

APPENDIX I
ELAVON STANDARD PROPOSED NEGOTIATION LANGUAGE (PER EXHIBIT D.1.e)
FOR LOCAL AUTHORIZED USERS

Capitalized terms used and not otherwise defined in this Appendix shall have the meanings ascribed to them in the Agreement or the Operating Procedures.

Exhibit A -- Scope of Services

Section 4(a)3

Contractor shall settle in gross daily and process chargebacks and adjustments by invoicing the State Authorized User for compensation. Local Authorized Users will have the ability to choose their method of payment pursuant to Exhibit B.1.

Exhibit B – Budget Detail and Payment Provisions

Section 1

(d) For Local Authorized Users, the User will decide which fee payment method it chooses to use on the Authorized User Participation Form, Exhibit D Attachment I.

Exhibit E – Fees and Costs

Section 4

(c) Local Authorized Users may choose Convenience Fees that are: (i) Merchant-managed, meaning that Merchant establishes the amount of the Convenience Fee (subject to the requirements of the Agreement and the Payment Network Regulations), retains the Convenience Fee, and pays Elavon the per transaction fees as set forth on Exhibit E Attachment I for all Convenience Fee Transactions; (ii) Elavon-managed, meaning that Elavon establishes the amount of the Convenience Fee and retains the Convenience Fee in lieu of Merchant's obligation to pay Elavon the per transaction fees as set forth on Exhibit E to the Agreement for Convenience Fee Transactions; or (iii) third party convenience fee vendor (certified on the Elavon network). Local Authorized Users will make their selection on the Authorized User Participation – Set Up form. Local Authorized Users selecting either of the programs stated in (i) or (ii) above, agree to the additional terms and conditions for Convenience fees in Exhibit I, below.

Exhibit G -- Agreement for Merchant Processing Services Acceptance

1. SCOPE OF THIS AGREEMENT; DEFINITIONS AND GENERAL PROVISIONS

b. Definitions:

Reserve Account means the fund established and managed by Servicers to protect against actual or contingent liability arising from Chargebacks, adjustments, fees and other charges due to or incurred by Servicers.

8. INTERNET PROCESSING

You must obtain approval from Servicers to accept and process Internet transactions through Servicers. You also acknowledge that you must inform Servicers of your use of any processing software, third party Internet payment gateway, shopping cart, Web Site host, or other service provider (collectively "Internet Service Providers"), that any Internet payment gateway must be approved by Servicers and that You are prohibited from transmitting any Cardholder transaction data to any Internet Service Providers (or any third party) without the approval of Servicers. If You accept Internet transactions without such approval, Servicers may, in addition to any other rights it may have under this Exhibit G, establish a Reserve Account to protect them from risk of loss. If authorized to accept payment by Internet, the Sales Draft shall be completed without the Cardholder's signature or an Imprint but shall include the Cardholder's name, billing address, Card number, expiration date, of the Card, a description of the merchandise or service and the date and amount of all charges. All Internet transactions will be settled by Servicers into a depository institution in the United States. You shall process Internet transactions only (a) if the Internet transactions have been encrypted by Servicers or by an Internet Service Provider acceptable to Servicers and (b) Cardholder data is protected by You as required by the then current Association Rules, PCI data security requirements, or any other applicable regulations. Encryption is not guarantee of payment to You. You acknowledge that Internet transactions may be authorized and settled through separate BIN/ICA numbers and interchanges and that Servicers may be unable to combine deposits of Internet transactions and non Internet credit and debit Card transactions. Because the transactions processed via the Internet are higher risk, You may be charged higher Association fee. Internet transactions are subjected to a higher incidence of chargebacks and, as with non-Internet transactions, receiving an authorization and following procedures will not relieve You of liability associated with chargebacks and/or the fraudulent use of customer data obtained off of Your Web Sites. All communications costs related to Internet transactions are Your responsibility. Servicers will not manage the Internet telecommunication link which is also Your responsibility. Obtaining any license or sub-license of software required to permit You to process Internet transactions shall be Your responsibility, and if obtained from Servicer's, subject to a separate agreement. Servicers do not guarantee that obtaining required approvals from Servicers or implementing suggested security measures will cause Your Internet transactions to be secure or impregnable, and Servicers will not be responsible in the event of the infiltration of Your or any Internet Service Provider's security systems. You further acknowledge and agree that Servicers are not responsible for the security of the Cardholder data

or information stored on Your or any Internet Service Provider's computers, systems or Web Site(s) and that You will be solely responsible for any liability, fines, or penalties arising from its use, storage, or dissemination of Cardholder data.

12. FEES; ADJUSTMENTS; COLLECTION OF AMOUNTS DUE

Notwithstanding anything in the Agreement to the contrary, Local Authorized Users may elect one of the following fee collection models:

- a. Direct Debit. If You elect the Direct Debit fee collection model on Exhibit D Attachment I, then You will pay Servicer fees in the ordinary course of business for all processing services, supplies, and equipment in accordance with Exhibit E, any amendment to Exhibit E and any additional Exhibits executed by You. Such fees will be calculated and debited from the designated 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 You under the Agreement.
- b. Monthly Net Settlement. If You elect the Monthly Net Settlement fee collection model on Exhibit D Attachment I, then You will pay Servicer fees in the ordinary course of business for services, supplies, and equipment in accordance with Exhibit E, any amendment to Exhibit E, and any additional Exhibits executed by You. Such fees will be calculated daily and will be offset by Servicer against amounts owed by Servicer to You: (i) on the first day of each month for the prior month's processing services, and (ii) following the first day of the month for fees and other amounts owed to Servicer pursuant to Exhibit E that are not available or reasonably calculable as of the last day of a particular month. In the event that the funds owed by Servicer to You on the first day of a calendar month are insufficient to offset amounts You owe to Servicer for processing services provided during the prior month, Servicer may offset any unpaid balance owed by You against future amounts Servicer owe or will owe to You until your financial obligations are fully satisfied.
- c. Invoice. If You elect the Invoice fee collection model on Exhibit D Attachment I, then You will pay Servicer fees in the ordinary course of business for all processing services, supplies, and equipment in accordance with Exhibit E, any amendment to Exhibit E and any additional Exhibits executed by You. Such fees will be calculated once each month for the previous month's activity. Elavon will send You an invoice reflecting the fees due, which You must pay within thirty (30) days of the invoice date. In addition to all other available remedies, Servicer may offset any outstanding or uncollected amounts that are more than ninety (90) days past due from (i) any amounts they would otherwise be obligated to deposit into your bank account and (ii) any other amounts Servicer may owe you under this Agreement or any other agreement.

17. TERMINATION.

17.2 If any of the following events shall occur (each an "Event of Default"):

- (vi) The occurrence of a material adverse change in the State or an Authorized User's financial condition, defined as a rating by Moody's, Fitch's, or Standard & Poor's below investment grade, or a downgrade of two or more positions with any such reporting service.

- (vii) You shall default in any material respect in the performance or observance of any term, covenant, condition or agreement contained in this Exhibit G, including, without limitation, the establishment or maintenance of funds in a Reserve Account, as detailed in Paragraph 18 (Reserve), or the Data Security requirements as detailed in Section 19.

23. RESERVE ACCOUNT; SECURITY INTEREST

a) Reserve Account.

- i) **Establishment.** Elavon may establish a Reserve Account in the Reserve Amount upon the occurrence of a Reserve Event for the purpose of providing security and a source of funds to pay Elavon and Member for any and all amounts that may be owed by Merchant hereunder. Elavon and Member shall have sole control of the Reserve Account.
- ii) **Reserve Amount.** The Reserve Amount is equal to the aggregate dollar value of: [(average % credits to processing volume during the same period + average % Chargebacks to processing volume during the same period) multiplied by four] multiplied by [average monthly processing volume] plus [one month's average fees] plus [# days delayed delivery multiplied by the average day's processing volume]. For purposes of this calculation, the number of days delayed delivery means the number of days between the date on which the Cardholder's Payment Device is charged and the date the Cardholder receives and is satisfied with the product or service. Further, for purposes of this calculation, Elavon will determine, in its sole reasonable discretion, the applicable period considering factors such as Merchant's Transaction volume and seasonality.
- (1) **Reserve Event.** The following will constitute Reserve Events: (a) fraudulent activity in any monthly period that equals or exceeds one percent (1%) of Merchant's average monthly volume over the preceding twelve (12) month period, (b) Chargebacks in any monthly period that equal or exceed one percent (1%) of the total dollar value of incoming items to Elavon, (c) Elavon's reasonable belief that Merchant has accepted deposits but has not delivered the goods or services, (d) the commencement of a Bankruptcy Proceeding by or against Merchant, (e) termination of the Agreement for any reason or the occurrence of an event listed in Section (A)(12)(b)(ii)(B) or (C) giving Elavon or Member the right to terminate the Agreement, (f) nonpayment of amounts owed to Elavon or Member, (g) fines imposed or reasonably expected to be imposed by the Payment Networks, (h) the occurrence of a material adverse change in Merchant's financial condition, (i) assignment of the Agreement by, or a change in control of, Merchant without Elavon's consent, and (j) revocation, termination or non-renewal of any guaranty, indemnity agreement, letter of credit or any other Alternate Security provided in connection with the Agreement, if applicable.
- iii) **Funding.** Elavon and Member may fund the Reserve Account up to the Reserve Amount by any one or more of the following means.
- (1) Elavon and Member may require Merchant to deposit funds into the Reserve Account;
- (2) Elavon and Member may debit the DDA; and/or

- (3) Elavon and Member may deposit into the Reserve Account funds they would otherwise be obligated to pay Merchant.
- iv) **Use of Funds in Reserve Account.** Elavon or Member may, without notice to Merchant, apply funds in the Reserve Account against any outstanding amounts Merchant owes under the Agreement. Also, Elavon or Member may debit the Reserve Account to exercise their rights under the Agreement including, without limitation, their rights of set-off and recoupment to collect any amounts due to Elavon or Member. Further, Merchant agrees that Elavon or Member may be required to send funds in a Reserve Account to a third party in response to a tax levy or other court order.
 - v) **Termination of Reserve Account.** Funds held in the Reserve Account shall remain in the Reserve Account, and shall be used only to pay amounts due to Elavon and Member (except as otherwise provided in the Agreement), until the Merchant has paid in full all amounts owing or that could ever be owed under the Agreement, including all Chargebacks, returns, adjustments, fees, fines, penalties, and any other payments due under the Agreement. In no event shall Merchant be entitled to a return of any funds remaining in the Reserve Account before two hundred seventy (270) days following the effective date of termination of the Agreement.
 - vi) **Alternate Security.** In lieu of or in addition to establishing and funding a Reserve Account, Elavon may, in its sole and absolute discretion, accept an alternative form of security (“Alternate Security”) for the purpose of providing a source of funds to pay Elavon and Member for any and all amounts owed by Merchant. Elavon retains the right at any time to require that the amount held in the Reserve Account equal the Reserve Amount even if Elavon previously accepted and currently holds Alternate Security; provided that Elavon shall not require that the aggregate of the amount held in the Reserve Account and the Alternate Security taken together, exceed the Reserve Amount.
- b) **Reserve Account and Bankruptcy.** Merchant acknowledges that in the event of a Bankruptcy Proceeding, in order for Merchant to provide adequate protection under Bankruptcy Code Section 362 to Elavon and Member hereunder, Merchant must create or maintain a Reserve Account as required by Elavon and/or Member and either of them shall have the right to offset against the Reserve Account for any and all obligations Merchant may owe to Elavon and Member, without regard to whether the obligations relate to Transactions initiated or processed before or after the initiation of the Bankruptcy Proceeding.
 - c) **Security Interests.** To secure Your obligations to Servicers and their affiliates under this Exhibit G and any other agreement for the provision of related equipment or related services, You grants to Servicers a lien and security interest in and to any of Your funds pertaining to the Card transactions contemplated by this Exhibit G now or hereafter in the possession of Servicers, whether now or hereafter due or to become due to You from Servicers. Any such funds, money or amounts may be commingled with other funds of Servicers, or, in the case of any funds held pursuant to the foregoing paragraphs, with any other funds of other customers of Servicers. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, Servicers are hereby authorized by You at any time and from time to time, without notice or demand to You or to any

other person (any such notice and demand being hereby expressly waived), to set off, recoup and to appropriate and to apply any and all such funds against and on account of Your obligations to Servicers and their affiliates under this Exhibit G and any other agreement with Servicers or any of Servicers' affiliates for any related equipment or related services (including any check guarantee and check verification services), whether such obligations are liquidated, unliquidated, fixed, contingent, matured or unmatured. You agree to duly execute and deliver to Servicers such instruments and documents as Servicers may reasonably request to perfect and confirm the lien, security interest, right of set off, recoupment and subordination set forth in this Exhibit G.

Exhibit I – Convenience and Service Fee Services

4) GOVERNMENT/PUBLIC INSTITUTION SERVICE FEE SERVICES.

- a) **GPISF Services.** At Merchant's election, Merchant may choose to charge a GPISF (a Merchant-managed GPISF) or to have Elavon charge a GPISF (an Elavon-managed GPISF) to its Customers for Eligible Transactions, in each case provided that Merchant is in compliance with the Payment Network Regulations and Laws, including the Electronic Fund Transfer Act and Regulation E. If Merchant elects an Elavon-managed GPISF, Merchant agrees that any GPISF collected in connection with an Eligible Transaction will be retained by Elavon and Member and that such amount constitutes Elavon's and Member's property, and Merchant has no right, title or interest in such amounts. Further, if Merchant elects an Elavon-managed GPISF, Merchant agrees that Elavon may, when mutually agreed by both parties, adjust the GPISF amount from time to time as necessary or appropriate to accommodate changes in Payment Network fees (including Interchange fees), material changes in average ticket size and/or monthly Transaction volume, Interchange classification or downgrades, changes in Chargeback rates, or changes in Payment Devices accepted and/or payment channels offered by Merchant. Additionally, Elavon may immediately terminate the Processing Services for GPISF if Merchant's Chargeback rates materially exceed industry averages. If Merchant elects a Merchant-managed GPISF, Merchant will receive and retain the GPISF collected in connection with Eligible Transactions and will pay regular per transaction fees to Elavon and Member for the Processing Services provided by Elavon and Member with respect to such Transactions. Merchant agrees that the minimum annual Transaction fees (which includes any Elavon-retained GPISF) paid to Elavon and Member for Transactions processed under this Exhibit shall be at least equal to the "Minimum Annual Fees" amount identified in the Convenience and Service Fee pricing section below. For any partial period of less than a full year during the term of this Exhibit, the actual amount of fees paid by Merchant to Elavon for Transactions processed under this Exhibit shall be annualized to determine if Merchant has satisfied this obligation. At the end of each year (the first of which shall begin on the Effective Date and each successive year of which shall begin immediately upon the conclusion of the preceding year), Elavon may notify Merchant if the actual Transaction fees paid by Merchant in respect of this Exhibit is less than the Minimum Annual Fees amount. In the event that Merchant's actual Transaction processing fees under this Exhibit for any such period are less than the

Minimum Annual Fees, Merchant shall promptly pay Elavon and Member the difference.

8) Convenience Fees

- a) **Merchant-Managed.** If Merchant is both eligible to charge Convenience Fees and has elected on Exhibit D – Attachment I to manage Convenience Fees, then Merchant shall comply with the standard provisions regarding Convenience Fees set forth in the Agreement and the MOG.
- b) **Elavon-Managed.** If Merchant is both eligible to charge Convenience Fees and has elected on Exhibit D – Attachment I to have Elavon manage Convenience Fees, Merchant agrees to the following provisions, as and to the extent applicable, in addition to requirements regarding Convenience Fees set forth in the Agreement and the MOG.
 1. **General.** At Merchant's election, Merchant may choose to have Elavon manage the Convenience Fee Merchant will charge to its Customers for eligible Transactions, provided that Merchant is in compliance with the Payment Network Regulations and Laws. In such circumstances, Elavon will communicate to Merchant the amount of the Convenience Fee Merchant is required to charge for each eligible Transaction. Merchant agrees that any Convenience Fee charged by Merchant for such Transactions will be retained by Elavon and Member and constitutes Elavon's and Member's property, and Merchant acknowledges that Merchant has no right, title or interest in such amounts. Elavon may adjust the Convenience Fee from time to time as necessary to accommodate changes in Payment Network fees (including Interchange fees), material changes in average ticket size and/or monthly Transaction volume, Interchange classification or downgrades, changes in Chargeback rates, or changes in Payment Devices accepted and/or payment channels offered by Merchant. Additionally, Elavon may immediately terminate the Processing Services for Convenience Fees if Merchant's Chargeback rates materially exceed industry averages.
 2. **POS Devices and Convenience Fee Changes.** Merchant is responsible for ensuring that its software, POS Devices and Payment Device acceptance procedures fully comply with Elavon's instructions and Payment Network Regulations, including with respect to programming of software and POS Devices to handle eligible Transactions to ensure proper assessment of Convenience Fees and modifying the amount of Convenience Fees charged upon request from Elavon. Merchant is further responsible for complying with all requirements as provided by Elavon from time to time to appropriately process the eligible Transactions to qualify for optimal Interchange rates within five (5) days of Elavon's communication to Merchant of the same. If Merchant fails to make changes to its POS Devices or Payment Device acceptance procedures, or fails to adjust the amount of the Convenience Fee charged per Transaction, within five (5) days of Elavon's request therefore, Elavon may, in its discretion, discontinue the program or suspend a certain payment type, or bill the Merchant for charges in excess of the Convenience Fee to recover losses related to Transactions that did not qualify for optimal Interchange rates or did not include the Convenience Fee amount requested by Elavon.

c) **Fees.** If Merchant has elected on Exhibit D – Attachment I that Convenience Fees will be “Merchant-managed,” then Merchant will compensate Elavon and Member for the Processing Services for Convenience Fee Transactions as indicated on Exhibit E to the Agreement (i.e., Merchant will pay standard per transaction fees for Convenience Fee Transactions). If Merchant has elected on Exhibit D – Attachment I that Convenience Fees will be “Elavon-managed,” then Elavon will net from the Transaction settlement paid to Merchant the full amount of the Convenience Fee established by Elavon (as set forth in Exhibit D-Attachment I –Authorized User Participation Set Up form). Subject to the provisions above, the Convenience Fee retained by Elavon where Merchant has elected “Elavon-managed” Convenience Fees will constitute full payment to Elavon for Elavon’s processing of such Transactions.

Exhibit J – Enterprise Billing Solutions

3) EBS SERVICES; FEES; OTHER AMOUNTS OWED; TAXES. Elavon and Member will provide Merchant with the EBS Services in accordance with Exhibit J. Merchant will compensate Elavon and Member for the EBS Services as indicated on Exhibit D – Attachment I and the Convenience and Service Fee section below. If Merchant elects an Elavon-managed EBS program, Elavon will establish and retain the service or convenience fee in lieu of Merchant’s obligation to pay the per transaction fees. Should Merchant wish to institute an EBS program that does not meet a volume threshold for Elavon to offer the program, Elavon and Merchant may mutually agree to a minimum fee that will be applied to cover Elavon’s cost of implementing and administering the program, if the convenience or service fees do not cover such expenses. Merchant agrees that the minimum annual Transaction fees paid to Elavon and Member for Transactions processed using the EBS Services shall be at least equal to the “Minimum Annual Fees” amount identified below. The Minimum Annual Fees requirement becomes effective on the first day of the first month that begins following the earlier of (i) the date Elavon processes the first Transaction for Merchant using the EBS Services, or (ii) ninety (90) days from the Effective Date for the Merchant. For any partial period of less than a full calendar year during the term of this Schedule, the actual amount of fees paid by Merchant to Elavon and Member for Transactions processed using the EBS Services shall be annualized to determine if Merchant has satisfied this obligation. At the end of each year (the first of which shall begin on the effective date of the Minimum Annual Fees requirement and each successive of which shall begin immediately upon the conclusion of the preceding such year), Elavon may notify Merchant if the actual Transaction fees paid by Merchant in respect of the EBS Services is less than the Minimum Annual Fees amount. In the event that Merchant’s actual EBS Services Transaction processing fees for such period are less than the Minimum Annual Fees, Merchant shall promptly pay Elavon and Member the difference.

Section C – Electronic Check Services Provisions

1) **GENERAL DESCRIPTION.** This Section C sets forth additional terms and conditions of the EBS Services applicable to processing of Transactions originated

and presented for clearing and payment via the ACH Network in accordance with the ECS Rules, as more fully described below. Elavon and Member will process ECS Transactions only if Merchant has elected Electronic Check Services on Exhibit D – Attachment I. Processing of ECS Transactions shall be subject to the terms and conditions set forth in Section A of Exhibit J and this Section C.

- 2) **ELECTRONIC CHECK SERVICES GENERALLY.** All convenience costs and fees related to the Service Level chosen by Merchant are as provided in Exhibit D– Attachment I to the Agreement. The Customer must provide authorization to Elavon prior to Elavon initiating an ACH debit, in accordance with the ECS MOG. Elavon will make a record of the Customer’s authorization for the ACH debit. Elavon will either retain the original or a duplicate record of the Customer’s authorization for the period required by the applicable ECS Rules, and will make a copy of such record available to Merchant for a fee as indicated below.
- 3) **RETRIEVAL REQUESTS AND CHARGEBACKS.** Merchant is fully responsible for all Chargebacks and returns under the Payment Network Requirements. Upon receipt of a Chargeback or return from an ECS Association, Elavon and Member will forward such request or documentation to Merchant. Merchant is responsible for responding, as appropriate, to each Chargeback or return, including by retrieving a copy of the relevant Transaction Receipt from the EBS Services interface. In addition, Merchant will cooperate with Elavon and Member in complying with the Payment Network Regulations regarding Chargebacks and returns.
- 4) **ADDITIONAL REPRESENTATIONS AND WARRANTIES.** Merchant represents and warrants, with respect to all ECS Transactions accepted and processed by Elavon and Member under this Exhibit J, that (i) for PPD Entries or recurring debit entries, the Customer has duly authorized the debiting of the Customer’s account in accordance with applicable law, (ii) the business transaction represents an obligation of the Customer who is initiating the ECS Transaction, and (iii) the ECS Transaction is for amounts actually owed by Customer to Merchant (including tax) and does not involve any element of credit.