Receipt.

If the Transaction is declined, the POS Device displays "Declined" or "Declined-Pick-Up". In these cases, please ask for another form of payment.

If the POS Device displays a "Referral" or "Call Auth" message, call the toll-free Voice Authorization telephone number (located on a sticker on the POS Device) and follow the operator's instructions. Upon receiving an Authorization Approval Code, enter it into the POS Device to complete the Transaction. If Authorization is declined, the Voice Authorization Center may ask you to retain the Card. If this occurs, follow the operator's instructions. A reward may be paid for the return of a Card at the Voice Authorization Center's request.

6. **When required, Have the Cardholder Sign the Transaction Receipt.** In Card Present Transactions, Transaction Receipts may need to be signed by the Cardholder. You must not honor a Card if (i) the Card has expired; (ii) the signature on the Transaction Receipt does not correspond with the signature on the Card, or if the signature panel on the Card is blank or uses language to the effect of "see ID"; or (iii) the account number embossed on the Card does not match the account number on the Card's magnetic stripe. If the Transaction or the Cardholder still seems suspicious, perform a Code 10 Authorization. Refer to the *Identifying Valid Cards* section of Chapter 3 for more information.
7. **Return the Card and the Customer Copy of the Transaction Receipt to the Cardholder.** When the Transaction is complete, return the Card to the Cardholder, along with the Customer copy of the Transaction Receipt. Keep your copy of the Transaction Receipt for you records.

AUTHORIZATION

The first step in processing a Transaction is to request Authorization from the Issuer to accept a Card for payment. You must obtain an Authorization Approval Code before completing any Transaction. An Authorization request is made via one of the following two methods:

- **Electronic Authorization.** You or a Customer swipes a Card through, inserts a Chip Card into, or manually enters a Card number into a POS Device. The POS Device then sends the Transaction Information electronically to the Issuer for Authorization.
- **Voice Authorization.** Voice Authorization is usually used if you do not have a working POS Device or if the Issuer requests additional information during Electronic Authorization. You call the Voice Authorization Center, which then communicates the Transaction Information electronically to the Issuer. An operator or an interactive voice response (IVR) unit provides you with the Authorization Response given by the Issuer.

Voice Authorization toll-free telephone numbers are located on a sticker on the POS Device. If there is not a Voice Authorization sticker on the POS Device, contact merchant services.

The following diagram describes the electronic authorization process:



Figure 2-1. Authorization Process

1. **Authorization of Purchase:** The Transaction process begins when a Cardholder wants to buy goods or services using a Card. Before the Transaction can be completed, you must receive an Authorization Approval Code from the Issuer.
2. **Company:** your POS Device sends the Transaction Information to the Elavon central server to verify the Merchant Identification Number (MID), to read the Card number, and to route the information to the appropriate Issuer.
3. **Elavon Server:** The Elavon central server sends the information to the Issuer through the Discover Network, Visa, or Mastercard network, or directly to other Issuer networks (e.g., American Express).
4. **Issuer:** The Issuer determines whether the Transaction should be approved and sends an Authorization Response back to Elavon.
5. **Elavon Server/Company:** The Elavon central server receives the Authorization Response from Issuer and routes it to you. you receive the Authorization Response from the Elavon central server and follows the appropriate steps to complete or decline the Transaction.

An Authorization request is required for every Transaction to determine whether the Card number is valid, the Card has been reported lost or stolen, and sufficient credit or funds are available. The Issuer determines whether the Transaction should be approved and sends one of the following responses back to Elavon, who then forwards it to you:

- **Authorization Approval Code:** Credit or funds are available to complete the sale and that the Card has not been reported lost, stolen, or otherwise invalid. You may complete the Transaction.
- **Declined Code:** The Issuer does not approve the Transaction. You should ask for another form of payment and should not resubmit that Card for Authorization.
- **Declined Pick-Up:** The Issuer does not approve the Transaction and requests that the Card not be returned to the Cardholder. The Card should be cut lengthwise without damaging the Magnetic Stripe and sent, along with the MID, your business address, and the date of the incident, to:

Exception Processing
 ATTN: Card Pick Up
 Elavon, Inc.
 7300 Chapman Highway Knoxville, TN 37920

- **“Referral” or “Call Auth”:** The Issuer requests you to call the Voice Authorization Center, which will either provide an Authorization Approval Code or ask you to request additional information from the Cardholder (e.g., mother’s maiden name). The Voice Authorization Center will provide this information to the Issuer who will either approve or decline the Transaction.

Receipt of an Authorization Approval Code in response to an Authorization request does not:

- Guarantee that you will receive final payment for a Transaction;
- Guarantee that the Cardholder will not dispute the Transaction later (all Card Transactions are subject to Chargebacks even when an Authorization Approval Code has been obtained);
- Protect you from Chargebacks for unauthorized Transactions or disputes regarding the quality of goods or services; or
- Validate a fraudulent Transaction or a Transaction involving the use of an expired Card.

you will follow any instructions received during Authorization. Upon receipt of an Authorization Approval Code, you may consummate only the Transaction authorized and must note the Authorization Approval Code on the Transaction Receipt. If a Transaction is completed without swiping, dipping, or imprinting the Card, you, whether or not an Authorization Approval Code is obtained, will be deemed to warrant the true identity of the Customer as the Cardholder.

Full and Partial Authorization Reversals

An “authorization reversal” is a real-time Transaction initiated when the Customer decides that he or she does not want to proceed with the Transaction or if you cannot complete the Transaction for any reason (e.g., the item is out of stock, the Transaction “times out” while waiting for the Authorization response). To initiate an authorization reversal, the Transaction must have already been authorized but not submitted for Settlement. If the Transaction has already been submitted for clearing, then you should initiate a void, refund, or other similar Transaction so that the Customer’s available balance is restored. you should initiate a partial authorization reversal whenever it determines that the final Transaction amount will be less than the amount of the Authorization. You must process an Authorization reversal (i) for Card Present Transactions, within 24 hours of the original Authorization request, or (ii) for Card Not Present Transactions, within 72 hours of the original Authorization Request.

This requirement does not apply if you are properly identified with any one of the following Merchant Category Codes (MCCs):

- MCCs 3351 through 3441 (Car Rental Agencies);
- MCCs 3501 through 3999 (Lodging—Hotels, Motels, Resorts);
- MCC 4411 (Cruise Lines);
- MCC 7011 (Lodging—Hotels, Motels, Resorts—not elsewhere classified); and
- MCC 7512 (Automobile Rental Agency—not elsewhere classified).

SETTLING DAILY TRANSACTIONS

Settling Transactions daily can help eliminate balancing errors, promptly record deposits to your DDA, prevent duplicate billing to customers, and minimize Chargebacks. To settle the daily Batch, perform the following steps:

1. **Total the day’s Transaction Receipts and Credit Transaction Receipts.**

2. **Verify that the Transaction Receipts equal the POS Device totals. You may** print a report from the POS Device to assist with balancing. For more information about balancing, refer to the instructions that came with the POS Device. If the totals do not balance, then do the following:
 - a. Compare the Transaction Receipts to the individual entries in the POS Device.
 - b. Make any necessary adjustments before transmitting or closing the Batch. To make adjustments, refer to the instructions for the POS Device.
3. **Close the Batch according to the instructions for the POS Device.**

Note: Submit Transactions for processing daily to obtain the most favorable pricing.

SETTLEMENT (PAYING YOU FOR TRANSACTIONS)

The final step in processing a Transaction is Settlement, which occurs when you send all of your Card Transactions to Elavon to receive payment. During Settlement, you are paid and Cardholders are billed for previously-approved Transactions. The following diagram describes the Settlement process:

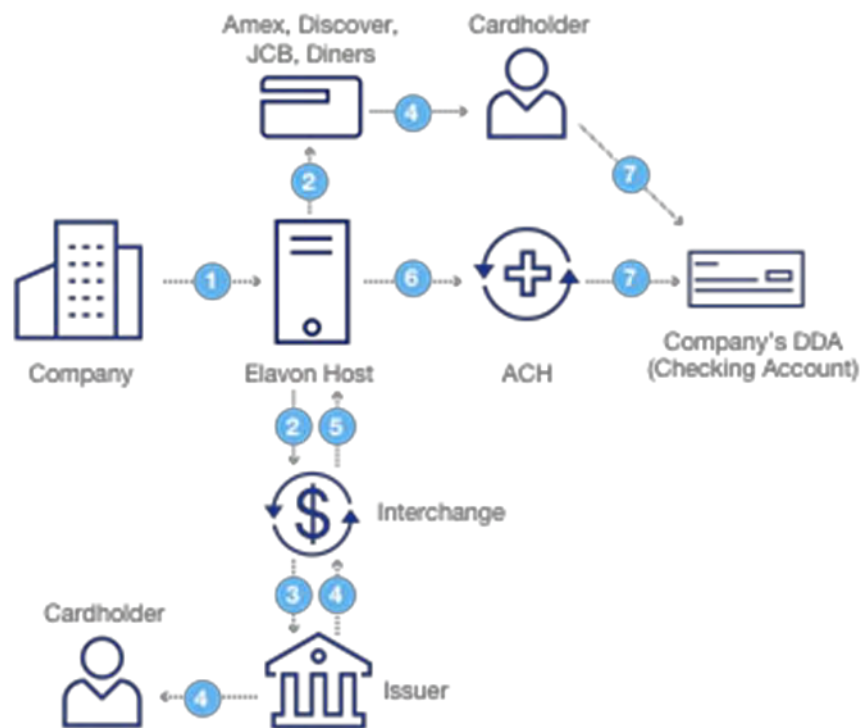


Figure 2-2. Settlement Process

1. **Company:** Sends all approved, un-settled Transactions (known as the open Batch) in the POS Device to the Elavon central server to settle the Batch.
2. **Elavon Server:** Sends all Transactions to appropriate Payment Network (Visa, Mastercard, Discover, JCB, and, as applicable, American Express). Transactions are sent onto Interchange and other Card Transactions to the appropriate Issuer (e.g., American Express Transactions to American Express if American Express funds you directly). If the Transactions are not sent to Interchange, go to step 4.

3. **Interchange:** Payment Network sends Transaction Information to the appropriate Issuer.
4. **Issuer:** Posts the Transaction to the Cardholder's account. The Issuer either sends to Interchange the difference between the Transaction amount and the Interchange fee charged to Elavon, or sends the funds to your DDA (see step 7).
5. **Interchange:** Payment Network sends the funding for the Transaction amount less the Interchange Fees to the Elavon central server.
6. **Elavon Server:** Sends a message to the Automated Clearing House (ACH) to pay you for the Transactions.
7. **Automated Clearing House (ACH):** Electronically transfers the funds from Elavon to your DDA.

TRANSACTION PROCESSING RESTRICTIONS

Return Policy. You must properly disclose to the Cardholder, at the time of the Transaction, any limitation you have on accepting returned merchandise.

No Claim Against Cardholder. Unless Elavon refuses to accept a Transaction or revokes its prior acceptance of a Transaction (e.g., receipt of a Chargeback), (i) you will not have any claim against, or right to receive payment from, a Cardholder for any Transaction; and (ii) you will not accept any payments from a Cardholder relating to previous charges for merchandise or services included in a Transaction Receipt (and if you receive such payments, you will promptly remit them to Elavon).

PROCESSING CREDIT (RETURN AND EXCHANGE) TRANSACTIONS

Returns and Exchanges.

If you have a special policy regarding returns or refunds, it must make sure that the policy is clearly posted at the point-of-sale, and printed on the Transaction Receipt using letters approximately ¼ inch high and in close proximity to the signature line.

If you are processing an even exchange, no action is necessary. However, if an exchange involves merchandise of greater or lesser value, you must issue a Transaction Receipt or a Credit Transaction Receipt for the difference. You may instead give a full refund to the Cardholder for the original Transaction amount and process the exchange as a new Transaction.

Credit Transaction Receipt. Refunds for a Transaction must be processed by issuing a credit to the Card on which the original purchase was made. Do not refund a Card purchase with cash or check. Do not refund cash or check purchases to a Card. You must prepare a Credit Transaction Receipt for the amount of credit issued and submit it to Elavon within the period specified by applicable Law or Payment Network Regulations, whichever is shorter. You must not submit a Credit Transaction Receipt relating to any Transaction Receipt not originally submitted to Elavon or any Credit Transaction Receipt that exceeds the amount of the original Transaction Receipt. Elavon will debit the DDA for the total face amount of each Credit Transaction Receipt submitted to Elavon.

Revocation of Credit. Elavon may, in its reasonable discretion, refuse to accept any Credit Transaction Receipt for processing.

Reprocessing. You must not resubmit or reprocess any Transaction that has been charged back.

TRANSACTION RECEIPTS

A Transaction Receipt is a paper or electronic record of the purchase of goods or services from a merchant by a Customer using a Card. You must provide the Customer with a Transaction Receipt for his or her personal records.

Transaction Receipts are required for all Transaction types and must be retained for a minimum of two years (or such longer period as the Payment Network Regulations or the Laws may require). You should store Transaction Receipts in a safe, secure area organized in chronological order by Transaction date.

A Transaction Receipt must contain the following information:

- Transaction date
- Total Transaction amount, including applicable taxes, fees and any adjustments or credits
- Transaction Type (e.g., credit, purchase)
- Card account number (must be truncated on the Cardholder copy) including the specific payment brand (e.g., Visa, Mastercard or Discover)
- Space for Cardholder signature for Card Present Transactions
- Authorization Approval Code
- Company name and location
- Location code (i.e., POS Device or MID issued by Elavon)
- Special return or refund terms printed in close proximity to the Cardholder signature line on the Transaction Receipt, if restricted
- Indication of who will receive each copy of the Transaction Receipt (e.g., Company Copy, Bank Copy, and Cardholder Copy).

Reproduction of Information

For Card Present Transactions, if the Cardholder's name, Card account number, Card expiration date, or your name and place of business are not legible or present on the Transaction Receipt, you will legibly reproduce such information on the Transaction Receipt.

Truncation

- **Cardholder's Copy of the Transaction Receipt.** The Card account number must be truncated (all but the last four digits suppressed) and expiration date must be suppressed on all Cardholder copies of Transaction Receipts and other paperwork provided to the Cardholder, regardless of the POS Device generating the Transaction Receipt. Suppressed digits should be replaced with a fill character such as "x," "*", or "#," and not with blank spaces or numeric characters. These truncation rules do not apply to Transactions in which the only way to record a Card account number and expiration date is in handwriting or by making an Imprint or copy of the Card.
- **your Copy of the Transaction Receipt.** Your copy of the Transaction Receipt must suppress the entire expiration date.

Unreadable Magnetic Stripes/Chips

For Card Present Transactions, if you authorize and present Transactions electronically and your POS Device is unable to read the Magnetic Stripe or Chip on the Card, you must generate a manual Transaction Receipt in addition to key-entering the Transaction into the POS Device for processing.

Manual Transaction Components

A manual Transaction Receipt must contain the same information as listed above for an electronic Transaction Receipt, as well as the following information:

- Physical Imprint of the Card (not a photocopy)
- Cardholder signature
- Salesperson's initials or department number

NOTE: If the Cardholder presents an unembossed Card and the POS Device cannot read the Magnetic Stripe or Chip then you must request another form of payment. Manual Transaction Receipts are prohibited on Transactions involving an unembossed Card.

Delivery of Transaction Receipts to Cardholders

You must provide a complete and legible copy of the Transaction Receipt to the Cardholder in either electronic (e.g., e-mail, fax) or paper (e.g., handwritten, POS Device-generated) format at the time of the Transaction.

Electronic Transmission of Transaction Receipts to Elavon

If you use electronic Authorization or data capture services, you will enter the data related to Transactions into a POS Device and settle the Transactions and transmit the data to Elavon in the form specified by Elavon no later than the close of business on the date the Transactions are completed. If Elavon requests a copy of a Transaction Receipt, Credit Transaction Receipt, or other Transaction evidence, you must provide it within the time frame specified in the request.

Multiple Transaction Receipts

You will include the total amount of goods and services purchased in a single Transaction on a single Transaction Receipt unless (i) partial payment is entered on the Transaction Receipt and the balance of the Transaction amount is paid in cash or by check at the time of the Transaction; or (ii) a Transaction Receipt represents an advance deposit for a Transaction completed in accordance with the Payment Network Regulations.

Future Delivery

You represent and warrant to Elavon that you will not rely on any proceeds or credit resulting from future delivery Transactions to purchase or furnish goods or services. You will maintain sufficient working capital to provide for the delivery of goods or services at the agreed upon future date, independent of any credit or proceeds resulting from Transaction Receipts or other Credit Transaction Receipts in connection with future delivery Transactions.

PROCESSING CARD NOT PRESENT TRANSACTIONS

Card Not Present Transactions occur when the Card is not physically presented to you at the time of a sale. Such Transactions include Mail Order (MO), Telephone Order (TO), and Electronic Commerce (EC) Transactions. You must be authorized by Elavon to process Card Not Present Transactions.

Obtain the following information from the Cardholder prior to processing a Card Not Present Transaction:

- Cardholder's billing address
- Shipping address, if different from billing address
- Cardholder's telephone number
- Cardholder's account number
- Card expiration date
- CVV2/CVC2/CID number
- Purchaser's name (in lieu of Cardholder signature)

NOTE: You must not retain or record the CVV2/CVC2/CID data element beyond the original Authorization request and must not print it on the Transaction Receipt or on any document given to the Cardholder.

In addition to the Transaction Receipt requirements set out in the Transaction Receipts section of this Chapter 2, a Card Not Present Transaction Receipt must also contain:

- Your business' online address
- Customer service contact, including telephone number

You must not settle a Transaction before shipping the goods. This increases the risk of a Chargeback to you and is prohibited by the Agreement.

Mail Order/Telephone Order (MO/TO)

Transactions processed via MO/TO are high risk and subject to a higher incidence of Chargebacks. Therefore, you are liable for all Chargebacks and losses related to MO/TO Transactions. You may be required to use an address verification service (AVS) on MO/TO Transactions. You will obtain the expiration date of the Card for a MO/TO Transaction and submit the expiration date when requesting Authorization of the Transaction. For MO/TO Transactions, you will type or print legibly on the signature line of the Transaction Receipt the following applicable words or letters: telephone order or "TO," or mail order or "MO," as appropriate. Elavon recommends that you obtain a signed Transaction Receipt or other proof of delivery signed by Cardholder for MO/TO Transactions.

Electronic Commerce

you may process Electronic Commerce Transactions only if the Transactions have been encrypted by Elavon or a third party vendor acceptable to Elavon. Transactions processed via the Internet are high risk and subject to a higher incidence of Chargebacks. Therefore, you are liable for all Chargebacks and losses related to Electronic Commerce Transactions, whether or not such Transactions have been encrypted. Elavon recommends that you obtain a signed Transaction Receipt or other proof of delivery signed by the Cardholder for all Electronic Commerce Transactions. You will be responsible for all communication costs related to Electronic Commerce Transactions. You understand that Elavon will not manage the telecommunications link for Electronic Commerce Transactions and that it is your responsibility to manage that link. You authorize Elavon to perform an annual audit and examination of your website and such other due diligence review as required by the Payment Network Regulations for Electronic Commerce Companies.

Visit http://www.pcisecuritystandards.org/security_standards/pci_dss.shtml or contact Customer Service at 1-800-725-1243 for more information related to card data standards.

Website Requirements. Your website must contain all of the following information: (a) the identification of your business' name as displayed on the website as both the business name and as the name that will appear on the Cardholder statement; (b) business name information, displayed as prominently as any other information depicted on the website, other than images of the products or services being offered for sale; (c) complete description of the goods or services offered; (d) returned merchandise and refund policy; (e) customer service contacts, including electronic mail address or telephone number; (f) complete address (street address, city, state, zip code, and country) of the permanent establishment of your business; (g) complete address of the permanent establishment of your business on either the checkout screen (which displays the total purchase amount) or within the sequence of website pages presented to the Cardholder during the checkout process; (h) Transaction currency (such as U.S. or Canadian dollars); (i) export or legal restrictions, if known; (j) delivery policy; (k) Customer data privacy policy; and (l) your method of Transaction security such as Secure Sockets layer (SSL) or 3-D Secure. You must not refuse to complete an Electronic Commerce Transaction solely because the Cardholder does not have a digital certificate or other secured protocol.

Shipped Goods. For goods to be shipped on Electronic Commerce Transactions, you may obtain authorization up to seven days prior to the shipment date. You do not need to obtain a second authorization if the Transaction Receipt amount is within fifteen percent (15%) of the authorized amount and the additional amount represents shipping costs.

Manual Transaction Receipts for Card Not Present Transactions

Follow these steps for manual Transaction Receipts:

1. **Write the Cardholder's Name and Card Number on the Transaction Receipt.** Refer to Chapter 2, *Processing Transactions – Transaction Receipts* for information on Transaction Receipt requirements. In addition to the electronic Transaction components requirements, a manual Transaction Receipt for a Card Not Present Transaction may include the full Card account number and expiration date and must include the Cardholder's billing address (and shipping address, if different) and telephone number. Do not record CVV2/CVC2/CID data elements on the Transaction Receipt.
2. **Record the Order Type on the Transaction Receipt.** Write one of the following on the signature line of the Transaction Receipt: "Mail Order," "Telephone Order," or "Internet."

POS Device-Generated Receipts

If using a POS Device to generate a Transaction Receipt for a Card Not Present Transaction, enter the Transaction into the device by following these steps:

1. Press the appropriate key on the POS Device to initiate the Transaction.
2. When prompted, enter the Card number.
3. When prompted again, enter the Card expiration date.
4. Finally, when prompted, enter the Transaction amount.
5. Record the Authorization Approval Code on the Transaction Receipt. Refer to Chapter 2, *Processing Transactions – Transaction Receipts* for more information.

Card Identification Number and Address Verification Service

The use of CVV2/CVC2/CID and AVS can lessen the risk of Chargebacks by providing additional information to assist with the decision on whether or not to process a Card Not Present Transaction.

NOTE: The use of CVV2/CVC2/CID and AVS will not relieve you of liability for Chargebacks. You bear the risk of loss associated with any Chargeback.

If using these services, follow the next two steps **prior** to processing a Transaction.

1. **Verify the Card Identification Number (CVV2/CVC2/CID) Printed on the Front or Back of the Card (at the end of the Card Account Number in the Signature Panel), as Applicable to the Specific Card Type.** If the POS Device is set up for CVV2/CVC2/CID and if the CVV2/CVC2/CID number is provided at the time of authorization, the Issuer returns either a “match” or a “no match” response. “Match” means it is more likely that the Card is present and in the hands of the Cardholder at the time of the Transaction. “No match” means you should consider whether or not to process the Transaction. Even though you will receive an Authorization Approval Code following a “no match” response, the Authorization Approval Code is not a guarantee of payment.

NOTE: Do not retain or record the CVV2/CVC2/CID data element beyond the original Authorization request. Further, the CVV2/CVC2/CID data element must not be printed on the Transaction Receipt or on any document given to the Cardholder.

Refer to the *Unique Card Characteristics* section of Chapter 3 for more details concerning the Card Identification Number. The following table sets forth CVV2/CVC2 response codes.

Code	Definition
Space	CVV2 processing not requested
M	CVV2/CVC2 Match
N	CVV2/CVC2 not matched
P	Not processed
S	CVV2 should be printed on the card, but it was indicated that the value was not present
U	Issuer does not support CVV2
X	Service provider did not respond

2. **Verify the Cardholder’s Address by Using the Address Verification Service (AVS).** If the POS Device is set up for AVS, it will make a prompt to enter the numeric portion of the Cardholder’s billing address and the five digit zip code to verify that the individual providing the Card account number is the Cardholder. The AVS result code indicates whether the address given by the Cardholder matches (exactly, partially, or not at all) the address that the Issuer has on file for the Card. “Exactly” means it is more likely that the Card is being used by the authorized Cardholder. “Partially” or “not at all” means you should consider whether or not to process the Transaction. The decision to process a Transaction, regardless of the response received, is up to you, as you are responsible for any risk associated with processing a Transaction. The following table sets forth AVS response codes.

Code	Definition
A	Address (street) matches - ZIP Code does not
B	Street address match, postal code in wrong format (international issuer)
C	Street address and postal code in wrong formats
D	Street address and postal code match (international issuer)
E	Error response for Merchant Category Code (SIC)
G	Card issued by a non-U.S. issuer that does not participate in the AVS system

Code	Definition
I	Address information not verified by international issuer
M	Street address and postal code match (international issuer)
N	No match on address (street) or ZIP Code
O	No response sent
P	Postal codes match, Street address not verified due to incompatible formats
R	Retry, system is unavailable or timed out
S	Service not supported by issuer
U	Address information is unavailable (domestic issuer)
W	Nine-digit ZIP Code matches - Address (street) does not match
X	Exact AVS Match
Y	Address (Street) and five digit Zip match
Z	Five-digit zip matches - address (street) does not match

NOTE: For more information about CVV2/CVC2/CID and AVS, contact merchant services.

For more information about processing Card Not Present Transactions, call the following numbers:

- MC (Mastercard) Assist: (800) 622-7747
- Visa's Company Assistance Service: (800) 847-2750
- American Express Address Verification Service: (800) 528-2121
- Discover Network: (800) 347-1111

The information provided by calling these numbers may allow you to verify a Cardholder's address and obtain the Issuer's telephone number.

ADDITIONAL REQUIREMENTS APPLICABLE TO ALL DEBIT CARD AND PREPAID CARD TRANSACTIONS

With respect to all Debit Card and Prepaid Card Transactions, Companies operating in the Merchant Category Codes in the table below (or for the Discover Network, all Companies) must:

1. For all Card Present Transactions occurring at an attended POS Device or at a Cardholder-activated POS Device identified with MCC 5542 (Automated Fuel Dispensers), support partial approvals;
2. For all Transactions, support full and partial reversals; and
3. For all Card Present Transactions occurring at an attended POS Device and conducted with a Prepaid Card, support account balance responses;

each as further described below.

MCC
4111 Transportation—Suburban and Local Commuter Passenger, including Ferries
4812 Telecommunication Equipment including Telephone Sales
4814 Telecommunication Services
4816 Computer Network/Information Services

MCC
4899 Cable, Satellite, and Other Pay Television and Radio Services
5111 Stationery, Office Supplies
5200 Home Supply Warehouse Stores
5300 Wholesale Clubs
5310 Discount Stores
5311 Department Stores
5331 Variety Stores
5399 Miscellaneous General Merchandise Stores
5411 Grocery Stores, Supermarkets
5499 Miscellaneous Food Stores — Convenience Stores, Markets, Specialty Stores and Vending Machines
5541 Service Stations (with or without Ancillary Services)
5542 Fuel Dispenser, Automated
5732 Electronic Sales
5734 Computer Software Stores
5735 Record Shops
5812 Eating Places, Restaurants
5814 Fast Food Restaurants
5912 Drug Stores, Pharmacies
5921 Package Stores, Beer, Wine, and Liquor
5941 Sporting Goods Stores
5942 Book Stores
5943 Office, School Supply and Stationery Stores
5999 Miscellaneous and Specialty Retail Stores
7829 Motion Picture-Video Tape Production-Distribution
7832 Motion Picture Theaters
7841 Video Entertainment Rental Stores
7996 Amusement Parks, Carnivals, Circuses, Fortune Tellers
7997 Clubs—Country Membership
7999 Recreation services—not elsewhere classified
8011 Doctors — not elsewhere classified
8021 Dentists, Orthodontists
8041 Chiropractors
8042 Optometrists, Ophthalmologists
8043 Opticians, Optical Goods, and Eyeglasses
8062 Hospitals
8099 Health Practitioners, Medical Services — not elsewhere classified
8999 Professional Services—not elsewhere classified

Partial Approvals. When a Debit Card or Prepaid Card Authorization request is sent, the Issuer can respond with an approval amount less than the requested amount. When the approved amount is less than the originally requested amount, you should prompt Customer to pay the difference with another form of payment. If the Customer does not wish to proceed with all or part of the Transaction (or if the Transaction “times out”), you must initiate an authorization reversal Transaction.

Account Balance Response. For some Prepaid Cards, the Issuer is required to include the remaining available balance on the Cardholder's account in the Authorization response message. If the remaining available balance is included, you must print it on the Transaction Receipt or display it on a Customer-facing POS Device.

ADDITIONAL REQUIREMENTS APPLICABLE TO PIN-AUTHORIZED DEBIT CARD TRANSACTIONS

Debit Card Rules. You will comply with and be bound by the Debit Card Rules. Except as otherwise provided below, you must comply with the general Card acceptance and Transaction processing provisions in this Chapter when accepting Debit Cards. The Debit Card Rules are confidential information of the Payment Networks, and you will not disclose the Debit Card Rules to any person except as may be permitted under the Agreement or under requirements of Laws.

Use and Availability of POS Devices and PIN Pads.

- A Cardholder's Debit Card information and PIN are confidential. You may not request or require a Cardholder to disclose his or her PIN at any point during a Transaction.
- During the Transaction process, you must provide a reasonably secure area for Cardholders to enter their PIN into the PIN Pad. You are responsible for installing the POS Device and PIN Pad in such a way that Cardholders may enter their PIN into the PIN Pad in a confidential manner.
- you will take all reasonable steps to ensure that all POS Devices and PIN Pads operated at your business locations function in accordance with the standards established from time to time by Elavon and the EFT Networks.
- you will use a POS Device to initiate every PIN-authorized Debit Card Transaction, and you will require that either the Cardholder or you to insert the Chip Card into the POS Device or "swipe" the Debit Card through the POS Device to initiate every PIN-authorized Debit Card Transaction, except as set forth herein. No PIN-authorized Debit Card Transaction may be initiated unless the Debit Card is physically present.
- you will require that each Debit Cardholder enter his or her PIN using a PIN Pad at the POS Device when initiating a PIN-authorized Debit Card Transaction. You may not require a Debit Cardholder initiating a PIN-authorized Debit Card Transaction to sign a Transaction Receipt or other receipt, or require any other means of identification.

No Minimum or Maximum. You will not establish minimum or maximum Debit Card Transaction amounts except to establish a maximum cash back dollar amount (not to exceed \$200.00 or such lower amount as may be required under applicable Payment Network Rules).

Pre-Authorization Requests. You may initiate pre-authorization requests pursuant to the following procedures:

- The Cardholder must enter the PIN on the PIN Pad.
- The Debit Card must be inserted into the Chip reader or "swiped" through the POS Device.
- The pre-authorization request must be for a specific dollar amount and only goods and services, including applicable taxes, may be purchased. The subsequent purchase pre-authorized hereunder must be completed within two hours after the original pre-authorization request.
- Funds will not be transferred with respect to a pre-authorization request.
- In order to complete the subsequent purchase pre-authorization, you will transmit a completion message indicating the actual dollar amount of the Debit Card Transaction, and will comply with all requirements of a purchase Debit Card Transaction, at that time, except that entry of a PIN and "swiping" of a Debit Card is not required to complete the subsequent purchase if these steps were properly taken in order to pre-authorize

such purchase. Such subsequent purchase will not be authorized or completed unless the actual dollar amount of the purchase is less than or equal to the amount specified in the pre-authorization request.

- If you initiate pre-authorization requests, it will support the processing of partial pre-authorizations.

Debit Card Transactions. Companies that accept PIN-authorized Debit Cards will support purchases and merchandise credits, and may also support purchase with cashback and balance inquiries if supported by the applicable EFT Network.

Prohibited Transactions. You will initiate Transactions only for products or services approved by Elavon. You will not initiate or facilitate a gambling or gaming transaction, or fund a stored value account for such purposes.

Transaction Receipt Requirements. At the time of any Debit Card Transaction (other than a balance inquiry or pre-authorization request), you will make available to each Cardholder a Transaction Receipt that complies fully with all Laws and contains at least the following information:

- Amount of the Debit Card Transaction;
- Date and local time of the Debit Card Transaction;
- Type of Transaction;
- If during the Debit Card Transaction the Cardholder is prompted to select the type of account used, then the type of account accessed must be displayed on the Transaction Receipt;
- Truncated Debit Card number (showing the final four digits);
- your name and location at which the Debit Card Transaction was initiated;
- Trace or retrieval reference number;
- Authorization Approval Code;
- Unique number or code assigned to the POS Device at which the Debit Card Transaction was made; and
- Status and disposition of transaction (approved or declined).

Merchandise Returns. You may electronically perform a merchandise return (if permitted by the applicable EFT Network) for a Debit Card Transaction only at the same business named on the Transaction Receipt where the original Debit Card Transaction was initiated. If permitted, a merchandise return requires the following procedures:

- The Cardholder must re-enter the PIN on the PIN Pad;
- The Debit Card must be inserted into the Chip reader or “swiped” through the POS Device; and
- You must transmit the reference number or Authorization Approval Code and the exact dollar amount of the Debit Card Transaction to be returned.

For all merchandise returns or any other debit return initiated through your POS Device or account, you bear all responsibility for such Transaction even if fraudulent.

Balance Inquiries. You may accommodate balance inquiries if the applicable EFT Network and the Issuer support the balance inquiry function, provided that you require that the Cardholder enter their PIN on the PIN Pad and insert and “swipe” the Debit Card through the POS Device.

Purchase with Cash Back. For each purchase with cash back, you will transmit in your Transaction message the amount of cash given to the Cardholder (if permitted by Elavon’s Debit System). If a request for Authorization of a purchase with cash back is denied solely because the cash requested exceeds the Debit Card Issuer’s limit on cash

withdrawals, you will inform the Cardholder of the reason for the denial and that a new purchase Transaction in the amount of the purchase alone might be approved. The amount of cash back may be limited by the EFT Networks or Issuer.

Technical Problems. You will ask a Cardholder to use a different method of payment if the Elavon debit processing system, the POS Device, or the PIN Pad is inoperative, the electronic interface with any EFT Network is inoperative, or the Magnetic Stripe or Chip on a Debit Card is unreadable, and you elect not to or cannot store Debit Card Transactions.

Termination/Suspension. When requested by any EFT Network, you will immediately take action to (i) eliminate any fraudulent or improper Transactions; (ii) suspend the processing of Debit Card Transactions; or (iii) entirely discontinue acceptance of Debit Card Transactions.

CARD NOT PRESENT (CNP) DEBIT CARD TRANSACTIONS

Acceptance of CNP Debit Card Transactions. You will comply with the general provisions of this Chapter regarding Debit Card Transactions for CNP Debit Card Transactions except as specifically provided in this section. CNP Debit Card Transactions are Card Not Present Transactions, meaning you are not required to “swipe” or insert a Card in conjunction with any CNP Debit Card Transaction and the Cardholder and the Card are not required to be present at the time of the sale. Fees for CNP Debit Card Transactions will include Authorization, Interchange and access fees, as defined by the respective EFT Network or International Network.

Domestic CNP Debit Card Processing Services. If you have elected to receive Domestic CNP Debit Card Processing Services, you may submit for processing such Transactions involving Debit Cards issued for acceptance over those EFT Networks identified by Elavon from time to time. You acknowledge that Elavon may not be able to accept Transactions for Debit Cards on all the EFT Networks.

International Network Requirements.

1. If you have elected to receive International CNP Debit Card Processing Services, you may submit for processing such Transactions involving Cards issued for acceptance over the International Networks identified in the Agreement.
2. You are not permitted to submit International Credit Card Transactions for processing pursuant to this Chapter unless specifically indicated in the Agreement.
3. Except to the extent superseded by this Chapter, your acceptance and processing of International CNP Debit Card Transactions will comply with the provisions of the Operating Agreement applicable to acceptance and processing of Debit Card Transactions, and references to “Debit Cards” in such provisions will be understood to include International Debit Cards (and, if you are permitted to accept International Credit Card Transactions pursuant to the Agreement, International Credit Cards).
4. If you support CNP Debit Card Transactions, you will comply with and be bound by the Payment Network Regulations of the International Networks and the rules, regulations, and guidelines for CNP Debit Card Transactions issued and amended by Elavon from time to time.

Use and Availability of Internet PIN Pads.

- A Cardholder’s Card information and PIN are confidential.
- you will implement and maintain appropriate technology for every Internet PIN Based Card Transaction, including with respect to the Internet PIN Pad, so as to prevent the unauthorized recording or disclosure of a Cardholder’s Card information and PIN.

- you will take all reasonable steps to ensure that all Internet PIN Pads operated at your internet website function in accordance with the standards established from time to time by Elavon and the applicable EFT Networks or International Networks.
- you will require that each Cardholder enter his or her PIN on an Internet PIN Pad when initiating an Internet PIN-Based Card Transaction.

Transaction Receipt Requirements. At the time of any Internet PIN-Based Card Transaction, you will make available to each Cardholder a Transaction Receipt that complies with all Payment Network Regulations and Laws and includes:

- Amount of the Transaction and the amount debited from the Cardholder's account inclusive of the fees;
- Description of the goods or services and, for transactions involving the shipment of goods, the promised ship-by date;
- Date and local time (at your physical address) of the Transaction;
- Type of Transaction;
- Authorization Approval Code, if available;
- Type of account accessed;
- Truncated Card number (showing the final four digits);
- Cardholder's name, email address, and telephone number;
- your name, Merchant Identification Number, customer service contact information, and the website address at which the Internet PIN-Based Card Transaction was initiated; and
- Trace or retrieval reference

Refunds / Cashback / Balance Inquiries. Credits, balance inquiries and purchases with cash back cannot be performed as Internet PIN-Based Card Transactions. If permitted by the applicable International Network or EFT Network, you may electronically perform a merchandise return or refund for an Internet PIN-Based Card Transaction only if you initiate the original Internet PIN-Based Card Transaction. If returns are permitted, you will transmit the reference number or authorization number and the exact dollar amount of the Internet PIN Based Card Transaction to be refunded.

Technical Problems. You will ask a Cardholder to use an alternative means of payment if the Elavon debit processing system, the Internet PIN Pad, or the electronic interface with any EFT Network or International Network is inoperative.

Termination / Suspension. When requested by Elavon, you will immediately (i) eliminate any fraudulent or improper Transactions; (ii) suspend or terminate the acceptance of Internet PIN-Based Card Transactions with respect to a specific EFT Network or International Network; or (iii) suspend or terminate the acceptance of all Internet PIN-Based Card Transactions.

DEBIT OPTIMIZATION PROGRAM

Elavon's Debit Optimization program is a value added service that leverages intelligent routing to determine a path to lower the cost of accepting Debit Card Transactions. There are three varieties of the Debit Optimization program, available to different sized Companies: Priority Routing, Least Cost Debit Routing, and Priority Routing with Negotiated Rates.

Priority Routing is primarily available for the small and medium business (SMB) and middle market companies. The fee associated with Priority Routing is a Debit Enablement Service Fee (per transaction) and is reflected as such on your statement.

Least Cost Routing and Priority Routing with Negotiated Rates are available for certain Companies with over \$100,000,000 in annual Debit Card sales volume. The fee associated with Least Cost Routing and Priority Routing with Negotiated Rates is a percentage of the total savings generated and is reflected as such on your statement.

EBT TRANSACTIONS

EBT (Electronic Benefits Transfer Service) means a service that allows electronic transfer of government funds to individuals through the use of a plastic debit-like Card and a Personal Identification Number (PIN). The United States federal government requires all states to distribute food stamps and cash benefits in this manner. An EBT card may then be used for qualified purchases at you locations. If you accept EBT Transactions, you will issue benefits to recipients in accordance with the procedures specified in the applicable Quick Reference Guide provided to you by Elavon, as amended from time to time, and in accordance with all Laws and Payment Network Regulations pertaining to EBT Transactions.

OTHER TRANSACTION TYPES

you may solicit the following Transaction types only if (a) you disclose such method of processing to Elavon in the U.S. Bank Business Essentials application or otherwise in writing, (b) you have been approved by Elavon to submit such Transactions, and (c) you meet the additional requirements for the applicable type of Transaction set out below. If you complete any of these Transaction types without having received Elavon's approval, then Elavon may pursue any remedies available to Elavon under the Agreement, Laws, or Payment Network Regulations.

Credential on File, Recurring Payments, Installment Payment, and Pre-Authorized Healthcare Orders

"**Credential on File**" Transactions are those for which a Cardholder has supplied account information or a payment token for future purchases. These Transactions may fall into one of the following categories:

- Recurring Payments
- Installment Payments
- Ecommerce and Mail Order/Telephone Order Transactions for which the Cardholder has authorized use of their payment information for future purchases. Such purchases may be initiated by you (unscheduled merchant-initiated payments,) based upon agreed upon criteria, or by the Customer (for example, using a stored payment method associated with the Customer profile on a website).

Note: Payment information provided for a single purchase is not subject to these Credential on File requirements. For example, if a Customer provides a Card number for a single hotel stay and that payment information is used for incremental charges to the room which will be settled at the end of the stay.

For all Credential on File Transactions, you must:

- Obtain Cardholder consent for initial storage of the credentials.
- Properly identify Transactions as Credential on File. Your point-of-sale solution must provide the mechanism to submit Transactions accurately for authorization and settlement inclusive of required data values.
- Submit a payment Transaction, and successfully receive an approval before storing Cardholder credentials for future use. If no payment is due, submit a \$0 account verification Transaction for authorization the first time a credential is stored.

When first storing credentials, you must disclose the following:

- A truncated version of the stored credential (for example, the last four digits of the account number)
- How the Cardholder will receive notice of any changes to the payment agreement
- How the stored credential will be used
- The expiration date of the agreement, if applicable.

Before processing the initial Transaction, you must obtain the Cardholder's express, informed consent to an agreement containing the following:

- The Transaction amount, or how it will be calculated
- For Recurring Transactions, the frequency of charges. For unscheduled, merchant-initiated transactions, event that will prompt the Transaction
- Cancellation and refund policies
- Location of the business

The agreement must be retained for the duration of the consent to be provided to the issuer upon request. A record of the consent must be provided to the Cardholder where required by applicable laws or regulations.

“Installment Payments” are Transactions for which a Cardholder provides written permission or electronic authorization to a you to initiate one or more future Transactions over an agreed-upon period of time for a single purchase of goods or services. The number of installments is agreed at the time of purchase.

“Pre-authorized Healthcare Orders” are Transactions in which the Cardholder provides written or electronic authorization to charge his or her Card, one or more times, at a future date for healthcare services. In this type of Credential on File Transaction, the cardholder authorizes their card to be charged up to a defined maximum to cover out-of-pocket expense following insurance adjudication. You must be authorized by Elavon to process Pre-authorized Healthcare Order.

“Recurring Payments” are Transactions for which a Cardholder provides written permission or electronic authorization to a company to periodically charge, in fixed, regular intervals (not to exceed one year between Transactions,) his or her Card for recurring goods or services (e.g., monthly membership fees, utility bills, insurance premiums, or subscriptions). When processing Recurring Payments, you must obtain a separate Authorization Approval Code for each Transaction.

You must obtain a signed order form or other written agreement from the Cardholder for Pre-authorized Healthcare Orders. The order form or agreement must contain the following information:

- A description of the requested services
- Permission for the Customer to charge the Cardholder's account for the balance due following the Merchant's receipt of any applicable insurance payment
- Time period (not to exceed one year) for which permission is granted

You must keep a copy of the order form or written agreement for the duration of the recurring service, and must also give Elavon a copy of the order form or agreement for Installment and Recurring Payments or Pre-authorized Healthcare Orders upon request. A new order form or written agreement with the Cardholder is needed when a Recurring Payment is renewed.

Recurring Transaction Requirements. **“Recurring Transactions”** means, collectively, Recurring Payments and Pre-authorized Healthcare Orders. You will not complete any Recurring Transaction after receiving (i) a cancellation notice from the Cardholder; (ii) a notice from Elavon that authority to accept Recurring Transactions has been revoked; or (iii) a response that the Payment Device is not to be honored. You are responsible for ensuring your

compliance with Laws with respect to Recurring Transactions. A Transaction Receipt must be provided to the Cardholder at the time of Transaction for any merchant-initiated Transactions.

Limitations on the Resubmission of Recurring Transactions. In some limited instances, you may resubmit a declined preauthorized Recurring Transaction up to four times within sixteen calendar days of the original Authorization request, provided that the decline response is one of the following: (i) authorization denied; (ii) insufficient funds; (iii) exceeds approval amount limit; or (iv) exceeds withdrawal frequency.

Recurring Transaction Receipts. You must print legibly on the Transaction Receipt the words “Recurring Transaction.” You must obtain the Cardholder’s signature, which may be an electronic signature or other similar authentication that is effective under applicable Laws, on the Transaction Receipt. You must also include the frequency and duration of the Recurring Transaction authorization, as agreed to by the Cardholder, on the Transaction Receipt.

Electronic Commerce Recurring Transactions. In addition to the above, for an Electronic Commerce Transaction, you must also provide a simple and easily accessible online cancellation procedure that complies with Laws.

Recurring Transactions with Varying Amounts. For Recurring Transactions of varying amounts the order form must allow the Cardholder to specify a minimum and maximum Transaction amount to be charged, unless the Cardholder will be notified of the amount and date of each charge, as specified in the remainder of this section.

To perform a Pre-authorized Order, follow these specific guidelines:

- Separately authorize each Transaction for the exact amount of that Transaction (not a \$0 dollar amount or in the amount of all Transactions combined).
- If applicable to the Transaction, write the words “Delayed Delivery,” and “Deposit” or “Balance” on the Transaction Receipt. The Authorization date and Authorization Approval Code must also be printed on the Transaction Receipt.

While you may process the Transaction for the “Deposit” before delivery of the goods or services, it may not process the “Balance” of the Transaction until the goods or services are delivered.

Delayed Delivery and Partial and full Prepayment Requirements

In Addition to the requirements above, if Customer is accepting partial prepayment (a deposit) or full prepayment for later delivery of goods or services, you must provide and cardholder must consent to the following in writing:

- Description of promised merchandise or services
- Terms of service
- Timing of delivery to Cardholder
- Transaction amount
- Cancellation (for partial prepayment) and refund (for full prepayment) policies
- Date and time that any cancellation (for partial payment) and/or refund (for full prepayment) privileges expire without prepayment forfeiture
- Any associated charges

If partial prepayment, additionally the following:

- Total purchase price (for partial prepayment)

- Terms of final payment, including the amount and currency

Interest or finance charges must not be included.

If an Authorization Request for a subsequent payment is declined, you must notify the Cardholder in writing and allow the Cardholder at least 7 days to pay by other means. You must not process an initial Installment Transaction until the merchandise or services have been provided to the Cardholder and must not process individual Installment Transactions at intervals less than the monthly anniversary of the shipment date.

Retention of payment: If the Cardholder does not pay the balance (in the case of a partial prepayment) and does not cancel within the terms of the cancellation policy, you may retain a prepayment only if you have disclosed on the Transaction Receipt that the prepayment is nonrefundable.

Quasi-Cash Transactions

Quasi-Cash Transactions represent the sale of items that are directly convertible to cash. Examples of Quasi-Cash Transactions include casino gaming chips, money orders, deposits, wire transfer money orders, travelers cheques, travel money cards, and foreign currency.

You must be authorized by Elavon to process Quasi-Cash Transactions. You must not process a Quasi-Cash Transaction as a cash disbursement. In addition to the general requirements described in the *Transaction Receipts* section of Chapter 2, you must:

- Review identification (such as a valid passport or driver's license) to validate the Cardholder's identity and record the type of identification presented by the Cardholder on the Transaction Receipt, along with the serial number, expiration date, and Cardholder name (if different than the embossed name on the Card) and address.
- For Visa and Mastercard: Record the printed four digits from the face of the Card (found above or below the embossed account number) on the Transaction Receipt. Refer to the *Unique Card Characteristics* section of Chapter 3 for more information.
- For Discover Network: Record the printed three digits on the signature panel on the back of the Card on the Transaction Receipt. Refer to the *Unique Card Characteristics* section of Chapter 3 for more information.
- Compare the first four digits of the Card account number on the printed Transaction Receipt with the first four digits of the embossed Card account number. If they do not match, decline the Transaction, attempt to recover the Card (reasonably, lawfully, and peacefully), and note a description of the Cardholder.

Contactless Transactions

You must ensure that it is eligible, be approved by Elavon to accept Contactless Cards, and register with the applicable Payment Networks to participate in their respective Contactless Card payment programs. You will ensure that all POS Devices that accept Contactless Cards for Transactions meet the applicable Payment Network specifications, are approved by Elavon and/or the applicable Payment Networks for use with Contactless Cards, and are configured to transmit the data elements required for Contactless Transactions. You are responsible for:

- Providing any data in the Authorization request as required by the applicable Payment Networks.
- Transmitting the full and unaltered contents of Track 1 or Track 2 data of the Card's Magnetic Stripe or Contactless payment chip in the Authorization request.
- Submitting only a single Authorization per clearing Transaction.
- If you are eligible for both a Payment Network's No Signature/PIN Requirement Program and to accept Contactless Cards, it may combine these programs.

PCI COMPLIANCE PROGRAM

Elavon's PCI Compliance Program consists of the following:

1. **PCI Compliance Manager.** Elavon will provide access to the PCI Compliance Manager, an online portal that takes you step-by-step through the process of validating, reporting, and maintaining PCI-DSS Compliance, and allows you to complete your self-assessment questionnaire to validate compliance with PCI-DSS. If you choose to validate compliance without the PCI Compliance Manager through an Elavon-approved PCI DSS vendor (which will not be considered an Elavon third-party contractor), then you will provide the validation documentation received from that vendor by uploading it into the PCI Compliance Manager tool.
2. **Data Breach Financial Assistance.** If you are enrolled in Elavon's PCI Compliance Program and are either a PCI Level 3 or Level 4 Company, then you may be eligible for data breach financial assistance under the PCI Basic Program, in which case, in the event of a data incident, you will be entitled to financial assistance or setoff from amounts owed up to \$20,000 per MID per data incident with respect to (a) any documented sums reasonably required to conduct an independent security audit of your business to identify the source of the data incident, and (b) any fines and assessments levied or collected by the Payment Networks in connection with a data incident.

CHAPTER 3. PREVENTING CARD FRAUD

It is important to take steps to educate staff to reduce your risk of accepting a counterfeit or fraudulent Card Transaction. Remember that you are responsible for all Chargebacks, including those for fraudulent Transactions. Fraudulent Card sales involve an invalid Card account number or, more commonly, a valid Card number presented by an unauthorized user. Fraud normally occurs within hours of the loss, theft, or compromise of a Card number or Card, and before most victims report the Card missing or discover the compromise.

If a Transaction is declined, do not request a Code 10 Authorization and do not complete the Transaction. However, if you receive an Authorization Approval Code but suspect a Card has been altered or is counterfeit, call the Voice Authorization Center and request a Code 10 Authorization (see Chapter 4, *Code 10 Procedures*).

The following sections provide tips to protect you against fraud losses.

IDENTIFYING SUSPICIOUS CUSTOMER ACTIONS

Common sense is the best guide for spotting suspicious behavior. Be sure to combine watchfulness with proper Card identification and validation techniques.

Be aware of customers who:

- Make indiscriminate large dollar purchases without regard to size, color, style, or price
- Question the sales clerk about credit limits or the Authorization process
- Use their own phone to call the “issuing bank” for an auth code. Auth codes should only be obtained from the Voice Authorization Center
- Attempt to distract the sales clerk (e.g., continually delay selections, talk continuously)
- Decline EMV and ask for the Transaction to be keyed in
- Ask to have access to the terminal to input their PIN
- Hurry a clerk at quitting time
- Purchase a high-ticket item, such as a wide-screen HDTV monitor or other large item, and insist on taking it immediately, rather than having it delivered—even when delivery is included in the price
- Buy a high-ticket item and request that it be sent next day air or request for someone else to pick up the purchase at a later time
- Pull a Card from a pocket rather than a wallet
- Sign the Transaction Receipt in a deliberate or unnatural manner
- Appear too young to make purchases with a Card
- Buy clothing without trying it on for size or decline alterations that are included in the price
- Charge expensive items on a newly valid Card
- Do not have a driver’s license, tell you that his or her driver’s license is in the car, or provide only a temporary license without a photo
- Do not ask questions on major purchases
- Make purchases, leave the store, and return to make more purchases

- Make purchases just after the store opens or just before it closes
- Use a Card belonging to a friend or relative
- Ship purchases to an address outside of the U.S.
- Recite the Card number from memory rather than presenting the Card itself
- Ask to see the Card again before signing the Transaction Receipt

IDENTIFYING SUSPICIOUS CARD NOT PRESENT TRANSACTIONS

The increased use of Electronic Commerce, mail, and telephone orders has resulted in an increasing amount of fraud. When accepting Card Not Present Transactions, take caution if a customer attempts to:

- Request delivery to a freight forwarder
- Request to wire money for shipping
- Order goods or services via a free e-mail service often with poor grammar and misspelled words
- Request that an order be rushed and wants a tracking number as soon as possible
- Purchase items that the company does not sell (the most common items are laptop computers and cellular phones)
- Use more than one Card for any given purchase (also known as a “Split Ticket”)
- Use Cards that have sequential numbers or patterns
- Place an unusually large or uncommon order compared to your typical Transactions
- Use a Card issued by a foreign bank along with one of the other actions within this list
- Request delivery to a post office box
- Request delivery to a foreign country
- Use phone relay service where the Cardholder does not speak directly to the company
- E-mail purchase orders that involve multiple Card accounts in which each order includes the same product and dollar amount. This is sometimes common for Transactions resulting in foreign Card fraud
- Place an order and then call back to place subsequent orders using the same or different Cards

Product that are easily resold (for example, computer equipment, printer cartridges, and jewelry) are more susceptible to fraud than perishable items such as food—although criminals can victimize virtually any type of business.

NOTE: If you receive an order for a large purchase for delivery to a foreign country or to a freight forwarder, Elavon recommends contacting the Voice Authorization Center to request a Code 10 specifically identifying the Transaction as a large foreign shipment Transaction.

IDENTIFYING VALID CARDS

Cards share similar qualities to help identify their validity, and there are anti-fraud safeguards unique to each Card Brand.

Cards and Signatures

You should not accept a Card that is not signed. Many Card users write “Use other ID” (or something similar) in the signature panel because they believe it provides a higher level of security. This is not actually true, it simply allows a thief to sign his or her own name or use a fake ID with any signature. If an unsigned Card is presented to you:

1. Inform the customer that the Card must be signed.
2. Have the customer sign the Card in your presence and provide a current, valid government ID that has been signed (such as a passport or driver’s license). Do not accept a temporary form of ID, such as a temporary driver’s license that does not have a photo.
3. Compare the signature on the ID to that on the Card.
4. If the customer refuses to sign the Card, do not complete the Transaction. Remember, you are liable for any Transaction processed with a fraudulent Card.

Card Processing Tips

After you swipe a Card, the POS Device prompts you for specific information. The POS Device may also prompt you to enter the last four digits of the account number to verify that the embossed account number matches the number on the Magnetic Stripe (on the back of the Card). If the numbers do not match, the POS Device indicates a mismatch of the digits or an invalid Card. Do not accept the Card. Once you receive an Authorization Approval Code, verify that the Card number on the Transaction Receipt matches the number embossed on the Card. If it does not match, do not accept the Card.

Characteristics Of Most Cards

These characteristics typically apply to most Card Brands.

- **Overall Card Quality:** A Card may be any color (but is never faded or washed out) or feature a background pattern or photograph. The Card’s edge should be smooth and clean, never rough. The print should be crisp and clear. Check for any visible damage to the Chip or Magnetic Stripe.
- **Matching Account and BIN Numbers:** An identical series of numbers (known as the Bank Identification Number or BIN) is printed directly above or below the first four embossed numbers on the Card and in the signature panel.
- **Embossing Quality:** A hot iron is sometimes used to smooth embossed numbers and then emboss new numbers. When this is done, the numbers can appear irregular in spacing or in vertical alignment, or there can be a slight “halo” around the numbers. This technique is also used to modify the expiration date, so check both the month and the year for alterations. Refer to the *Examples of Tampering* section of Chapter 3 for details.
- **Hologram Quality:** An authentic hologram should reflect light and change in appearance as you move the Card. It should barely catch on a fingernail, but should not be such that it will peel off. A fake hologram is often a sliver of tin foil that lacks the features of an authentic hologram.
- **Card Account Number and Card Identification Number:** The signature panel on the back of the Card should include either the entire Card account number or its last four digits, followed by the Card Identification Number. These numbers should be printed in reverse italics and should match the embossed numbers.
- **Signature Panel Quality:** The signature panel should not be defaced (e.g., peeled-off white plastic, smudged imprinting, or “void” appearing in the signature panel). Refer to the *Examples of Tampering* section below for details.

- **Signature Panel Print Design:** With the exception of some ATM Cards and various store-branded Cards, signature panels are rarely plain white. They usually contain an overprint or watermark.

Unique Card Characteristics

For the unique Card design elements specific to the Cards, please visit the following Card websites.

- Mastercard: <http://www.mastercard.com/us/personal/en/aboutourcards/credit/index.html>
- Visa: <https://usa.visa.com/support/consumer/security.html>
- American Express: <http://www201.americanexpress.com/getthecard/home>
- Discover Network: <http://www.discovercard.com>

Examples of Tampering

The following section identifies common Card tampering techniques. Although an American Express Card is used in the examples, these tampering methods are widespread among all Card types.

1. **Fraudulent Embossing.** Characteristics of fraudulent embossing include:

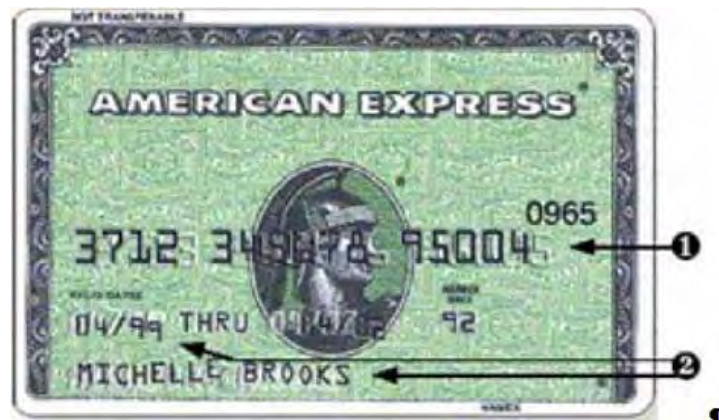


Figure 4-5. Example of Fraudulent Embossing

- a. The black ink on the Card number (1) or Cardholder name (2) is smudged or messy.
 - b. The embossed numbers are crooked, out of line, or unevenly spaced (2).
 - c. The typeface of the Card account number does not match the rest of the Card typeface (2).
 - d. The Card number embossed on the front does not match the number printed on the back (1).
2. **Altered Magnetic Stripe.** Characteristics of altered Magnetic Stripes include:
 - a. The Card number on the printed Transaction Receipt does not match the number embossed on the front of the Card or imprinted on the back.
 - b. The name printed on the Transaction Receipt does not match the name embossed on the Card.
 - c. The Magnetic Stripe or Chip is deliberately scratched or altered making it necessary to manually key the Card account number.
 - d. The signature panel has been whited out, taped over or erased.

IDENTIFYING SUSPICIOUS EMPLOYEE ACTIONS

Be aware – not all Card fraud is committed by Customers. Sometimes employees engage in fraud using the following activities:

- **Recording Card Numbers:** Employees may pocket receipts left behind by Cardholders or may write Card numbers on another piece of paper.
- **Using Card Skimmers:** Employees may use a Card skimmer (i.e., a battery-operated, hand-held electronic device) that reads a Card's Magnetic Stripe and records it to memory. Card numbers are then downloaded from the skimmer and used to make counterfeit Cards or make unauthorized purchases. Some Card companies offer a reward for information leading to the arrest and conviction of anyone involved in the manufacture or use of counterfeit Cards.
- **Processing Credit Transactions to Personal Card Accounts:** Employees may issue credits to their own Card or to an accomplice's Card using your POS Device. Often these credits do not have an offsetting prior sale.

NOTE: Most POS Device products allow you to require a password in order to process a Credit Transaction.

To help prevent employee-related fraud, do the following:

- Reconcile work daily rather than monthly.
- Password protect the POS Device, if this feature is available.
- Disable the credit function on the POS Device.
- Secure the POS Device during non-business hours.

FACTORING

Factoring (also known as laundering) occurs when you process another person's transactions through your account. Processing transactions which belong to another person or business is in violation of the Agreement and is prohibited by law in many states. Factoring may result in the termination of your Card acceptance privileges.

Be wary of the "fellow business person" who offers to pay you to process card transactions in return for a fee. These transactions are often questionable or fraudulent. These schemes typically result in a flood of Chargebacks which are debited from the DDA. By the time you realize this has occurred, the other business will most likely have relocated under a different name.

To protect you from these schemes and the devastating losses that ensue, educate yourself and your staff about this serious problem and immediately report factoring propositions to us or to the U.S. Secret Service. Remember, you are responsible for all transactions processed using your business MID, so make sure that all transactions processed through that account represent transactions between you and the Cardholder.

You will not present for processing or credit, directly or indirectly, any Transaction not originated as a result of a transaction directly between you and a Cardholder or any Transaction you know or should know to be fraudulent or not authorized by the Cardholder. Perpetrators of fraudulent Transactions will be referred to law enforcement officials. You will not deposit any Transaction Receipt representing the refinancing of an existing obligation of a Cardholder.

CHAPTER 4. CODE 10 PROCEDURES

Code 10 is a term used by the Payment Networks to refer to suspicious or questionable Transactions, Cards, or Cardholders.

If you are suspicious of a Card Transaction, contact the Voice Authorization Center and request a Code 10 Authorization. Using the term “Code 10” allows you to call the Voice Authorization Center to question the Transaction without alerting the Cardholder. Follow the instructions given to you on how to proceed to minimize any discomfort between you and the Cardholder.

NOTE: Be alert to individuals who contact you via phone or the Internet attempting to make large purchases for overseas shipment, direct or through a freight forwarder. These individuals may use one or more Cards in their “urgent” request. If you receive such a request, Elavon recommends contacting the Voice Authorization Center to request a Code 10, specifically identifying the Transaction as a large foreign shipment Transaction.

NOTE: Fraudulent transactions, even when authorized, are subject to Chargebacks, and final payment is not guaranteed.

CODE 10 AUTHORIZATION NUMBERS

To request a Code 10 Authorization for a Discover Network, Visa, Mastercard, or American Express Transaction, call the telephone number on the Voice Authorization sticker (located on the POS Device).

WHAT TO DO WITH AN UNAUTHORIZED CARD

If you are informed that a Card has been reported lost or stolen, or is otherwise invalid, do not complete the Transaction.

Card Recovery. If you choose to recover any Card, you will use reasonable, peaceful means to recover any Card: (i) on Visa Cards, if the printed four digits below the embossed account number do not match the first four digits of the embossed account number; (ii) if you are advised by Elavon (or its designee), the Issuer, or the designated voice authorization center to retain it; (iii) if you have reasonable grounds to believe the Card is lost, stolen, counterfeit, fraudulent, or otherwise invalid, or its use is not authorized by the Cardholder; or (iv) for Mastercard Cards, if the printed four digits below the embossed account number do not match the first four digits of the embossed account number, or the Card does not have the “Twin Globes” hologram on the lower right corner of the Card face.

If you are instructed to retain the Card, follow these procedures:

- Cut the Card through the account number lengthwise without damaging the Magnetic Stripe.
- Gather the following information:
 - your name, MID, telephone number, and address
 - Employee’s name, telephone number, and address
 - Card account number
 - Reason for recovery
- Mail the information to:

Exception Processing
ATTN: Card Pick Up
Elavon, Inc.
7300 Chapman Highway Knoxville, TN 37920

NOTE: Do not challenge the Card user. Avoid any physical confrontation with anyone who may be using a lost, stolen, or otherwise invalid Card. Do not jeopardize your safety or that of your employees or Customers.

Once the person leaves your location, note in writing his or her physical characteristics and any other relevant identification information. Keep in mind that a reward may be offered by the Issuer for the recovery and return of a lost, stolen, or otherwise invalid Card.

CHAPTER 5. RETRIEVAL REQUESTS AND CHARGEBACKS

A Cardholder or Issuer may dispute a Transaction for any number of reasons, including a billing error, a quality dispute, or non-receipt of goods or services. This Chapter describes the process for handling disputed Transactions by explaining Retrieval Requests and Chargebacks.

Disputes with Cardholders. All disputes by any Cardholder relating to the sale underlying any Transaction will be settled between you and the Cardholder. Elavon does not bear any responsibility for Transactions or disputes, other than with respect to processing Chargebacks.

NOTIFICATION OF RETRIEVAL REQUESTS AND CHARGEBACKS

you are responsible for all Retrieval Requests and Chargebacks under the Payment Network Regulations. When Elavon receives a Retrieval Request or Chargeback from a Payment Network, it will forward the request or documentation to you. You are responsible for responding, as appropriate, to each Retrieval Request or Chargeback, including providing a copy of the relevant information to Elavon. In addition, you will cooperate with Elavon in complying with the Payment Network Regulations regarding Retrieval Requests and Chargebacks. The following is a non-exhaustive list of reasons why you might incur a Chargeback. It is not a complete list and is intended only to highlight the most commonly encountered situations where a Chargeback may occur:

- Failure to respond to a Retrieval Request or failure to provide a legible, complete, or proper copy of a Transaction Receipt in response to a Retrieval Request
- Unauthorized use of a Card as alleged by the Cardholder
- Dispute by the Cardholder over the quality of goods or services
- Your failure to provide goods or services
- The Transaction Receipt does not bear the Cardholder's signature
- The Transaction Receipt represents a Transaction for which Authorization was initially declined and was subsequently obtained by means of multiple Authorization attempts or other means not permitted hereunder
- The Transaction Receipt fails to comply with the terms and conditions of the Agreement or fails to comply with the Payment Network Regulations
- The Transaction evidenced by a Transaction Receipt or any other credit extended in respect thereof includes a cash disbursement made by you
- The Transaction evidenced by a Transaction Receipt or any other credit extended in respect thereof is for any reason illegal, null or void
- The Transaction Receipt refers to a Card which has expired or which Elavon has notified you not to honor
- Copies of the Transaction Receipt have been deposited by you more than once or Elavon has credited the account more than once with the same Transaction Receipt
- you have processed a Transaction for goods sold or services performed (or alleged to have been sold or performed) by parties other than you

you may elect to receive Retrieval Requests and Chargeback notices by U.S. mail, Autofax (dedicated 24-hour fax line), email or online. To update or change the way you receive a Retrieval Request or Chargeback notification, contact Customer Service or the Dispute Resolution department at the toll-free telephone number listed on your notice.

RETRIEVAL REQUESTS

A Retrieval Request (also known as a copy request) is initiated by the Issuer on behalf of the Cardholder for a copy of the Transaction Receipt. A Retrieval Request occurs when a Cardholder:

- Loses his or her copy of the Transaction Receipt;
- Does not remember the Transaction; or
- Questions the Transaction for any reason.

The Retrieval Request notice will include the following information to help identify the Transaction:

- **Card number.** Retrieval Request notices do NOT include the Cardholder's name, because this information is not provided by the Issuer.
- **Dollar amount.** For Transactions charged on foreign Cards, the dollar amount may vary because of currency exchange rates.
- **Transaction date.** The Transaction date listed on the Retrieval Request may differ a few days from the date of the actual Transaction. If you cannot locate a specific Transaction Receipt in your records for the date specified on the Retrieval Request notice, search the records for three days before and three days after the Transaction date listed.

Upon receiving a Retrieval Request notice, you are required to provide Elavon with a copy of the applicable Transaction Receipt so Elavon can send it to the Issuer on your behalf. The Transaction Receipt copy must be clear and legible and provided within the time frame specified in the notice.

Elavon suggests you maintain Transaction Receipts in chronological order so that you can retrieve them quickly and easily when needed. Records may be stored off site, provided they are secure and readily accessible to the appropriate personnel.

your response to a Retrieval Request may be sent by U.S. mail, Autofax, email or online, as outlined in the Retrieval Request notice. Due to possible delays using U.S. mail, Elavon recommends submitting the response via Autofax, email, online or via overnight mail. If sending the response via U.S. mail, please allow sufficient time to meet the deadline.

If Elavon does not receive the response to the Retrieval Request by the deadline given, a Chargeback could be issued and Elavon will debit the DDA for the amount of the Transaction. This type of Chargeback cannot be reversed. To avoid such Chargebacks, make it a priority to respond to Retrieval Request notices within the time frame specified in the notice.

CHARGEBACKS

A Chargeback is a Transaction disputed by the Cardholder or the Issuer. If you receive a Chargeback, Elavon will debit the DDA for the amount of the Transaction, including any applicable currency fluctuations, and will send you a Chargeback notice. This notice includes the details of the Transaction as well as specific instructions on how to respond.

There are several situations in which Chargebacks may occur. The most common Cardholder-initiated disputes include:

- Dissatisfaction with the quality of merchandise or services received
- Failure to receive merchandise or services

- A questionable Transaction
- A processing error by your staff
- Unauthorized use of a Card

While it may not be possible to eliminate Chargebacks entirely, companies can reduce their occurrence by resolving issues and disputes directly with the Cardholder and by following the proper Authorization and processing procedures. Because Chargebacks can be costly to you, you should make every effort to prevent them. Generally, remember to:

- Avoid duplicate processing of a Transaction.
- Work with the Cardholder to resolve disputes regarding the quality of merchandise or services rendered.
- Refuse to process a Transaction after receiving a Declined Code during Authorization.
- Call for Voice Authorization, if needed.
- Call for a Code 10 Authorization if the Cardholder, Card, or Transaction still seems suspicious after receiving an Authorization Approval Code.
- Follow the procedures for processing Transactions as outlined in Chapter 2, *Processing Transactions*.
- Include a description of the goods or services on the Transaction Receipt.
- Deliver merchandise or services within the approved time frame of charging the Card.
- Obtain a valid Authorization Approval Code.
- Obtain valid CVV2/CVC2/CID and AVS codes for Card Not Present Transactions, if applicable.
- Submit Transaction Receipts on the same day Transactions are authorized.
- Make sure an Imprint appears on a manual Transaction Receipt or that the relevant Transaction Information appears on the POS Device-generated Transaction Receipt (see Chapter 2, *Transaction Receipts* for more details).
- Never accept expired Cards or Cards having effective dates prior to the date of the Transaction.
- Make sure the signature on the Transaction Receipt matches the signature on the back of the Card.
- Obtain a signature from the Cardholder when merchandise is delivered.
- Be cautious of shipments to an address other than the Cardholder's billing address.

How to Respond to a Chargeback

Your written reply to a Chargeback is known as a Chargeback rebuttal.

You must submit a rebuttal to Elavon in a timely manner so Elavon can present it to the Issuer. If you submit a valid rebuttal within the time frame specified in the notice, Elavon will issue a provisional credit in the amount of the Transaction to the DDA. The Issuer will then review the rebuttal to determine if the Chargeback is remedied. If the Issuer determines that the Chargeback is not remedied, they will initiate a second Chargeback or Pre-Arbitration that could result in a second debit to the DDA.

You must submit a legible and valid rebuttal within the time frame specified in the Chargeback notice. Failure to do so could delay credit to the DDA and may result in a waiver of your right to rebut the Chargeback.

For more information on rebuttal procedures, contact the Dispute Resolution department using the toll free number provided in the Chargeback notice.

Chargebacks That Cannot Be Reversed

There are specific instances when a Chargeback cannot be reversed. In these cases, you are responsible to Elavon for the Transaction amount regardless of the Authorization Response received. These situations include:

- When the Card is present but it is not swiped, dipped or manually Imprinted;
- When the Card is present but you did not have the Cardholder sign the Transaction Receipt; and
- When the signature on the Transaction Receipt does not match the signature of the Cardholder on the back of the Card.

EXCESSIVE ACTIVITY

your presentation to Elavon of Excessive Activity will be a breach of the Agreement and cause for termination of the Agreement if the Excessive Activity thresholds outlined in this section are met for your accounts as a whole. Alternatively, in Elavon's sole reasonable discretion, if Excessive Activity occurs for any one or more POS Device identification numbers or MIDs, only the accounts that meet the Excessive Activity threshold may be terminated. "**Excessive Activity**" means, during any monthly period, Chargebacks or Retrieval Requests in excess of one percent (1%) of the gross dollar amount of your Transactions, or returns in excess of two and one-half percent (2.5%) of the gross dollar amount of Transactions. You authorize Elavon to take additional actions as either of them may deem necessary upon the occurrence of Excessive Activity, including suspension of processing privileges or creation or maintenance of a Reserve Account in accordance with the Agreement.

CHAPTER 6.

PIN-LESS BILL PAYMENT TRANSACTIONS

This Chapter describes how to process PIN-less Bill Payment Transactions using PIN-authorized Debit Cards. A PIN-less Bill Payment Transaction is a PIN-less Debit Card payment Transaction resulting in funds transfer from Cardholders to companies in connection with payments for recurring services (excluding casual or occasional purchases) for which a corresponding invoice is periodically presented to the Cardholder by you, and which Transaction is initiated via a telephone (Voice Recognition Unit, Interactive Voice Recognition) or Internet device.

Acceptance of PIN-Less Bill Payment Debit Cards

Authentication. Prior to entering into a PIN-less Bill Payment Transaction, you must authenticate the Cardholder using information that is not commonly known, but is only known by the Cardholder and you, such as the Cardholder's account number with your business or information present on the Cardholder's hard copy bill from you. You must submit your authentication procedures to Elavon for approval by the appropriate EFT Networks, and you will follow such authentication procedures for each PIN-less Bill Payment Transaction. The use of an authentication procedure, or the approval of such procedure by an EFT Network, is not a guarantee of payment, and you remain liable for any Chargebacks resulting from any PIN-less Bill Payment Transactions.

No Minimum or Maximum. You will not establish minimum or maximum PIN-less Bill Payment Transaction amounts. You must accept PIN-less Bill Payment Transactions on terms no less favorable than the terms under which you accept other Payment Devices.

Purchases Only. You will support PIN-less Bill Payment Transactions involving purchases only. You may not initiate a Debit Card Transaction or a Credit Card Transaction for returns or refunds, and must use other payment avenues (such as cash, check, or invoice adjustment) to return funds to a Cardholder.

Prohibited Transactions. You will initiate Transactions only for services approved by Elavon. In no event will you initiate, allow, or facilitate a gambling or gaming transaction, or fund a stored value account for such purposes.

Internet Transaction Receipt Requirements

At the time of any Internet PIN-less Bill Payment Transaction, you will make available to each Cardholder a Transaction Receipt (printable from a screen or via e-mail) that complies fully with all Laws and containing, at a minimum, the following information:

- Amount of the PIN-less Bill Payment Transaction and the amount debited from the Cardholder's account (inclusive of the fees);
- Date and local time of the PIN-less Bill Payment Transaction;
- Type of Transaction;
- Type of account accessed;
- Truncated Debit Card number (showing the final four (4) digits);
- Trace or retrieval number;
- Company name;
- MID;
- your web site home page URL;
- Promised shipment time period (for Internet Transactions which involve shipment of goods);

- Cardholder's name;
- Authorization Approval Code;
- Description of the bill payment;
- Customer service contact information; and
- Fees you imposed on the Cardholder, including shipping and handling fees and taxes, as applicable.

Additional Internet Requirements

- **Internet Payment Screen and Sales Policy.** You must prominently display on the Internet Payment Screen your name, telephone number, city and state. You must also obtain explicit confirmation that the Cardholder understands and agrees that the funds will be immediately debited from their account upon approval of the Transaction, before submission of the PIN-less Bill Payment Transaction. You must display a clearly visible and conspicuous notice on the Internet Payment Screen of the imposition of any payment of a rebate for a PIN-less Bill Payment Transaction prior to submitting the payment request from the Cardholder. Such notice must include: (i) a heading of "Fee Notice" in at least 14-point type; (ii) text in at least 10-point type; and (iii) the amount of the rebate and the name of the party imposing the rebate or the company that receives the rebate. "**Internet Payment Screen**" means the screen displayed to a Cardholder during an Internet PIN-less Bill Payment Transaction payment process which allows the Cardholder to select the payment method and to confirm understanding and agreement with payment terms, shipping and return policy.
- **Communication and Encryption.** You must participate in an approved authentication program as designated by the EFT Networks. All authentication information must be encrypted upon entry into the Internet device and must never leave the Internet device in cleartext form. The Internet device you use must meet or exceed the minimum communication and encryption protocol set forth by the EFT Networks.

Telephone Transaction Requirements

At the time of a telephone PIN-less Bill Payment Transaction, you will provide each Cardholder with Transaction Information that complies fully with all Laws and containing, at a minimum, the following information:

- Approval or denial of the PIN-less Bill Payment Transaction,
- Amount of the PIN-less Bill Payment Transaction and the amount debited from the Cardholder's account (inclusive of the fees);
- Trace number;
- Authorization Approval Code or confirmation number;
- Customer service contact information; and
- Fees you imposed on the Cardholder, including shipping and handling fees and taxes, as applicable.

Technical Problems. You will ask a Cardholder to use an alternative means of payment if the Elavon debit processing system or the electronic interface with any EFT Network is inoperative.

Company Warranty. In order to accept PIN-less Bill Payment Transactions, you warrant that you are: (i) a municipal, state or other public utility system operated for the manufacture, production, or sale of electricity, natural or artificial gas, water or waste collection; (ii) an insurance service provider that is licensed by a state to sell property, casualty, life and health insurance policies and that the Transaction involves the payment of premiums on such policies; (iii) a public or private provider of telecommunications services, including telephone, cellular, digital and cable services, which is licensed and governed by any federal, state or municipal authority; (iv) a public

or private provider of cable or satellite media services, which is regulated by the Federal Communications Commission or any other federal, state or municipal authority, or (v) any other acceptable company type, or covered under a pilot program approved by, the EFT Networks.

Termination/Suspension of Bill Payment. When requested by any EFT Network in its sole discretion, you will immediately take action to: (i) eliminate any fraudulent or improper Transactions; (ii) suspend the processing of PIN-less Bill Payment Transactions; or (iii) entirely discontinue acceptance of PIN-less Bill Payment Transactions.

CHAPTER 7. NO SIGNATURE/PIN REQUIRED TRANSACTIONS

No Signature/PIN Required Program. Certain Payment Networks have waived signature requirements that allow qualifying Companies to process under-floor-limit transactions without having to obtain a Cardholder signature or provide a Transaction Receipt unless a Cardholder requests a Transaction Receipt. The No Signature/PIN Required Program is limited to qualified Companies. You are responsible for validating that your Merchant Category Code (MCC) is eligible for participation in a No Signature/PIN Required Program and that it has been approved by Elavon to participate in the program. The No Signature Required Program is available to those Companies in a qualifying MCC segment if the following Transaction criteria are met:

1. Transaction amount is less than \$25.00 for Visa and UnionPay Transactions (\$50.00 for Visa transactions under MCCs of 5310 Grocery and 5411 Discount Stores), and less than \$50.00 for American Express, Discover, and Mastercard Transactions.
2. Transaction occurs in a qualifying MCC. Please contact Elavon to determine if your MCC is eligible.
3. The Cardholder is present and the Transaction occurs in a face-to-face environment.
4. The full and unaltered content of Track 1 or Track 2 data of the Card's Magnetic Stripe is read and transmitted as part of the Authorization, or the Transaction is processed via Contactless processing or unaltered Chip data is sent for Authorization.
5. One Authorization is transmitted per clearing Transaction.
6. Applies to transactions conducted at U.S. merchants only.
7. Currency conversion is not performed.
8. For American Express transactions, you are not classified as high-risk.
9. Transaction is not a Chip fallback transaction.
10. Transaction is not an Account Funding Transaction, Cash-back, Quasi-Cash Transaction, nor Prepaid Load Transaction.

Eligible Companies that submit Transactions meeting these requirements will receive Chargeback protection against the signature requirement for Transactions that qualify under the specific Payment Network's No Signature/PIN Required Program.

Limitations. Participation in a No Signature Required Program provides only limited protection against specific Chargebacks as designated by the sponsoring Payment Network.

POS Device. It is your responsibility to determine if a POS Device is configured properly for No Signature/PIN transactions.

CHAPTER 8.

STAND-IN/STORE AND FORWARD APPLICATION TRANSACTIONS

This Chapter describes how to process Stand-In/Store and Forward Transactions using specific product applications. Specifically, Elavon has developed certain product applications which allow Companies to store Transaction Information in a POS Device at the time of the sale if a communication channel for transmittal of authorization is not available, and forward such Transaction Information to Elavon at a later time when a communication channel is available ("**Store and Forward Application**").

The Store and Forward Application Transactions general requirements are as follows:

Participation. Once you have been approved by Elavon to accept Transactions using the Store and Forward Application and your POS Device has been programmed with the Store and Forward Application, you may use the Store and Forward Application, but only when a communication channel for transmittal of Authorization information cannot be obtained.

Limitations. You will not use the Store and Forward Application to process any type of PIN-based Debit Card Transactions or Electronic Gift Card Transactions.

Forwarding Transaction Data. You will forward Transaction Information to Elavon via a POS Device within 24 hours of the Transaction.

Risk. You understand that there is significant risk associated with using the Store and Forward Application and not obtaining an Authorization at the time of the sale (i.e., you may receive a "decline" or "error" message in response to the subsequent Authorization request). You acknowledge and agrees it is fully liable for all Transactions whether or not an Authorization Approval Code is received.

Changes to Store and Forward Application; Termination. Elavon may make changes to or terminate the Store and Forward Application at any time. You will indemnify and hold Elavon harmless for any action Elavon may take pursuant to this Chapter.

Limitation of Liability

1. Elavon is not responsible for Store and Forward Transactions.
2. you understand that Transactions processed via the Store and Forward Application are high risk and may be subject to a higher incidence of declined Authorization requests and Chargebacks. You are liable for all Chargebacks, losses, fees, fines, and penalties related to Transactions processed via the Store and Forward Application, including those resulting from or related to declined Authorization requests and fraudulent Transactions. Further, Elavon is not liable to you in the event the Transaction Information is not stored within the POS Device for any reason. Notwithstanding the provisions of the Agreement or this Chapter, the liability of Elavon under this Chapter for any claims, costs, damages, losses and expenses for which they are or may be legally liable, whether arising in negligence or other tort, contract, or otherwise, will not exceed in the aggregate One Thousand Dollars (\$1,000.00).

CHAPTER 9.

ELECTRONIC GIFT CARD (EGC) SERVICES

This Chapter describes certain services that are available to Companies that have been approved by Elavon for Electronic Gift Card Services. Companies that process Electronic Gift Card Transactions will adhere to the requirements set forth in this Chapter.

EGC PROCESSING SERVICES

1. **General Obligations.**
 - a. you will comply with all Laws applicable to the issuance, sale, distribution, use, or acceptance of Electronic Gift Cards (including all Laws relating to purchase, service and dormancy fees, Laws relating to expiration dates, Laws governing the treatment of unused or unclaimed funds or other property, Laws relating to money transmission, and Laws relating to consumer protection), specifically including the Prepaid Access Rule (31 CFR Parts 1010 and 1022) and all other rules promulgated and guidelines published by the Financial Crimes Enforcement Network division of the United States Department of the Treasury. Elavon does not provide legal advice with respect to compliance with Laws, and you should consult your own legal counsel if it has questions regarding compliance. Companies located in jurisdictions that do not allow service fees (e.g., Arizona, New York) will not charge a service fee with respect to Electronic Gift Cards.
 - b. you will establish procedures to verify the identity of a person who purchase Electronic Gift Cards worth \$10,000 or more during any one day and obtain identifying information concerning such a person, including name, date of birth, address, and identification number. You must retain such identifying information for five years from the date of the sale of the Electronic Gift Cards.
 - c. Until EGC Cardholder Data and Transaction Information have been received and validated by Elavon, you will maintain enough “backup” information and data (e.g. Transaction Receipts or detailed reporting) with respect to Electronic Gift Cards sold to reconstruct any information or data loss due to a system malfunction or transmission error.
 - d. Elavon must participate in all Electronic Gift Card Transactions. If a third party must also participate in such a Transaction, you will use an Elavon-approved third party.
 - e. All Electronic Gift Cards must be printed by Elavon or an Elavon-approved third party.
 - f. You are responsible for all card production and delivery costs.
2. **Direct Settlement.** You authorize Elavon to initiate credit and debit entries among your individual chain locations for any transactions that change the balance of an Electronic Gift Card. If Elavon cannot accomplish a credit or debit entry to reflect the effect of a Transaction, you authorize Elavon to credit or debit (as applicable) the designated Master Account or Primary Company. Elavon may offset any debits against the related credit Transactions of the applicable chain or you location. You will notify Elavon in writing of any asserted errors within 45 days of the statement date on which the asserted error first appeared and understands that any failure to do so will preclude further claims or assertion of the error. You will pay (or will cause your individual chain locations to pay) related direct settlement fees.
3. **Loss, Theft, and Fraud.** Elavon is not responsible for lost, stolen or fraudulent Electronic Gift Cards.
4. **Additional Locations.** Locations added to this processing relationship will be boarded on Elavon’s system according to the paperwork you submit to Elavon. If you submit paperwork reflecting an error or omission

of fees payable by you, the services fees and other monthly fees applied to the locations during the initial set up or subsequent negotiations will be applied to such locations.

5. **Closing Locations.** If a location closes or changes its Merchant Identification Number (MID), Elavon may bill the Primary Company for any fees associated with subsequent Transactions processed on Electronic Gift Cards activated by the closed MID, including system generated transactions, such as deduction and points conversion transactions. Elavon may also bill to the Primary Company any monthly fees billed for Loyalty Cards or members activated at the closed location.
6. **Post Termination.** Following termination of the Electronic Gift Card Services, you will pay Elavon a transfer fee based on, among other things, the number of issued Electronic Gift Cards that must be converted to another processor and the data specifications required by you or such other processor.
7. **Additional Fees.** You agree to pay Elavon for EGC production once you have approved the EGC design proof. You accept full responsibility for all EGC production costs. One proof per EGC order is included in the cost of EGC production, and you agree to pay thirty-five dollars (\$35) for additional proofs. If any order is cancelled prior to EGC production, you agree to pay to Elavon a one hundred dollar (\$100) cancellation fee.

WEBSUITE SERVICES

“**WebSuite Services**” means an electronic commerce solution provided by Elavon’s third party service providers that permits Customers to purchase or add value to Electronic Gift Cards through your “WebSuite” site. Customers submit payment for the Electronic Gift Card via a Payment Device through the Processing Services.

If you have elected to receive WebSuite Services, the following terms will apply:

1. **General Obligations.**
 - a. you will timely provide to Elavon specifications for the customization of your WebSuite site, including Customer options, web and e-mail content. Your modifications subsequent to the initial submission are subject to change fees.
 - b. Elavon is not responsible for any Electronic Gift Card information you post to your WebSuite site.
 - c. Elavon is not responsible for incomplete or inaccurate payment information provided by any Customer in connection with the WebSuite Services. You acknowledge that additional Transaction verification and fraud prevention data elements and processes may be available through a particular Payment Network (including address verification) to reduce Transaction risk, and you agree that Elavon will only be responsible for implementing the Transaction risk controls that you specifically request in writing. The use of such Transaction risk controls does not constitute a guarantee of payment or prevent a Transaction from being disputed or subject to Chargeback.
 - d. You acknowledge that Elavon may provide sample terms of use, privacy policy, and other content and disclosure for use on your WebSuite site. Your use of the WebSuite site confirms that you have had an opportunity to review the sample disclosures and agrees to be solely responsible for all content and disclosures on the WebSuite site.
 - e. You are responsible for all Retrieval Requests and Chargebacks under the Payment Network Regulations in connection with Transactions processed using the WebSuite Services. Upon receipt of a Retrieval Request or documentation related to a Chargeback from a Payment Network, Elavon will forward such request or documentation to you. You are responsible for responding, as appropriate, to each Retrieval Request or Chargeback.

2. **Electronic Gift Card Order Fulfillment.** Elavon will fulfill all WebSuite Electronic Gift Card orders and include with each order a standardized letter you approve customized with the order detail. All orders will be shipped pursuant to the method directed by the Customer.
3. **Electronic Gift Card Loss Protection Program.** You will determine which data elements it will require your Customers to provide to establish an account or register an Electronic Gift Card on your WebSuite site. You are responsible for notifying your Customers that to take advantage of the Electronic Gift Card loss protection program, the Electronic Gift Card must be registered prior to the loss. Once a registered Electronic Gift Card is reported lost or stolen via the WebSuite site, Elavon will notify you and freeze the unused balance of the Electronic Gift Card. You are responsible for transferring the unused balance to a new Electronic Gift Card, sending a replacement Electronic Gift Card to the Customer, and notifying Elavon of the replacement Electronic Gift Card via the WebSuite site.
4. **Reloading of Electronic Gift Cards.** You will determine the Electronic Gift Card reloading options available to your Customers. While the WebSuite Services permit the anonymous reloading of Electronic Gift Cards, Elavon recommends that you require your Customers to register the Electronic Gift Card in order to reload value onto the Electronic Gift Card.
5. **Customer Information.** The WebSuite Services will permit you to have access to Customer information and other data that you require to establish an account or register an Electronic Gift Card. You are responsible for maintaining the appropriate safeguards to protect such Customer information, and to properly disclose the use of such information and your privacy policies on your WebSuite site or website. You must maintain the confidentiality of all Transaction Information and EGC Cardholder Data as provided in the Agreement.
6. **E-Certificates.** You may choose to use the E-Certificate module, which delivers a “virtual gift card” electronically. The terms applicable to Electronic Gift Cards in this Chapter apply equally to E-Certificates.

PROCESSING ELECTRONIC GIFT CARD TRANSACTIONS

In connection with processing Electronic Gift Card Transactions, you must comply with the following requirements:

- Supply Elavon with all information and data required by Elavon to perform services related to your acceptance of Electronic Gift Cards, including the location of POS Devices and EGC Cardholder Data.
- Maintain all Transaction Receipts and any other receipts as required by Laws.
- When you sell an Electronic Gift Card from your physical location or locations, including sales completed via electronic commerce, you are responsible for the collection and settlement of all funds relating to the sale of the Electronic Gift Card, including processing costs associated with such purchase (such as any Credit Card transaction fees or bank service fees, where applicable).

Electronic Gift Card Processing Services

Electronic processing of Transactions and purchases made by Customers using Electronic Gift Cards. Elavon will confirm electronically that the Cardholder presenting the Electronic Gift Card for the purchase of goods or services through you have an active account on Elavon’s Electronic Gift Card processing system and that there is sufficient value associated with the Electronic Gift Card to allow the Customer to complete the purchase. Elavon will adjust the Cardholder’s account through either a debit or credit, as applicable, in the amount of any approved Transaction.

Transaction Record Maintenance. Elavon will maintain an accessible electronic record of the Transactions conducted using an Electronic Gift Card for the lifetime of the card balance and after the balance on the card has been depleted for a period not less than sixty (60) days.

Downtime. You will not process Electronic Gift Card Transactions if the Electronic Gift Card processing system is down and not able to verify the validity and available balance on an Electronic Gift Card. You will be solely liable for any losses or damages incurred if Company processes an Electronic Gift Card Transaction without receipt of such verification.

Electronic Gift Card Artwork

Electronic Artwork. If applicable, you are responsible for submitting electronic artwork to Elavon for approval, as described in the Graphic Specifications and Procedures manual provided separately by Elavon (the “**Graphic Specifications and Procedures**”). You will comply with the Graphic Specifications and Procedures. You understand that the card proof cannot be created without the submission of artwork, if requested or required. Failure to submit artwork or comply with the Graphic Specifications and Procedures may result in additional fees charged to you for design work performed to correct the artwork and will result in the delay of the card production process. Elavon and card manufacturer cannot be held responsible for the quality of cards produced using artwork that does not meet the Graphic Specifications and Procedures. Digital artwork should be submitted to:

Artwork@elavon.com
OR
Elavon, Inc.
Attn: Boarding – EGC
7300 Chapman Highway
Knoxville, TN 37920

When sending in artwork, please include:

1. Company name and MID
2. Indicate standard or custom card order
3. Name and telephone number of graphic contact should there be any questions or issues with the artwork submitted

For complete detailed specifications, please send a request for Graphic Specifications and Procedures to Artwork@elavon.com. In the request please indicate either standard card or custom card specifications.

Proofing and Production Procedure. Proofs for custom card orders are provided electronically and sent to the email provided. Please print the proof, sign and fax back pursuant to the instructions on the proof. One proof is included in the card production costs. Each additional proof will be billed at thirty-five dollars (\$35) each. All proofs for standard card orders are provided electronically as an Adobe pdf document. The proof will be sent to the email address then currently on file with Elavon. If the proof is acceptable, simply reply to the email and indicate approval. Provide detailed information if changes are required. In some instances you may also receive a printer’s proof and will be required to follow the instructions included with the proof. **IMPORTANT: Incorrect graphics WILL delay an order. After you approve the proof, normal production timeframe for card delivery is 2-3 weeks for standard cards and 6-8 weeks for custom cards.**

CHAPTER 10.

ORIGINAL CREDIT TRANSACTION (OCT) SERVICES

This Chapter describes the original credit transaction Processing Services that are available to Companies. Companies that use such Processing Services will adhere to the requirements set forth in this Chapter.

On Demand

“On Demand” is the Debit Card batch funding Service that allow Companies to direct settle funds for an outstanding batch of Transactions to a Visa or Mastercard Debit Card on file with Elavon through Payments Insider.

1. You must enroll and add a valid Visa/Mastercard Debit Card through Payments Insider to be on file and must set up multi-factor authentication via email or text message.
2. Once the Debit Card is on file, you can opt within Payments Insider to settle a particular batch using On Demand expedited funding.
3. Once complete, the batch will close and include a single line item that shows a credit for the entire batch amount using On Demand. This will zero out the batch to prevent double funding.
4. Elavon will, the day following receipt of the settlement file from the Payment Network, debit the funds from the your DDA to complete the settlement activity.
5. you may only attempt On Demand transactions in an aggregate dollar amount allowed by Payment Network Regulations per day per MID.
6. Note: each issuing bank has its own limits for fast funds to debit cards. The limit in place maybe lower than the funds being disbursed, in which case the transaction will be declined. If the transaction is declined, then you will need to use an alternate method to receive the funds on their debit card.

CHAPTER 11. EQUIPMENT

LIMITED WARRANTY TERMS FOR PURCHASED TERMINALS/PIN PADS

With respect to any terminal or PIN pad purchased from Elavon, Elavon warrants to you that for one following the date Elavon delivered the terminal or PIN pad to a common carrier, the terminal or PIN pad will perform substantially as described in the manufacturer's published specifications as of the date of shipment for such terminal or PIN pad.

Elavon or its equipment vendor will facilitate the warranty service as follows: Prior to returning any terminal or PIN pad under warranty, you must first obtain a return merchandise call tag from Elavon. You must then ship such terminal or PIN pad to Elavon's equipment vendor at the address provided by Elavon and using the call tag provided. Elavon's equipment vendor will either handle the warranty issue itself or ship the terminal or PIN pad to the OEM for further handling. Upon Elavon's equipment vendor either handling the warranty issue itself or receiving a repaired or replacement terminal or PIN pad from the original equipment manufacturer, Elavon's equipment vendor will ship the repaired or replacement terminal or PIN pad to you.

you will bear the risk of loss of any returned terminal or PIN pad until the time of delivery to Elavon or their equipment vendor via proper use of the call tag provided. For any repaired or replacement terminal or PIN pad shipped to you, the risk of loss will transfer to you at the time of delivery to you. In all cases, you will be responsible for all shipping and handling costs associated with such warranty service, including reimbursing Elavon for any shipping and handling costs paid by Elavon on your behalf.

PROVISIONS APPLICABLE TO APPLE, INC. EQUIPMENT

If you have received Apple, Inc. Equipment from Elavon (as specified on a schedule to the Agreement, an additional equipment form, or other mutually agreed form), then the following terms apply:

Support. Elavon will provide you with full support and assistance with any troubleshooting or any other help-desk function as needed or required in connection with your use of Apple, Inc. Equipment. You may also purchase AppleCare to provide additional support for your Apple, Inc. Equipment, although Apple Care does not apply to any components used in connection with the Apple, Inc. Equipment that are not produced by Apple, Inc.

Warranty. You acknowledge that Apple, Inc., its officers, affiliates and subsidiaries make no warranties or endorsements with respect of your use of Apple, Inc. Equipment as a POS Device, nor any other POS Device, third-party product, or combination of any Apple, Inc. and any such third-party product or POS Device.

PROVISIONS APPLICABLE TO RENTAL EQUIPMENT

Companies that rent equipment (as specified on a schedule to the Agreement, an additional equipment form, or other mutually agreed form) from Elavon on a month-to-month basis ("**Rental Equipment**") will adhere to the following requirements.

Rental Term. You agree to the rental term and to pay the fees for Rental Equipment set forth in the Agreement. You may terminate the rental term at any time upon written notice to Elavon, provided that rental payments will not be prorated. You will pay the full monthly rental payment for each full or partial month until the Rental Equipment is returned to Elavon in good repair, condition and working order. Elavon may charge a restocking fee upon rental termination, and you agree that any such fee is not a penalty, but is a reasonable fee covering the expense Elavon incurs for shipping and refurbishment of the returned equipment.

Ownership. Elavon will at all times retain title to the Rental Equipment. You will not create, incur, assume or suffer to exist any mortgage, lien, pledge or other encumbrance or attachment of any kind whatsoever upon, affecting or with respect to the Rental Equipment.

Care and Use; Risk of Loss. You will maintain the Rental Equipment in good operating condition, repair and appearance, and protect the same from deterioration other than normal wear and tear. You will only use the Rental Equipment in the regular course of your business, and will comply with all Laws with respect to your use, maintenance and operation of the Rental Equipment. You will bear all risk of loss of and damage to the Rental Equipment while in your possession. In the event of a loss of, or damage to, the Rental Equipment, you will pay to Elavon the then-current standard full purchase price of the Rental Equipment.

Rental Equipment Replacement. Elavon will replace any inoperable or non-functioning Rental Equipment during the rental term; provided, that (i) such Rental Equipment is not inoperable or non-functioning due to your actions or any damage for which you are responsible, (ii) you have paid all rental payments due and owing to Elavon, and (iii) you pay the standard swap fee for the shipping and handling of the replacement Rental Equipment. Rental Equipment replacement will constitute your sole remedy and Elavon's sole obligation with respect to any inoperable or non-functioning Rental Equipment. You must return Rental Equipment that is being replaced within 30 days of receiving the replacement Rental Equipment. If you fail to return the Rental Equipment to Elavon within the period specified, you will pay to Elavon the then-current standard full purchase price of the Rental Equipment.

Return of Rental Equipment. At termination of the rental, you will return the original Rental Equipment, freight prepaid, to Elavon in good repair, condition, and working order, ordinary wear and tear excepted, to a location designated by Elavon. You must return the original Rental Equipment within 10 days of the termination date or the date replacement Rental Equipment is received, as applicable. If you fail to return the Rental Equipment to Elavon within the period specified, you will pay to Elavon the then-current standard full purchase price of the Rental Equipment.

CHAPTER 12. DIGITAL WALLETS

Visa Checkout Services

Companies using the Converge Platform also are enabled to participate in Visa Checkout digital wallet service, an integrated digital wallet platform designed and provided by Visa to enable customers to pay for goods and services in e-commerce transactions (the “**Visa Checkout Services**”). The Visa Checkout Services enable online acceptance of digital wallet platforms that have integrated features, including the Visa Checkout’s digital commerce platform, which is an electronic means of transmitting payment card and related information on behalf of a Cardholder. By using the Converge Platform and the integrated Visa Checkout Services, you agree to the terms and conditions set forth herein and to the Terms of Use and Interface Guidelines Visa has established for the Visa Checkout Services, currently available at https://developer.visa.com/capabilities/visa_checkout/docs. Additional details regarding the operation and use of the Visa Checkout Services including required Visa and Visa Checkout branding, trademarks, and logos are available at https://developer.visa.com/capabilities/visa_checkout/docs.

Apple Pay

Companies using the Converge Platform and compatible POS Devices may also elect to accept Apple Pay transactions. Please note that Elavon is acting only to facilitate passing purchase information to Apple, Inc. (“**Apple**”) at the point of acceptance. Your relationship with respect to Apple Pay transactions will be with Apple and Elavon does not fund Apple Pay transactions. You must inform your customers that Elavon is an intermediary party passing Transaction Information to Apple in the course of Apple Pay transactions.

you will promptly notify Elavon of any security breach which arises from your use of the Apple Pay platform. You authorize Elavon to share with Apple any of your confidential information related to Apple Pay transactions, including information regarding your security breaches and rates of fraud, as necessary for Elavon to comply with its obligations to Apple. In addition, you will provide any information and assistance reasonably necessary for Elavon to meet its contractual obligations with Apple.

For each Apple Pay transaction, you represent that, to the extent required by applicable Law, you have obtained all consents necessary for you to provide Elavon with Transaction Information.

In addition to your indemnification obligations elsewhere in the Agreement, you will indemnify and defend Elavon, its Affiliates, and their respective employees, officers, directors, and agents against losses, damages, liabilities, fines, judgements and expenses (including all reasonable attorneys’ fees) in connection with claims, actions, demands or proceedings (made or threatened) brought by a third-party arising out of (a) any action or omission by you that causes Elavon to violate any agreement Elavon has with Apple, or any Law or Payment Network Regulation in connection with the ability to conduct Apple Pay transactions, (b) any action or inaction by your that violates the terms of any agreement you have with Apple relating to Apple Pay, (c) your security breach impacting information associated with Apple Pay transactions; and (d) any unauthorized Apple Pay transactions.

Elavon may change the terms associated with Apple Pay transactions at any time based on Apple’s changing its terms with Elavon. By continuing to accept Apple Pay transactions following a change, you will be deemed to have accepted such change. In addition, Apple may update its services and APIs at any time. Therefore, you may be required to make changes to its systems at its own cost to continue accepting Apple Pay transactions.

Elavon may deactivate your access to Apple Pay and revoke Apple web certificates on the Converge Platform if (i) you breach your terms with Elavon or with Apple, (ii) you fail to enact any necessary changes to remain compatible with Apple Pay, or (iii) your agreement with Elavon causes any conflict with Elavon's agreements with Apple.

CHAPTER 13. PAYPAL ACCEPTANCE

Companies participating in Elavon's PayPal Program are able to accept certain PayPal Payment Devices. Those Companies will be able to accept PayPal Cards in the same manner as any Credit Card, and participating Companies using compatible POS Devices may also accept PayPal Mobile Transactions. Please note that Elavon is acting only to facilitate passing purchase information to PayPal, Inc. ("**PayPal**") at the point of acceptance. Your relationship with respect to PayPal transactions will be with PayPal, and Elavon does not fund PayPal transactions.

"**PayPal Card**" means a payment card bearing the PayPal logo that is linked to a Customer's account with PayPal.

"**PayPal Mobile Transaction**" means a term encompassing the various means by which a Customer with a PayPal account may initiate a transaction with a company using an application on the Customer's mobile device that is linked to the Customer's account with PayPal. PayPal Mobile Transactions are described in further detail in the PayPal Program Documents.

"**PayPal Payment Devices**" means PayPal Cards and PayPal Mobile Transactions.

"**PayPal Program Documents**" means the PayPal Operating Regulations, the PayPal Dispute Rules Manual, and the PayPal Technical Specifications, including all appendices, exhibits, and attachments.

1. **PayPal Marks.** You may use the brands, emblems, trademarks, and logos that identify acceptance of PayPal Payment Devices as described in Appendix A of the PayPal Operating Regulations (the "**PayPal Marks**") only to promote PayPal products, offers, services, processing and acceptance. Your use of the PayPal Marks is restricted to the display of decals, signage, advertising, and marketing materials provided or approved by PayPal in writing pursuant to the process set forth in the PayPal Program Documents. You will not use the PayPal Marks in such a way that customers could believe that the products or services you offer are sponsored or guaranteed by the owners of the PayPal Marks. You recognize that you have no ownership rights in the PayPal Marks. You will not assign to any third party any right to use the PayPal Marks. You will not use the PayPal Marks other than as permitted by the PayPal Program Documents unless expressly authorized in writing by PayPal. You will only use and display the PayPal Program Marks in accordance with the PayPal Program Documents.
2. **POS Devices.** You will use POS Devices capable of accepting PayPal Cards in accordance with the PayPal Program Documents.
3. **Merchandise on Display; Inventory.** You will have merchandise on display at the point of sale that is related and relevant to the MCC assigned to you, and that there is sufficient inventory on premises to transact business.
4. **Evidence of Being an Operating Business.** You must provide to Elavon upon request such documentation, such as bank or supplier documentation, reasonably required by Elavon to verify that you are actually operating a business.
5. **Telephone and Storefront.** You must maintain a working telephone and retail storefront.
6. **Compliance with the PayPal Program Documents.** You must comply with all applicable terms of the PayPal Program Documents in the course of its participation in the PayPal Program, including the acceptance of PayPal Cards and PayPal Mobile Transactions.

CHAPTER 14. ADDITIONAL RESOURCES

Visit Elavon's web site at <http://www.mypaymentsinsider.com> to obtain customer support, retrieve account information, order supplies, and more.

PAYMENT NETWORK COMPANY INFORMATION

For Payment Network-specific information, visit the following websites:

- American Express - www.americanexpress.com/merchant
- Discover Network - <https://www.discoverglobalnetwork.com/solutions/enable-payments/accept-discover-network/>
- Mastercard - <https://www.mastercard.us/en-us/business/overview/start-accepting/find-an-acquirer.html>
- Visa - <https://usa.visa.com/run-your-business/accept-visa-payments.html>

For information regarding the operating rules and regulations of the various Payment Networks, visit the following websites:

- American Express - <http://www.americanexpress.com/merchanttopguide>
- Mastercard - http://www.mastercard.com/us/merchant/pdf/BM-Entire_Manual_public.pdf
- Visa - http://usa.visa.com/merchants/operations/op_regulations.html

PCI DATA SECURITY STANDARDS INFORMATION

For PCI Data Security Standards information and requirements, visit the following websites:

- PCI Security Standards Council – <https://www.pcisecuritystandards.org/#>
- American Express - <http://www.americanexpress.com/merchanttopguide>
- Discover Network - <http://www.discovernetwork.com/fraudsecurity/disc.html>
- Mastercard SDP - <https://www.mastercard.us/en-us/merchants/safety-security/security-recommendations/site-data-protection-PCI.html>
- Visa - <https://usa.visa.com/support/small-business/security-compliance.html>

APPENDIX 2 GLOSSARY

“ACH” means Automated Clearing House, the funds transfer system governed by the rules of NACHA. ACH allows financial institutions to clear interbank entries electronically.

“ACH Rules” means the NACHA Operating Rules and Operating Guidelines, which govern the interregional exchange and settlement of ACH transactions.

“Affiliates” means entities affiliated under the majority ownership or control of, under common ownership or control with, or which own or control, a party.

“Agreement” means the U.S. Bank Business Essentials application, this U.S. Bank Business Essentials Payment Processing Terms of Service and Operating Agreement, and any other guides or manuals provided to you from time to time, and all additions to, amendments and modifications of, and all replacements to any of them, as applicable.

“American Express” means American Express Travel Related Services Company, Inc.

“Authorization” means a required procedure by which a company requests approval of a Transaction from the Issuer. Authorization is initiated by accessing the authorization center by telephone or POS Device.

“Authorization Approval Code” means an Authorization Response indicating that the Transaction is approved and the Card may be honored.

“Authorization Response” means the response sent by the Issuer in response to an Authorization request that indicates whether the Transaction is approved. Responses may include: “Approved,” “Declined,” “Declined Pick-Up,” or “Referral” (“Call Auth”).

“Authorized Users” means your employees or contractors designated by you to access and use the Processing Services.

“AVS” means address verification service, a fraud-reduction service that allows you to verify a Cardholder’s billing address prior to completing a Card Not Present Transaction.

“Bankruptcy Proceeding” means, with respect to an entity, (i) that the entity or any subsidiary of such entity will: (a) commence a voluntary case under the Bankruptcy Code of 1978, as amended, or other federal bankruptcy laws (as now or hereafter in effect); (b) file or be subject to a petition seeking to take advantage of any other applicable state or federal laws, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts or any other similar conservatorship or receivership proceeding instituted or administered by any regulatory agency or body; (c) consent to or fail to contest, in a timely and appropriate manner, any petition filed against it in an involuntary case under such bankruptcy laws or other applicable laws; (d) apply for or consent to, or fail to contest in a timely and appropriate manner, the appointment of, or the taking of possession by, a trustee, receiver, custodian, liquidator, or similar entity of such entity or of all or any substantial part of its assets, domestic or foreign; (e) admit in writing its inability to pay its debts as they become due; (f) make a general assignment for the benefit of creditors; (g) make a conveyance fraudulent as to creditors under any applicable state or federal laws; or (h) take any action for the purpose of effecting any of the foregoing; or (ii) that a case or other proceeding will be commenced against the entity or any subsidiary of such entity in any court of competent jurisdiction, or through any regulatory agency or body, seeking: (x) relief under the Bankruptcy Code of 1978, as amended, or other federal bankruptcy laws (as now or hereafter in effect) or under any other applicable laws, domestic or foreign, relating to bankruptcy, insolvency, reorganization, winding up or composition, or adjustment of debts; or (y) the appointment of a trustee, receiver, custodian, liquidator or the like of such entity or

of all or any substantial part of the assets, domestic or foreign, of such entity or any other similar conservatorship or receivership proceeding instituted or administered by any regulatory agency or body.

“Batch” means the accumulated Card Transactions stored in the POS Device or your system.

“California Company Information” means the Personal Information (as defined under the CCPA) that Elavon may collect that is about Company, its employees, its owners, its agents, and Guarantors, who are residents of California and considered Consumers (as defined under the CCPA) under the CCPA.

“Card” means a plastic card or other account access device issued by a bank or other financial institution, or by a Card company (e.g., Discover Network, Visa and Mastercard Credit Cards and Debit Cards), that allows a Cardholder to pay for purchases by credit, charge, or debit.

“Card Brands” means (i) Visa; (ii) Mastercard; (iii) American Express; (iv) Discover Network; (v) Diners Club International Ltd.; (vi) JCB International Co., Ltd.; (vii) China UnionPay Co., Ltd; and (viii) any other organization or association that hereafter contracts with Elavon to authorize, capture, and settle Transactions effected with Credit Cards issued or sponsored by such organization or association, and any successor organization or association to any of the foregoing.

“Cardholder” means the individual in whose name a Payment Device has been issued and any authorized user of such Payment Device.

“Cardholder Data” has the meaning stated in the Payment Card Industry (PCI) Security Standards Council Glossary, Abbreviations and Acronyms.

“CCPA” means the California Consumer Privacy Act of 2018 (CCPA), codified at California Civil Code section 1798.100 *et seq.*, as amended by the California Privacy Rights Act (CPRA), and all applicable regulations and successor laws thereto.

“Card Identification Number (CID) or Card Validation Code (CVV2/CVC2)” means a number printed on a Card and used as additional verification for Card Not Present Transactions. For American Express this is a four-digit code printed above the Card account number. For Visa, Mastercard and Discover Network this is a three-digit card code value printed on the signature panel of the Card.

“Card Not Present” means the processing environment where the Payment Device is not physically presented to you by the Cardholder as the form of payment at the time of the Transaction, including Mail Order (MO), Telephone Order (TO), and Electronic Commerce (EC).

“Card Present” means the processing environment where the Payment Device is physically presented to you by the Cardholder as the form of payment at the time of Transaction.

“Card Validation Code” – See Card Identification Number.

“Chargeback” means a Transaction disputed by a Cardholder or Issuer pursuant to the Payment Network Regulations.

“Chip” means a microchip that is embedded in a Card that contains Cardholder Data in an encrypted format.

“Chip and PIN Technology” means any technology introduced by any Payment Network which employs Chip embedded Cards and the use of a PIN in conjunction with, or in replacement of, a manual signature of Cardholder.

“Chip Card” means a Card embedded with a Chip that communicates information to a Chip-Reading Device.

“Chip-Reading Device” means a POS Device capable of reading, communicating and processing Cardholder Data from a Chip Card.

“CID” – See Card Identification Number.

“CNP” – See Card Not Present.

“CNP PIN-Based Card Transaction” means a Domestic Internet PIN-Based Debit Card Transaction or an International Internet PIN-Based Card Transaction.

“Code 10 Authorization” means an Authorization or an “additional verification step” obtained for a suspicious or questionable Transaction, Card, or Cardholder.

“Company Resources” means all equipment, communications devices, databases, services, systems and other resources that you maintain or operate in your or your third party hosting provider’s locations and which enable you to access and use the Processing Services.

“Confidential Information” means all data and information, regardless of the form or media, relating to the business of the Disclosing Party of which the Receiving Party becomes aware as a consequence of, or through, the performance of its obligations under the Agreement, which has value to the Disclosing Party and is not generally known by its competitors, which is reasonably identified as confidential at the time of disclosure or which, under the circumstances surrounding disclosure, ought to be reasonably considered as confidential, including technical information, drawings, engineering data, performance specifications, cost and price information (except as provided otherwise in the Agreement), and other information, data and reports, and the terms and conditions of the Agreement. Confidential Information does not include any data or information which (i) is already known to the Receiving Party prior to disclosure by the Disclosing Party; (ii) has become generally known to the public through no wrongful act of the Receiving Party; (iii) has been rightfully received by the Receiving Party from a third party without restriction on disclosure and without, to the knowledge of the Receiving Party, a breach of an obligation of confidentiality running directly or indirectly to the other party; or (iv) is independently developed by the Receiving Party without use, directly or indirectly, of the Confidential Information received from the Disclosing Party. Cardholder Data and Transaction Information are not Confidential Information under this definition, and are addressed in [Section 9.2](#).

“Contactless” means a payment card or key fob equipped with a chip and antenna that securely communicates Cardholder account information via radio frequency to a POS Device.

“Credit Card” means a card or device bearing the symbol of any Card Brand and associated with a revolving line of credit that can be used to purchase goods and services from you or to pay an amount due to you or to obtain cash advances.

“Credit Transaction Receipt” means a document, in paper or electronic form, evidencing a refund or price adjustment to be credited to the Cardholder’s account and debited from your DDA. This is also known as a credit slip or credit voucher.

“CVV2/CVC2” – See Card Identification Number.

“Customer” means a client of yours who elects to conduct a payment Transaction with you through presentation of a Payment Device (including a Cardholder).

“DDA” – See Demand Deposit Account.

“Debit Card” means a card or device bearing the symbol(s) of one or more EFT Networks or Card Brands, which may be used to purchase goods and services from you or to pay an amount due to you by an electronic debit to

the Cardholder's designated deposit account. A "Debit Card" includes (i) a card or device that bears the symbol of a Card Brand and may be used to conduct signature-based, offline debit Transactions; and (ii) a card or device that bears the symbol of an EFT Network and can be used to conduct PIN-based, online debit Transactions.

"Debit Card Rules" means all applicable rules and operating regulations of the EFT Networks and Card Brands, and all rules, operating regulations, and guidelines for Debit Card Transactions issued by Elavon from time to time, including all amendments, changes, and revisions made thereto from time to time.

"Declined Code" means an Authorization Code indicating that the Transaction is declined and the Card is not to be honored.

"Declined Pick-Up Code" means an Authorization Code indicating that the Transaction is declined and the Card should be retained by you.

"Demand Deposit Account" means the U.S. Bank Business Essentials commercial checking account (or if such account is no longer active or you switch to another account, a commercial checking account at an ACH participating financial institution designated by you) to facilitate payment for Transactions, Chargebacks, returns, adjustments, fees, fines, penalties, assessments and charges from the Payment Networks, and other payments due under the Agreement.

"Disclosing Party" means the party providing the Confidential Information to the other party directly or indirectly (via one or more third parties acting on behalf of and at the direction of the party providing its Confidential Information).

"Discount" means a type of fee paid by a company to process its Card Transactions. Discount is calculated by multiplying the Discount rate by the volume of Card Transactions.

"Discover" means DFS Services LLC.

"Discover Network" means the payment network operated and maintained by Discover.

"Documentation" means the Elavon standard written description for the Processing Services, as applicable, that is delivered to you under the Agreement, including user manuals and best practices guides, as may be amended by Elavon from time to time, but not including marketing materials, proposals, demonstrations or other promotional information.

"Domestic CNP PIN-Based Debit Card Transaction" means a PIN-based Transaction conducted over the internet using a Debit Card and processed over an EFT Network.

"EBT Card" means a card used for electronic benefits transfers.

"ECS Association" means NACHA and any regional ACH association or network, the Federal Reserve (in its processing of ACH entries or demand drafts or other legal replacements or substitutes for a paper check, including under the Check Clearing for the 21st Century Act or under applicable provisions of the Uniform Commercial Code), and any other organization or association Elavon uses in connection with the ECS that is hereafter designated as an ECS Association by Elavon from time to time.

"EFT Networks" means (i) Interlink Network Inc., Maestro U.S.A., Inc., STAR Networks, Inc., NYCE Payments Network, LLC, PULSE Network LLC, ACCEL/Exchange Network, Alaska Option Services Corporation, Armed Forces Financial Network, Credit Union 24, Inc., NETS, Inc., and SHAZAM, Inc.; and (ii) any other organization or association that hereafter authorizes Elavon or a third party designated by you to authorize, capture, and settle Transactions effected with Debit Cards, and any successor organization or association to any of the foregoing.

"EGC" – See Electronic Gift Card.

“EGC Cardholder Data” means one or more of the following data elements pertaining to a Cardholder’s account: Electronic Gift Card number, Cardholder name (if applicable), Electronic Gift Card account activity, Cardholder account balance, and such other data applicable to your EGC program.

“Elavon” means Elavon, Inc., a Georgia corporation.

“Elavon Data Breach” means unauthorized access to, use, disclosure or exfiltration of any Cardholder Data or Transaction Information provided by you and received by Elavon in connection with your use of the Processing Services under the Agreement that (i) originated within data operating systems controlled by Elavon or its third-party contractors, (ii) occurred due to a breach of the Agreement by Elavon, (iii) was not attributable to any act or omission of Company or your Service Providers, and (iv) does not relate to any data you include in user defined fields not required by Elavon or used to perform the Processing Services.

“Elavon Materials” means the specifications, documentation (including Documentation), application programming interfaces (APIs) and other interfaces, nonpublic or proprietary data import routines, sample code and materials provided to you to enable you to perform your obligations or exercise your rights under the Agreement, including integration to the Processing Services.

“Electronic Commerce Transaction” means a Transaction that occurs when the Cardholder uses the Internet to make a purchase from you.

“Electronic Gift Card (EGC)” means a special stored value card provided by you or on your behalf that is redeemable for merchandise, services or other Transactions.

“Electronic Gift Card (EGC) Services” means Processing Services provided by Elavon that allow you to sell Electronic Gift Cards redeemable for in-store merchandise or services.

“Equipment” means Purchased Equipment and other devices, equipment and hardware provided to you under the Agreement.

“Imprint” means the physical impression made from a Card on the Transaction Receipt, which may be used to prove that the Card was present when the sale was made.

“Imprinter” means a device used by a company to make an Imprint on a Transaction Receipt.

“Interchange” means the clearing and settlement system for Visa and Mastercard Credit Cards and Debit Cards and, where applicable, Discover Network Credit Cards and Debit Cards, where data is exchanged between Elavon and the Issuer.

“Interchange Fees” means the amount paid by Elavon to the Issuer on each Transaction. Interchange Fees vary according to the type of company and the method of processing.

“International Credit Card” means a Credit Card issued for acceptance on or accessible through an International Network.

“International Debit Card” means a debit card or device bearing the symbol(s) of one or more International Networks, which may be used to purchase goods and services from you or to pay an amount due to you by an electronic debit to the Cardholder’s designated deposit account.

“International Debit Card Transaction” means a PIN-based Transaction conducted over the internet using an International Debit Card and processed over an International Network.

“International Internet PIN-Based Card Transaction” means an International PIN-Based Credit Card Transaction or an International Debit Card Transaction.

“International PIN-Based Credit Card Transaction” means a PIN-based Transaction conducted over the internet using an International Credit Card and processed over an International Network.

“International Network” means an organization or association based outside the United States and that operates or sponsors a payments network, with respect to which Elavon is authorized, directly or indirectly, to process, capture, and/or settle Transactions effected with Payment Devices issued or approved for use on the payments network operated or sponsored by such organization or association.

“Internet PIN Pad” means a secure program that displays and allows entry on a virtual numeric keyboard that conforms with the applicable Payment Network Regulations and the PCI Data Security Standard, and requirements established from time to time by Elavon, and through which a Cardholder may enter a PIN.

“Intellectual Property Rights” means worldwide patents, trade secrets, copyrights, trademarks, service marks, trade names, and all other intellectual property rights and proprietary rights, including all rights or causes of action for infringement or misappropriation of any of the foregoing.

“Issuer” means the financial institution or other entity that issued the Credit Card or Debit Card to the Cardholder.

“Laws” means all applicable local, state, and federal statutes, regulations, ordinances, rules, and other binding law in effect from time to time.

“Loyalty Card” means a device used to hold a currency or points value in a stored value program.

“Magnetic Stripe” means a stripe of magnetic material affixed to the back of a Card that contains Cardholder account information.

“Mail Order/Telephone Order (MO/TO) Transaction” means, for MO, a Transaction that occurs when the Cardholder uses the mail to make a payment to you and for TO, a Transaction that occurs when the Cardholder uses a telephone to make a payment to you.

“Master Account” means the account (e.g. funds pool) used to hold the value of Electronic Gift Cards that have been issued among a group or chain of Companies; alternatively, this may refer to the back-up account used to offset electronic payment, ACH or Canadian Payments Association rejects, if applicable.

“Mastercard” means MasterCard International Incorporated.

“Member” means a financial institution or other entity designated by Elavon that is a principal, sponsoring affiliate or other member of the Payment Network. The initial Member will be U.S. Bank National Association or Elavon, Inc.; Elavon may change the Member at any time and will provide notice to you of such change.

“Merchant Category Code (MCC)” means the four-digit code and corresponding definition assigned to each company that describes the type of business in which you are engaged.

“Merchant Identification Number (MID)” means a unique identification number assigned to a company to identify its business.

“MO/TO” means Mail Order/Telephone Order.

“NACHA” means the National Automated Clearing House Association.

“No Signature/PIN Required Program” means a specific program offering by a Card Brand that includes required criteria that you must meet in order to submit Transactions that do not require a Cardholder signature and Transaction Receipt and to obtain some protection from Chargebacks.

“Payment Card” means a Credit Card, Debit Card or Prepaid Card, as the context requires.

“Payment Device” means any device or method used for the purpose of obtaining credit or debiting a designated account, including a Credit Card, Debit Card, and any other financial transaction device or method, including an Electronic Gift Card, check (whether converted into electronic form or used as a source document for an electronic fund transfer), electronic balance transfer card, stored value card, “smart” card, or other device created to be used for the purpose of obtaining credit or debiting a designated account.

“Payment Network” means any Card Brand, EFT Network, ECS Association or automated clearing house association, governmental agency or authority, and any other entity or association that issues or sponsors a Payment Device or PayPal Payment Device (as defined in the Operating Agreement) or operates a network on which a Payment Device is processed.

“Payment Network Regulations” means the rules, operating regulations, guidelines, specifications and related or similar requirements of any Payment Network.

“PCI-DSS” means the Payment Card Industry Data Security Standards.

“Person” means any individual, firm, corporation, business trust, partnership, governmental agency or authority, or other entity and will include any successor (by merger or otherwise) of such entity.

“Personal Identification Number (PIN)” means a number that must be entered by a Cardholder in order to complete certain types of Transactions (e.g., online debit, EBT).

“PIN” – See Personal Identification Number.

“PIN-less Bill Payment” means PIN-less Debit Card payment Transactions resulting in funds transfer from Cardholders to you in connection with payments for recurring services (excluding casual or occasional purchases) for which a corresponding invoice is periodically presented to the Cardholder by you, and which Transaction is initiated via a telephone (Voice Recognition Unit, Interactive Voice Recognition) or Internet device.

“PIN Pad” means a secure device, with an alphanumeric keyboard, that conforms to the Debit Card Rules and applicable standards administered by the Payment Card Industry Security Standards Council and requirements established from time to time by Elavon and through which a Cardholder may enter a PIN.

“POS Device” means a terminal, software or other point-of-sale device at your location that conforms to the requirements established from time to time by Elavon and the applicable Payment Network.

“Prepaid Card” means a card having available funds paid for in advance by the Cardholder.

“Primary Company” means the Merchant Identification Number (MID)/location originally enrolled for Electronic Gift Cards and set up to be billed for the card orders placed or designated as the corporate or headquarter location.

“Processing Services” means the Payment Device processing services and other related products and services you receive pursuant to the Agreement.

“Purchased Equipment” means the devices, equipment and hardware you purchase from Elavon under the terms of the Agreement.

“Quasi-Cash Transactions” means Transactions representing a sale of items that are directly convertible to cash.

“Recurring Payments” means a Transaction charged to the Cardholder (with prior written or electronic permission to you) on a periodic basis for recurring goods and services (e.g., monthly membership fees, utility bills, subscriptions).

“Receiving Party” means the party receiving Confidential Information from the other party directly or indirectly (via one or more third parties acting on behalf of and at the direction of the party providing its Confidential Information).

“Reserve Account” means the ledger account established by Elavon on its books and records reflecting a contingent payment obligation from Elavon to you.

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

“Security Programs” means the PCI-DSS, including the Cardholder Information Security Program (CISP) of Visa, the Site Data Protection Program (SDP) of Mastercard, the Data Security DISC Program and the PCI-DSS regulations of Discover Network, and the security programs of any other Payment Network, and any modifications to, or replacements of, such programs that may occur from time to time.

“Service Provider” means any entity that stores, processes, transmits or accesses Cardholder Data or Transaction Information on your behalf or that provides software to you for transaction processing, storage, or transmission, except to the extent such services are performed by the entity in its capacity as a third-party contractor of Elavon performing Elavon’s obligations under the Agreement.

“Settlement” means the process of submitting Transactions to Elavon for processing.

“Transaction” means any action between you and a Cardholder or Payment Network that results in transmission of Cardholder Data or Transaction Information (e.g. payment, purchase, refund, return, chargeback, authorization request, settlement submission, transaction inquiry).

“Transaction Information” means any data or information resulting from a Transaction. Transaction Information includes payment processing-related transactional information that may be collected or stored by Elavon, including the price paid for products or services, date, time, approval, unique transaction number, store identifier, and Customer bank information relating to a Transaction.

“Transaction Receipt” means the paper or electronic record evidencing the purchase of goods or services from, or payment to, you by a Cardholder using a Payment Device.

“Updates” means all updates, revisions, patches, fixes, new releases, and other improvements or changes to any Processing Services provided to you under the Agreement.

“United States” means the United States of America.

“Visa” means Visa U.S.A., Inc.

“Voice Authorization” means an Authorization process whereby a company calls the Voice Authorization Center and provides Cardholder and purchase information over the telephone. The Voice Authorization Center then provides an Authorization Code to you.

“Voice Authorization Center” means the center that conducts Voice Authorization for Card Transactions.

“You” means the business entity indicated on the U.S. Bank Business Essentials application that provides goods or services to Customers, or that accepts payments from Customers.