

# ACH Debit | Merchant Agreement

Bankcard Merchant # \_\_\_\_\_ ISO Name: \_\_\_\_\_ ISO ID# \_\_\_\_\_ Agent name: \_\_\_\_\_

Merchant Information	Legal Name: _____ Tax ID# (required): _____	
	DBA Name: _____	
	DBA Address: _____	Mailing Address: _____
	City: _____	City: _____
	State: _____ Zip Code: _____	State: _____ Zip Code: _____
	Phone #: _____ Fax #: _____	
	Contact Person: _____ Title: _____	
Type of Ownership: <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation		
Type of Goods Sold: _____		
Total Time in Business: _____ Time in Business at this Location: _____		
Website Address: _____ E-mail address: _____		

Principal Information	Name (please print): _____ Phone #: _____	
	Title: _____ % Equity Ownership: _____	
	Principal's Address: _____	Date of Birth: _____
	City: _____	Social Security #: _____
State: _____ Zip Code: _____		Driver's License #: _____

Check Info	Average check/EFT amount?: _____	Average # of checks/EFT's monthly?: _____	Maximum check/EFT amount requested?: _____	Estimate monthly check/EFT volume?: _____
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Schedule of Fees/Charges	Service Features: <input type="checkbox"/> Single ACH Debit <input type="checkbox"/> Recurring ACH Debit <input type="checkbox"/> Both		Virtual Terminal Monthly Fee: \$ _____	
	Debiting From: <input type="checkbox"/> Consumer Accounts <input type="checkbox"/> Corporate Accounts <input type="checkbox"/> Both			
	<b>Single ACH Debit</b>		<b>Recurring ACH Debit</b>	
	Discount Rate:	%	Discount Rate:	%
	Transaction Fee:	\$	Transaction Fee:	\$
	Monthly Service Fee:	\$	Monthly Service Fee:	\$
	Monthly Minimum Fee:	\$	Monthly Minimum Fee:	\$
	Batch Fee:	\$	Batch Fee:	\$
	Return Fee:	\$	Return Fee:	\$
	Reversal Fee:	\$	Reversal Fee:	\$
Set-Up Fee:	\$	Set-Up Fee:	\$	
Verification: <input type="checkbox"/> Guarantee: <input type="checkbox"/>		Verification: <input type="checkbox"/>		
.50% premium for all items \$2,500 and above (Not applicable on Guarantee) Refer to section 9.2 for full disclosure of fees.				

<b>Required Information</b>	
<input type="checkbox"/> This completed agreement	
<input type="checkbox"/> ACH Debit Merchant Information Form	
<input type="checkbox"/> Voided check with imprinted Business Name	
<input type="checkbox"/> Copy of Business License/ Tax License	
<input type="checkbox"/> One Month Bank Statement	
<input type="checkbox"/> Copy of Written Authorization form to be used	

**Merchant Acceptance**  
 This Agreement includes all of the terms and conditions contained on the front and ATTACHED RECITALS of this Agreement. This Agreement has been executed on behalf of and by the authorized management of each party as of the date below. Merchant authorizes GETI or any credit reporting agency by GETI or agent of GETI, to make whatever inquiries that GETI deems appropriate to investigate, verify or research references, statements or data obtained from Merchant for the purpose of this application for accompanying POS terminal(s) or equipment financing.  
 Personal Guarantee: To induce and in consideration of GETI acceptance of the ACH Debit Service agreement, the undersigned (herein referred to as "Guarantor") unconditionally, personally, individually, jointly and severally guarantees performance of the Merchant's obligations under this Agreement and payment of all sums due thereunder and hereby continues to personally indemnify GETI for any and all funds due from Merchants under the terms of this Agreement.  
 ACH Debit/Credit Authorization: Merchant hereby authorizes GETI in accordance with this ACH Debit Agreement to initiate debit/credit entries to Merchant's checking account, as indicated per the attached copy of a voided check from same. The authority is to remain in full force and effect until (a) One hundred and twenty (120) days after GETI has received written notification from MERCHANT of its termination in such a manner as to afford GETI reasonable opportunity to act on it, and (b) all obligations of Merchant to BANK/GETI that have arisen under this agreement have been paid in full.

**Notice**  
 All information contained on this application was completed by owners and/or officers of merchant and they warrant that all check information and sales volume indicated throughout this application are accurate and acknowledge that any variance to this information could result in delayed and/or withheld settlement of funds as well as the loss of all guarantee privileges of all checks. No blank spaces were left incomplete. N/A or None has been filled in any spaces where applicable. This agreement shall not be binding or take effect until merchant has been approved by a GETI officer and a merchant number has been issued with check limit and guarantee limit.

MERCHANT AGREED AND ACCEPTED:  
 I have read and agree to the terms of this agreement

CORPORATE RESOLUTION FOR CORPORATIONS AND LLC'S:  
 I have read and agree to the terms of this agreement

\_\_\_\_\_ Date \_\_\_\_\_ Authorized Merchant Signature \_\_\_\_\_ Date \_\_\_\_\_

Application Approved by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_  
 Official GETI use only

Not valid unless approved and signed by authorized officer of GETI

# Merchant Information Form | Check Services

Merchant

Business Name: \_\_\_\_\_ Date: \_\_\_\_\_

Contact person: \_\_\_\_\_ Signature: \_\_\_\_\_

Phone # (as it will appear on customer bank statements): \_\_\_\_\_

Sign  
here

Authorization Method

1. Which authorization procedure does Merchant utilize to confirm customer's consent to an ACH debit?

**A. Signed Written Authorization from customer (Does not apply to Checks-By-Web)**

Processor provided Auth Form  Merchant created Auth Form

**B. Web Authorization (Checks-By-Web only)**

Customer provides electronic signature  Customer logs in using a username and password

**C. Recorded Verbal Authorization (Checks-By-Phone only)**

Processor provided script  Merchant created script

If utilizing **C. Recorded Verbal Authorization**, check ONE of the following:

**Hosted secure verbal recording services offered by processor at a competitive rate.**

(Please complete accompanying Recording Service Addendum.)

**Merchant has existing recording service to capture verbal customer authorizations.**

How are recording accessed?

Via website URL: \_\_\_\_\_ Login/Username: \_\_\_\_\_ Password: \_\_\_\_\_

Via telephone # : \_\_\_\_\_ Password: \_\_\_\_\_

Transaction Handling

2. Frequency of transaction submission:  Daily  Weekly  Other

3. Transactions will be submitted via:

**A. Internet Gateway:** Merchant will create code to interface with the processor API to transmit transaction data.

**B. Virtual Terminal:** To key in transaction data, Merchant will use:

Processor-provided website.  Other Virtual Terminal: \_\_\_\_\_

**C. Certified web service Gateway:** Merchant will use a certified web Gateway. (See Certified web service gateway list)

**Gateway:** \_\_\_\_\_

**D. File Transmission:** Merchant will create text file and transmit to processor via FTP. **Not available for Guarantee service.**

**Acceptable file formats include: comma delimited, tab delimited, or NACHA standard file.**

4. On NSF returns, processor automatically resubmits transaction:  Yes  No

Product Info

5. Describe the product(s) or service(s) being sold: \_\_\_\_\_

6. How are products delivered? \_\_\_\_\_

7. Describe Merchant's return/refund policy? \_\_\_\_\_

8. Describe advertising/sales/marketing procedures:

Inbound Customer Calls  Outbound Customer Calls  TV  Direct Mail

Print Advertisements  Internet Advertisements  Web Site  Other: \_\_\_\_\_

Website

9. Merchant's web site meets minimum encryption or secure session requirements? (Minimum 128-bit RC4 encryption)  Yes  No

10. Website URL: \_\_\_\_\_

Contact

Please provide Merchant's Technical Contact's information so we may contact them to provide file specs, coordinate a test file, etc.

Name: \_\_\_\_\_ Email Address: \_\_\_\_\_ Phone: \_\_\_\_\_

## Additional Persons Authorized to Receive Online Transaction Initiation and/or Reporting Access

Please provide first and last names and clearly indicate whether each person listed should be given access to transaction initiation only, transaction reporting only, or both. Attach a separate page if necessary:

1. Name: \_\_\_\_\_ Access type: \_\_\_\_\_ 2. Name: \_\_\_\_\_ Access type: \_\_\_\_\_

Notices

- Authorizations must be kept on file for no less than 2 years.
- Existing relationship between Merchant and customer is required to process checks initiated by phone authorization or Bill Pay.
- A relationship exists if the customer has purchased goods/services from the Merchant within the last 2 years OR there is a written agreement in place between the Merchant and the customer for the provision of goods or services. Example: The customer has an insurance policy with the Merchant.
- Service does not include verification if submitting transactions via File Transmission. Verification included with guarantee services or when otherwise selected on merchant agreement.
- Some banks will not honor an ACH transaction from a 'corporate account'.
- Provided that processor continues to receive transactions from Merchant, funds will be released in: 5-7 business days for ACH Debit, 5 business days for Checks-By-Phone, 3 business days for Bill Pay, and 7 business days for eCommerce

Checks-by-Phone service is not applicable for telemarketing businesses (or the like) in which the primary function of the business is outbound sales calls. Unacceptable businesses for this program include cold-calling, "boiler rooms", mail order marketing, credit repair and/or credit establishment opportunities, vacation and/or benefit packages, investment opportunity operations in which there is no pre-existing relationship between the merchant and the customer and whereby merchant is engaging primarily in outbound call and/or outbound mail activity to initiate a check by phone transaction. If merchant violates this agreement by participating in such business practices, processor shall immediately hold all merchant's funds, cancel this agreement, debit merchant's account for all returns, and take other legal action as deemed necessary by processor's legal counsel, the federal trade commission, the United States Postmaster General, and/or NACHA (National Automated Clearing House).



## ACH Debit Merchant Rights and Responsibilities

A. MERCHANT wishes to initiate debit and credit entries pursuant to the terms of this Agreement and the rules of the National Automated Clearing House Association (the "Rules"), and Global eTelecom, INC. (GETI) is willing to act as the THIRD party processor for MERCHANT, subject to the terms and conditions set forth in this Agreement with respect to such Entries.

B. Unless otherwise defined herein, capitalized terms shall have the meanings provided in the Rules. The term "Entries" shall have the meaning provided in the Rules and shall also mean the data, which is transmitted by the MERCHANT to GETI to prepare such Entries for processing.

C. This agreement is only applicable to processing Virtual Terminal or ACH file based transactions utilizing the end-customer's Checking account data. GETI's product and associated software specifically designed for such transactions will be utilized by merchant, and such software will either be hosted and maintained by GETI on GETI equipment, or alternatively, provided directly to Merchant for installation on Merchant equipment. In all cases where GETI hosts the software for Merchant, the various terms and conditions referenced below regarding disclosure, transaction and processing requirements, and all other requirements imposed by either regulatory agency, law, GETI, or otherwise shall have full force and effect, however, in instances where the GETI hosted software already complies with Merchant requirements, the Merchant shall be relieved of certain of these responsibilities. Merchant agrees not to change, modify, or alter such software or product in any way. Upon MERCHANT'S request and GETI'S approval, ACH Debit guarantee services (hereinafter referred to as "Guarantee" service) will also be provided pursuant to provisions below. If MERCHANT has not requested Guarantee service, or if GETI has not accepted the MERCHANT application for Guarantee service, GETI will not be liable in any way for any returned ACH Debits of MERCHANT or its customers, for any reason.

### AGREEMENT

1.1 MERCHANT'S AUTHORITY. MERCHANT specifically warrants to GETI that MERCHANT has taken all necessary legal action and has authority to enter into this Agreement with GETI. It further warrants that the person(s) signing for and on behalf of MERCHANT is specifically authorized and directed to do so by MERCHANT. MERCHANT acknowledges that this Agreement constitutes the legal, valid and binding obligation of MERCHANT, enforceable in accordance with its terms.

1.2 EXCLUSIVE THIRD PARTY PROCESSOR RELATIONSHIP WITH GETI. MERCHANT agrees to process all ACH Debit transactions related to its business exclusively through GETI and give GETI right of first refusal on any future ACH Debit or electronic check processing contracts with MERCHANT.

1.3 ACH DEBIT GUARANTEE SERVICE. If MERCHANT has marked the "Guarantee" box on the application form of this Agreement then MERCHANT wishes GETI also to provide ACH Debit Guarantee services to MERCHANT. Guarantee is only available for Single ACH Debit services. If MERCHANT has not marked the appropriate box, MERCHANT has engaged GETI to provide for each ACH Debit: verification, electronic funds transfer and certain collection services. Merchant must utilize the Virtual Terminal to qualify for Guarantee service.

2.1 MERCHANT'S PUBLIC DISCLOSURE RESPONSIBILITIES. MERCHANT agrees to inform the public that MERCHANT will honor ACH Debit processing services provided by GETI. From time to time, GETI may design educational and promotional materials into the software and send such to MERCHANT for MERCHANT to disseminate to customers. MERCHANT further agrees to immediately remove and properly dispose of GETI's previous version releases of software and to utilize the most current software version releases upon receipt of such from GETI. MERCHANT will discontinue the use of all of GETI's promotional materials and properly remove said materials upon receipt of written notification of suspension or termination of this Agreement. In the event of suspension, MERCHANT shall re-utilize appropriate software upon receipt of written verification of resumption of service by GETI. In the event of termination, MERCHANT immediately shall properly discard all software related to GETI services at MERCHANT'S expense.

2.2 RESTRICTIONS ON USE OF PROMOTIONAL MATERIALS AND REPRESENTATIONS CONCERNING GETI'S SERVICES. MERCHANT shall make no use of GETI's software, other than as set forth in paragraph 2.1 above, without GETI'S prior written consent. In no way shall the MERCHANT indicate that GETI'S services are an endorsement of the MERCHANT, its business or its business practices.

2.3 CONFIDENTIALITY. Each party acknowledges that all other materials and information disclosed to the other party ("Recipient") in connection with the performance of this Agreement, including any trade secret, process, technique, algorithm, computer program (source and object code), design, drawing, formula, business plan or test data relating to any research project, work in process, future development, engineering, marketing, servicing, financing, strategic partnership or personnel matter consist of confidential and proprietary data. Each Recipient will hold those materials and that information in strict confidence, and will restrict its use of those materials and that information to the purposes anticipated in this Agreement. If the law or legal process requires Recipient to disclose confidential and proprietary data, Recipient will notify the disclosing party of the request. Thereafter the disclosing party may seek a protective order or waive the confidentiality requirements of this Agreement, provided that Recipient may only disclose the minimum amount of information necessary to comply with the requirement. Recipient will not be obligated to hold confidential any information from the disclosing party which (a) is or becomes publicly known through no act or omission of the Recipient, (b) is received from any person or entity who, to the best of Recipient's knowledge, or Recipient's reason to know, has no duty of confidentiality to the disclosing party, (c) was already known to Recipient prior to the disclosure, and that knowledge was evidenced in writing prior to the date of the other party's disclosure, or (d) is developed by the Recipient without using any of the disclosing party's information.

3.1 REQUIREMENTS FOR PROCESSING ACH DEBITS. MERCHANT shall comply with the following conditions when processing ACH Debits and agrees to complete all transactions in accordance with the provisions of this Agreement and such rules of operation as may be established by GETI from time to time. MERCHANT shall accept only the following ACH Debits as source documents to initiate ACH debit entries through GETI; (a) All demand deposit account ACH Debits must be drawn on or payable through a federally insured depository financial institution; be based on checking accounts where checks were issued with machine-readable with the bank routing number, account number and check serial number printed on the check, and be for an amount less than \$5000. (b) Customer shall authorize by signature written agreement containing ACH Debit amount and day of month to be debited from customer's account. (c) All items, goods and services purchased in a single transaction shall be included in the total amount on a form of proof of purchase; (d) To be eligible for guarantee coverage, if guarantee service was selected by MERCHANT and approved by GETI, MERCHANT shall have customer provided on the signed written payment agreement sufficient information to verify and locate customer, including address, telephone number, driver's license number, and last four digits of customer's social security number or year of birth. (e) Once GETI authorizes the transaction, MERCHANT shall ensure that the proof of purchase contains the following correct information: (a) the customer's bank routing and account number from the MICR data; (b) MERCHANT'S correct name and business address; (c) the date of the transaction; (d) the total cash price of the sale (including all applicable state, federal or local surcharges and taxes. (e) After customer electronically accepts the receipt, MERCHANT shall deliver to the person presenting the ACH Debit a true and completed copy of the proof of purchase with the goods and services purchased; (f) MERCHANT'S failure to input the correct routing number or account number into the Virtual Terminal will result in MERCHANT'S loss of guarantee for the ACH Debit. (g) No ACH Debit may be altered after GETI authorizes acceptance of the ACH Debit. MERCHANT may not resubmit an electronic check or ACH Debit electronically or deposit it by any means once GETI authorizes a transaction. Failure to comply with the above requirements will, in addition to other penalties (such as but not limited to loss of guarantee on all ACH Debits), subject MERCHANT to chargebacks and may be grounds for immediate suspension/termination of services and indemnification of GETI by MERCHANT pursuant to this Agreement. **YOU UNDERSTAND THAT IT IS A FEDERAL VIOLATION TO PROCESS DEBIT REQUESTS AGAINST A CONSUMER BANK ACCOUNT WITHOUT THE CUSTOMERS EXPRESSED AUTHORITY. YOU HEREBY ACKNOWLEDGE RECEIPT OF PROPER NOTICE THAT THE USE OF ANY COUNTERFEIT, FICTITIOUS, LOST, STOLEN, OR FRAUDULENTLY OBTAINED DEBIT INSTRUMENT OR DEVICE TO UNLAWFULLY INITIATE A DEBIT TRANSACTION IS PUNISHABLE BY A MAXIMUM OF \$10,000.00 FINE, IMPRISONMENT FOR A TERM OF TEN YEARS, OR BOTH.**

3.2 CUSTOMER'S AUTHORIZATION INITIATES DEBIT ENTRY. MERCHANT acknowledges that the customer's authorization allows MERCHANT to instruct GETI to initiate an ACH DEBIT ENTRY ("ENTRY") for MERCHANT against customer. It further permits GETI to reinitiate an ENTRY where the original ENTRY is returned and to assess a collection fee against CUSTOMER. All such collection fees shall be the sole property of GETI. GETI shall be entitled to multiple re-presentments and to assess a transaction fee as set forth in the schedule against MERCHANT for each re-presentation. If an ACH Debit is returned unpaid after each re-presentation, GETI shall be entitled to debit the MERCHANT'S account for the amount of the ACH Debit.

3.3 RESTRICTIONS ON ACCEPTANCE OF ACH DEBITS FOR ELECTRONIC PROCESSING. From time to time, GETI shall establish necessary security and identification procedures for presentation of checks or debits for electronic processing pursuant to the Rules and applicable law. MERCHANT agrees to comply with such procedures and to accept such "properly presented" checks or debits for electronic processing. GETI shall establish minimum and maximum amount limitations on ACH Debits presented for electronic processing by MERCHANT. MERCHANT shall not accept or attempt to process ACH Debits below the minimum or in excess of the maximum limitations established by GETI. In no event will GETI accept an ACH Debit greater than \$5000 for processing without prior written authorization by GETI. GETI shall also establish the number of ACH Debits that may be submitted on a daily basis by any customer for electronic processing. MERCHANT agrees to provide GETI with any and all information needed to establish such limitations. MERCHANT further agrees to inform GETI immediately of any changes in business activities, rules or regulations, which may affect these limitations. MERCHANT further agrees to abide by these limitations as a condition to GETI electronically processing any ACH Debit. For an ACH Debit transaction to be valid, customer must initiate the transaction and complete the ACH Debit Payment Agreement.

3.4 UNACCEPTABLE TRANSACTIONS. In addition to the restrictions set out above and in any event, the following transactions are unacceptable for electronic processing. MERCHANT agrees not to submit any of the following transactions to GETI for electronic processing: (a) MERCHANT shall not electronically process any ACH Debit drawn on any depository institution that is not federally insured or part of the ACH network, (b) MERCHANT shall not electronically process any ACH Debit drawn on the personal checking account of MERCHANT or any of its agents or employees, (c) MERCHANT shall not accept any third party items for electronic processing or ACH Debit made payable where the purpose is for the customer to receive cash or cash back, (d) MERCHANT shall not submit for processing any transaction representing the financing of an existing obligation whether previously owed to MERCHANT, arising from the dishonor of an ACH Debit, electronic check or arising from a credit card, debit card or smart card dispute with the MERCHANT, (e) MERCHANT shall not submit a transaction for processing which represents an attempt to collect a chargeback, (f) MERCHANT shall not submit an ACH Debit written for goods or services that are not concurrently provided to the customer, including any ACH Debit given for gift certificate, a layaway (except for the final payment) or for a similar transaction, or for goods or services provided to a third party, (g) MERCHANT shall not submit an ACH Debit which is altered by the Merchant in any way (h) MERCHANT shall not knowingly submit an ACH Debit on an account on which GETI previously denied authorization. MERCHANT'S submission of any of the above transactions for electronic processing may subject the MERCHANT to immediate suspension or termination and all funds of MERCHANT, including those in MERCHANT'S account, may be placed on hold.

3.5 SURCHARGES AND TAXES. MERCHANT shall not impose any surcharge on any processed ACH Debit transaction. MERCHANT shall collect all required taxes at time of sale. All required taxes must be included in the total transaction amount at the time such is submitted for authorization by GETI and must be reflected in the face amount of the ACH Debit. In any event, MERCHANT shall not collect any required taxes separately in cash, or otherwise. MERCHANT is responsible for paying all taxes collected to the appropriate authorities in a timely manner.

4.1 SOFTWARE. MERCHANT shall utilize ACH Debit software provided by GETI for processing all ACH Debit transactions. (a) MERCHANT is responsible for all telecommunication fees and charges, including but not limited to telephone fees, associated with and related to the use of the software. (b) MERCHANT shall maintain all equipment necessarily related to ACH Debit processing, including necessary file servers, computer and telecommunications equipment in good working order at MERCHANT'S sole expense. (c) MERCHANT shall advise GETI immediately in the event of breakdown of related equipment, ACH Debit software problems or of any other system failure. (d) MERCHANT acknowledges that GETI is not responsible for any related computer and telecommunications equipment used by the Merchant. In this regard, GETI shall not be responsible for any unauthorized tampering or altering to equipment and software specifically installed by GETI on the part the Merchant or Merchant's agent. Additionally, GETI'S approval of such equipment does not constitute an express or implied warranty, representation or endorsement of such equipment.

4.2 USE OF EQUIPMENT. MERCHANT agrees to utilize only equipment approved by GETI for the electronic processing of ACH Debits and in a format and medium of transmission acceptable to GETI.

4.3 VIRTUAL TERMINAL. The GETI Virtual Terminal requires Internet Explorer 6.0 or higher. Supported Operating Systems: WindowsXP ®, Windows Vista ®. Merchant is responsible for all telecommunication fees and charges, including but not limited to telephone fees associated with and related to the use of the GETI Virtual Terminal Software.

5.1 DAILY SETTLEMENT OF TRANSACTIONS. MERCHANT agrees that a batchfile shall consist of all transactions submitted by 12:00 P.M. (CST) each calendar day. MERCHANT acknowledges that a request to not process a batchfile could result in a \$50.00 fee per day that those transactions are not processed for ACH submittal by GETI. Merchant acknowledges that it is customary for GETI to hold in reserve from Merchant an amount equal to three times the daily average of returns. GETI reserves the right to hold additional monies as necessary to reduce any risk associated with daily processing of ACH Debits. GETI also reserves the right to move monies into an account of its choosing to hold it against returns to those monies and providing to the merchant a net deposit after a period of time acceptable to GETI. MERCHANT acknowledges that failure to submit batchfiles for processing will delay funds being deposited. If so requested by GETI, the signed Recurring or One-Time Debit Payment Plan Authorization Form must be sent out and received at GETI'S designated location within 48 hours from the request date. Failure to do so will remove GETI'S obligations under the Guarantee program for such ACH Debits at GETI'S sole discretion.

5.2 NETTING OF TRANSACTIONS. MERCHANT acknowledges that all transactions between GETI and MERCHANT under this Agreement, except assessment of fees, shall be treated as a single transaction for purposes of daily settlement between MERCHANT and GETI.

5.3 PAYMENT. MERCHANT acknowledges that this Agreement provides for the provisional settlement of MERCHANT'S transactions, subject to certain terms and conditions, fees, credit transactions, contingent claims for chargebacks, adjustments and final settlement including but not limited to those enumerated herein. All payments to MERCHANT for legitimate and authorized transactions shall be made by GETI through the ACH and shall normally be electronically transmitted directly to MERCHANT'S designated account. However, GETI cannot guarantee the timeliness with which any payment may be credited by MERCHANT'S bank. MERCHANT understands that due to the nature of the ACH and the electronic networks involved and the fact that not all banks belong to the ACH, payment to MERCHANT can be delayed. In such cases, MERCHANT agrees to work with GETI to help resolve any problems in crediting MERCHANT'S designated account. In the event that a payment is rejected by MERCHANT'S bank or fails to arrive within five to seven days from the date of settlement due to problems beyond GETI'S control, GETI may periodically wire transfer all funds due MERCHANT until the problem is corrected, at

MERCHANT'S EXPENSE. All payments to MERCHANT shall be made after first deducting therefrom any discount fee, transaction fee, credit, chargeback, reserve or other fee or charge for which MERCHANT is responsible pursuant to this Agreement. Said charges and fees shall be deducted from incoming transactions or may be debited against MERCHANT'S designated Account at GETI'S sole discretion, without any further notice or demand.

5.4 **AUTHORIZATION TO ACCESS MERCHANT'S ACCOUNT.** MERCHANT hereby authorizes GETI to initiate debit and credit entries to MERCHANT'S designated account. MERCHANT'S authorization shall continue in effect for at least 120 days after termination of this Agreement, or for a longer period as determined necessary by GETI in the exercise of its sole discretion in order to properly terminate business. GETI will generally transmit settlement to MERCHANT'S bank within 5 to 7 banking days. In cases where MERCHANT has been approved by GETI in advance to initiate credit entries, the debit to MERCHANT'S account will be initiated first and the credit to the customer may be held until MERCHANT'S debit clears, generally within 6 banking days or for a longer period as determined necessary by GETI to insure the funds have cleared MERCHANT'S account. GETI may holdback certain amounts where GETI is investigating a transaction for breach of warranty by MERCHANT or for other reasons. GETI shall monitor MERCHANT'S transactional activity and MERCHANT agrees that GETI may delay funds for a reasonable period to investigate account activity. GETI will attempt to notify MERCHANT of any investigation but GETI shall have no liability to MERCHANT or any other party, for any such actions taken by GETI. MERCHANT agrees that GETI may hold, setoff or retain funds to protect against amounts owed GETI or based on MERCHANT'S financial condition. GETI will not be liable for any dishonor of any item as a result of actions taken hereunder. Any account is subject to review, verification, audit and acceptance by GETI. GETI may return any item to MERCHANT for correction or proper processing.

5.5 **RETURNS AND CREDITS.** MERCHANT shall maintain a fair policy permitting refunds, exchanges, returns and adjustments. During the term of this Agreement, MERCHANT shall be responsible for making all cash or ACH Debit refunds to customer after a transaction has been released for settlement. Unless MERCHANT has been approved by GETI in advance to initiate credit entries for a lesser amount than the original ACH Debit entry, MERCHANT must initiate a credit receipt for the same amount as the debit entry to effect voids, which occur the same day as the day of authorization and prior to closing. MERCHANT must use the ACH Debit Software to transmit the credit. MERCHANT shall obtain proper authorization from the Customer whose name is used in the transaction or the customer's authorized representative prior to crediting Customer's account. The customer or its authorized representative shall approve the completed credit receipt and a copy of the credit receipt shall be delivered to the customer at the time of each cancellation of a transaction. Each debit and credit entry shall constitute a separate transaction for which a processing fee will apply. If it becomes necessary for a reversal of a transaction to be initiated, MERCHANT shall request in writing GETI to initiate such reversal. MERCHANT shall give GETI enough information to create such reversal. A fee of no more than twenty-five dollars for each transaction reversal may be charged by GETI.

6.1 **WARRANTIES BY MERCHANT.** MERCHANT warrants and agrees to fully comply with all federal, state, and local laws, rules and regulations, as amended from time to time, including those with respect to consumer protection. MERCHANT also warrants not to change the nature of its business as indicated on the Application attached hereto and submitted herewith or to modify the ownership of the business without the prior written consent of GETI. With each transaction presented to GETI by MERCHANT for authorization, MERCHANT specifically warrants and represents that: (a) each customer has authorized the debiting or crediting of its checking account, that each debit or credit is for an amount agreed to by the customer; (b) each debit or credit entry was authorized by the person named on the checking account or the authorized representative or agent of such person; (c) the proof of purchase is valid in form and has been completed in accordance with all applicable laws and all of the provisions set forth in this Agreement; (d) the total amount of each proof of purchase evidences all goods and services purchased in a single transaction (e) MERCHANT has delivered the goods or completed the services identified in the authorized proof of purchase draft; (f) each sales draft represents a bona fide direct sales transaction between the MERCHANT and the person presenting the ACH Debit in the MERCHANT'S ordinary course of business and that the amount of the sales draft evidences the customer's total indebtedness for the transaction involved; (g) the person presenting the ACH Debit has no claim, defense, right of offset, or dispute against MERCHANT in connection with the purchase of the goods or services and MERCHANT will provide adequate services to the person presenting the ACH Debit and will honor all warranties applicable thereto; (h) MERCHANT has not charged any separate or additional fee(s) in connection with the transaction other than as may be required by law. The foregoing shall not prohibit MERCHANT from extending discounts to customers paying by cash or by any means other than ACH Debit processing; (i) all of MERCHANT'S business locations engage in the business activity listed on the face of this Agreement; (j) MERCHANT, nor any of its employees have submitted ACH Debits drawn from their personal ACH Debiting accounts on the MERCHANT'S ACH Debit software; (k) MERCHANT uses only the name and address shown on the front of the Agreement on all its sales drafts; (l) MERCHANT has not submitted duplicates of any transaction; (m) MERCHANT warrants that ACH Debit banking information on the printed receipt is correct; and (n) no transaction submitted for authorization to GETI is with or through an entity other than MERCHANT.

7.1 **LIMITATION OF LIABILITY AND MERCHANT'S WAIVER OF DAMAGES.** GETI shall be responsible for performance of the ACH services as a third-party provider in accordance with the terms of this Agreement. GETI shall not be responsible for any other person's or entity's errors, acts, omissions, failures to act, negligence or intentional conduct, including without limitation entities such as GETI'S communication carrier or clearing houses, and no such entity shall be deemed to be a representative or an agent of GETI. **IN NO EVENT SHALL GETI BE LIABLE TO MERCHANT FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES WHICH MERCHANT OR ITS CUSTOMERS, AFFILIATES, PARENT COMPANIES, ASSOCIATES, AGENTS, OFFICERS, DIRECTORS OR EMPLOYEES MAY INCUR OR SUFFER IN CONNECTION WITH THIS AGREEMENT, INCLUDING LOSS OR DAMAGE FROM SUBSEQUENT WRONGFUL DISHONOR OF ACH DEBITS RESULTING FROM GETI'S ACTS OR OMISSIONS PURSUANT TO THIS AGREEMENT.**

7.2 **FORCE MAJEURE.** GETI shall not be responsible for delays, nonperformance, damages, lost profits or other losses caused directly or indirectly by any Act of God, including without limitation fires, earthquakes, tornadoes, hurricanes, wars, labor disputes, communication failures, legal constraints, power outages, data transmission loss or failure, incorrect data transmission or any other event outside the direct control of GETI.

8.1 **CHARGEBACKS AND RETURNS.** MERCHANT shall bear all risk of loss, without warranty or recourse to GETI for the amount of any transaction, applicable fees, or other amounts due GETI (including GETI'S actual costs and expenses) due to or caused by chargebacks and returns of any kind, whether for customer chargebacks, insufficient funds, administrative or corporate returns, or any other type of returns, except as set forth in the ACH Debit Guarantee provisions below (provided that MERCHANT has purchased and GETI agreed to provide Guarantee services). GETI shall have the right to debit MERCHANT'S incoming transactions, designated account or any other funds of MERCHANT in GETI'S direct or indirect control by reason of GETI'S security interest granted to GETI by MERCHANT hereunder, and to chargeback such transactions to MERCHANT including, but not limited to any of the following situations: (a) where goods have been returned or service canceled by the person submitting the ACH Debit for electronic processing and that person has requested a credit draft and such credit draft was not processed by MERCHANT; (b) where the transaction is for a type of goods or services sold other than as disclosed in the merchant application or approved in advance by GETI or the amount shown on the proof of purchase differs from the copy given to the customer; (c) where a customer contends or disputes in writing to GETI, or the customer's financial institution named on the ACH Debit that: (1) Goods or services were not received; or (2) Goods or services received do not conform to the description on the proof of purchase; or (3) Goods or services were defective or the customer has a claim, dispute or defense to payment related to the transaction; or (4) The dispute reflects a claim or defense authorized by a relevant statute or regulation, (d) where a proof of purchase or credit receipt was not received by GETI as required hereunder or is subject to indemnification charged back by the customer's financial institution; (e) where the transaction was generated through the use of an account that was not valid or effective on the transaction date or which was made on an altered or counterfeit ACH Debit or of which MERCHANT had notice not to honor and failed to reject the transaction or if MERCHANT disregarded any denial of authorization; (f) where no signature or electronic acceptance of the transaction appears on the proof of purchase (or the proof of purchase does not contain the information from the ACH Debit) or if MERCHANT failed to obtain specific authorization in advance from GETI to complete the transaction and/or a valid authorization number was not on the proof of purchase and/or the customer has certified in writing to GETI or his financial institution that no authorized user made or authorized the transaction; (g) where security procedures were not followed; (h) where the customer's financial institution or GETI has information that MERCHANT fraud occurred at the time of the transaction(s), or the transaction is not a sale by MERCHANT whether or not such transaction(s) was authorized by the customer; (i) in any other situation where the proof of purchase was executed or a credit was given to MERCHANT in circumstances constituting a breach of any representation or warranty of MERCHANT or in violation of applicable law or where MERCHANT has not provided documents or resolved a customer dispute whether or not a transaction is charged back, and (j) a proof of purchase was charged back and represented whether or not the customer knows or consents to this representation. If, with respect to any one of MERCHANT'S outlets, the amount of or number of any counterfeit or fraud incidents becomes excessive, in the sole determination of GETI, MERCHANT may be charged back for all transactions, this Agreement may be terminated immediately without notice, and MERCHANT'S funds, including but not limited to those in incoming transactions and in MERCHANT'S designated account, shall be held pursuant to the provisions herein. GETI shall retain any discount or fee related to a chargeback transaction. MERCHANT agrees that GETI will assess up to twenty-five dollars for each chargeback, or such increased or additional charges as may be established by GETI from time to time. **Additionally, GETI shall have the same rights to debit MERCHANT'S account for transactions returned or not honored for any reason, including but not limited to insufficient funds, administrative or corporate returns, or any other kind of returned transaction. If MERCHANT has requested the ACH DEBIT GUARANTEE service, and GETI has accepted the application for GUARANTEE service, certain transactions are guaranteed, as listed in the ACH DEBIT GUARANTEE provisions below.**

8.2 **CHARGEBACK AND RETURNS RESERVE ACCOUNT.** Notwithstanding any other language to the contrary contained in this Agreement, GETI reserves the right to establish, without notice to MERCHANT, and MERCHANT agrees to fund a non-interest bearing Chargeback Reserve Account, or demand other security and/or to raise any discount fee or transaction fee hereunder, upon GETI'S reasonable determination of the occurrence of any of the following: (a) MERCHANT engages in any processing of charges which create an overcharge to the customer by duplication of charges; (b) Failure by MERCHANT to fully disclose the true nature or percentage of its actual or intended telephone and/or mail order business; (c) Failure by MERCHANT to fully disclose the true nature of its business to GETI to permit a fully informed decision as to the suitability of MERCHANT for processing through GETI; (d) Failure by MERCHANT to fully disclose the true ownership of MERCHANT'S business entity or evidence of fraud; (e) Processing by MERCHANT of unauthorized charges or any other action which violates applicable risk management standards of GETI or is likely to cause loss; (f) Any misrepresentation made by MERCHANT in completion of the Merchant Application or breach of any other covenant, warranty, or representation contained in this Agreement or applicable law including a change of type of business without prior written approval by GETI; (g) MERCHANT has chargebacks which exceed 1% of the total number of transactions completed by MERCHANT in any thirty (30) calendar day period; (h) Excessive number of requests from customers or issuing banks for retrieval of documentation; (i) MERCHANT'S financial stability is in question or MERCHANT ceases doing business; or (j) Upon notice of or termination of this Agreement. After payment or adequate provision for payment is made by GETI, for all obligations on the part of MERCHANT to GETI under this Agreement, MERCHANT may request GETI to disburse to MERCHANT any funds remaining in the Chargeback Reserve Account unless otherwise agreed to by GETI. Such funds will not be disbursed to MERCHANT until the end of one hundred twenty (120) days after termination of this Agreement or ninety (90) days from the date of the last chargeback activity, whichever is later, unless GETI in its sole discretion has reason to believe that customer chargeback rights may be longer than such period of time or that loss is otherwise likely, in which event GETI will notify MERCHANT of such fact and GETI will set the date when funds shall be released. No monies held in the Chargeback Reserve Account shall bear interest. Provisions applicable to the designated account are also applicable to this account.

8.3 **COLLECTIONS.** MERCHANT acknowledges and agrees that when collection services are required, GETI may utilize an appropriately licensed third party to perform such collection services. MERCHANT further authorizes GETI to perform collection services for MERCHANT.

9.1 **ACH DEBIT GUARANTEE.** The ACH Debit Guarantee provisions are operational only if MERCHANT has marked the ACH Debit Guarantee box on the application form of the agreement. MERCHANT must utilize the GETI Virtual Terminal to qualify for Guarantee coverage. Guarantee coverage is only available for Single ACH Debit services and are not offered for Recurring ACH Debit services. If so marked, MERCHANT wishes GETI to provide a guarantee for reimbursement of losses sustained by MERCHANT in accepting Single ACH Debits for electronic processing. In addition to the provisions previously set forth and notwithstanding any provisions to the contrary, GETI has established a per account Guarantee Limit, as per the Schedule, based on a percentage of the face amount of any and all checks (and a local access [Transaction Fee] fee) as set forth in the pricing section of the agreement) presented at MERCHANT'S place of business or at other locations which are listed in any attachments to this Agreement, subject to the terms and conditions set forth in this Agreement. GETI shall reimburse MERCHANT per Schedule, up to the Guarantee Limit, as measured from the date of verification of non-payment, subject to MERCHANT'S compliance with all of the terms and conditions contained in this Agreement or any of GETI'S other published instructions. GETI shall have the right to adjust MERCHANT'S rate including ACH Debit Guarantee rate based upon its sole determination. Each month MERCHANT shall have access to an itemized summary of ACH Debit deposits. GETI shall process up to the check limit established for MERCHANT, but will not be responsible for reimbursement of checks exceeding the MERCHANT'S approved guarantee limit. The following transactions types are not included in the ACH Debit Guarantee service, and GETI assumes no liability for and will provide no reimbursement for transactions as follows: Incorrect MICR data entry, unable to locate account or invalid account number returns, (R29) Unauthorized Corporate returns, customer chargebacks or customer revocations of any transaction. Merchant agrees to provide any additional information to GETI on occasion as needed to assist in collection efforts. **ACH Debit Guarantee reimbursement shall only serve to cover MERCHANT losses due to Insufficient Funds returns up to the per account guarantee limit placed in the approval section of the contract.**

9.2 **MERCHANT SHALL PAY.** A Discount Fee, as per schedule, based upon a percentage of the face amount of ACH Debits during the month, a transaction fee for network access, a Monthly Minimum fee (MM) to be paid each month, as per schedule; a per transaction fee for each ACH deposit, a per transaction fee for each electronic inquiry to the database that does not result in an electronic transfer of funds, a batch-out fee (batch-out as described in section 5.1), a Subscription Fee as per Schedule; a return fee as per schedule; a Network Compliance fee up to \$4.00 per month. Additionally, a fee up to twenty-five dollars may be assessed for each reversal requested by MERCHANT at GETI'S sole discretion, and an annual subscription fee up to \$59.95. If MERCHANT terminates this agreement, a one-time termination fee of one hundred twenty-five dollars (\$125.00) will be assessed and electronically debited from MERCHANT'S account for administrative processing. Merchant shall pay all associated fees for a minimum term of one (1) year. MERCHANT must promptly notify GETI in writing of any dispute regarding fees under this Agreement. MERCHANT'S written notice must include: (i) MERCHANT name and account number; and (ii) the dollar amount and description of the disputed fees. Such written notice must be received by GETI no later than ninety (90) days after the disputed fees have been paid by MERCHANT or charged to MERCHANT'S account by GETI. MERCHANT'S failure to so notify GETI will waive and bar the dispute.

9.3 **ACH DEBIT PROCESSING.** GETI shall not be responsible for the payment of any ACH Debits of MERCHANT that GETI has not received for processing from MERCHANT within twenty-four hours of the initial transaction date of said ACH Debit(s). MERCHANT shall be required to submit all documentation related to the transactions to GETI at GETI's request. MERCHANT shall make its books and records available to GETI.

9.4 **ASSIGNMENT OF ACH DEBITS.** As of the date of this Agreement and by subscribing to GETI service, MERCHANT shall be deemed to have assigned to GETI, all of MERCHANT's right, title and interest in any and all ACH Debits return fees, including any rights to treble or punitive damages permitted under applicable law. MERCHANT shall execute and deliver endorsements, instruments, and papers and shall do whatever is necessary under the laws of any applicable jurisdictions to secure and defend GETI's rights and shall do nothing to prejudice those rights. MERCHANT shall cooperate with GETI in pursuing GETI's rights, including suing or prosecution of the customer under all applicable laws.

10.1 **ACH DEBITS FOR WHICH MERCHANT WILL NOT BE FUNDED ON UNDER ACH DEBIT GUARANTEE.** In addition to the provisions set forth in this Agreement and notwithstanding any other provisions to the contrary, GETI shall have no obligation to reimburse Merchant for ACH Debits that are: (a) Not honored by the customer's financial institution because of the customer's instructions to "stop payment" on the ACH Debit; (b) Fraudulent, whether MERCHANT, its employees or agents are involved, either as principal or as an accessory, in the issuance; (c) Accepted by merchant or its employees with advance knowledge of the likelihood of its being dishonored even though authorized by GETI; (d) Lost, stolen, altered or counterfeit, and GETI has reason to believe that MERCHANT failed to use reasonable care in verifying the customer's identity; (e) Given as a substitute for a previously accepted ACH Debit or ACH Debit, whether or not the previous Electronic check or ACH Debit was authorized by Company or, any ACH Debit upon which Merchant has accepted full or partial payment; (f) One of multiple electronic checks or ACH Debits presented to Merchant in a single transaction for electronic processing; (g) For goods, if the goods are subsequently returned by customer or repossessed by merchant or lien holder, within 65 days of date of purchase; (h) Not honored by the customer's financial institution because of the failure of, the closing of, or government-imposed restrictions on withdrawals from the financial institution; (i) ACH Debits for which Merchant returns cash back to the customer, unless Merchant is approved in writing by GETI for such cash-back transactions; (j) ACH Debits for which GETI previously denied authorization; (k) ACH Debits not in compliance with this agreement and not processed in accordance with the ACH Debit processing provisions of this Agreement. (l) Incorrect Routing and Account Number data entry; (m) unable to locate account or invalid account number returns or unauthorized corporate account returns. In addition, before processing the ACH Debit and as a condition to honoring the ACH Debit, MERCHANT shall obtain sufficient personal information to locate the person presenting the ACH Debit including but not limited to a current home or business telephone number including area code, a current home address consisting of a street or rural route address, not a post office box, and the customer's valid, unexpired driver's license number or non-driver identification number together with the state of issuance, and the last four digits of customer's social security number or year of birth in YYYY format. MERCHANT shall ensure that this identifying information is legibly printed on the ACH Debit Payment Agreement form; (n) ACH Debit Payment Agreement form must contain a current phone number of customer; (o) ACH Debit Payment Agreement form must contain the customer's drivers license number; (p) GETI must receive the completed ACH Debit Payment Agreement form within 48 hours of GETI's request; (q) MERCHANT's failure to input into the Virtual Terminal the correct routing number and/or account number will result in MERCHANT's loss of guarantee.

11.1 **COMPLIANCE AND DISCLOSURE OF INFORMATION.** MERCHANT shall provide such information and certifications as GETI may reasonably require from time to time to determine MERCHANT'S compliance with the terms and conditions of this Agreement and applicable law. MERCHANT further agrees to provide to GETI from time to time such information including, but not limited to, credit reports, personal and/or business financial statements, income tax returns, or other such information as GETI may request. MERCHANT grants to GETI continuing authority to conduct credit ACH Debits and background investigations and inquiries concerning MERCHANT and MERCHANT'S owner(s) including, but not limited to, character and business references and the financial condition of MERCHANT and MERCHANT'S owner(s). MERCHANT expressly authorizes GETI or its agents, attorneys, accountants, and representatives to provide and receive such information from any and all third parties directly, without further consent or authorization on the part of MERCHANT. GETI may share with others its credit, sales and other information. MERCHANT will not transfer, sell, or merge or liquidate its business or assets or otherwise transfer control of its business, change its ownership in any amount or respect, engage in any joint venture partnership or similar business arrangement, change its basic nature or method of business, types of products sold or engage in sales by phone or mail order without providing notice to GETI and provide GETI with the opportunity to terminate this Agreement.

11.2 **COMPLIANCE WITH THE RULES AND APPLICABLE LAW.** The Merchant's rights and obligations with respect to any Entry are governed by the NACHA Rules ("the Rules"), this Agreement and applicable law. The Merchant agrees to comply with and be bound by "the Rules". The Merchant agrees to comply with applicable state and federal law or regulation and Merchant warrants that it will not transmit any Entry that violates the laws of the United States, including, without limitation, regulations of the Office of Foreign Asset Control (OFAC).

12.1 **DATA RETENTION.** MERCHANT shall retain all records related to authorization, including all sales and credit receipts for a period of no less than two years following the date of the transaction. According to GETI'S current policies, MERCHANT shall retain for a period of 2 years all ACH Debits received from customers.

14.1 **ADDITIONAL MERCHANT REPRESENTATIONS.** MERCHANT agrees to permit GETI to audit MERCHANT'S transaction data upon reasonable notice. MERCHANT agrees that any outstanding amount(s) owed to GETI shall be subject to a 1.5% finance charge monthly. Any outstanding sums will be sent to an outside collection agency and charged the maximum amount of civil, legal and collections fees / charges as is allowed by law. MERCHANT will not disclose and will keep confidential the terms and conditions of this Agreement.

15.1 **ADDITIONAL GETI RESPONSIBILITIES.** GETI will accept entries via ACH Debit software on a 24-hour per day basis. GETI is only responsible for processing entries that have arrived at its premises in a proper format and on a timely basis. GETI will use information provided by MERCHANT to originate its entries in the ACH. MERCHANT understands and agrees that GETI may reject MERCHANT'S entries for any reason permitted in this Agreement and/or if acceptance of such entry would cause GETI to potentially violate any federal, state or local law, rule statute, or regulation, including without limitation any Federal Reserve or other regulatory risk control program. At MERCHANT'S written request, GETI will make reasonable efforts to reverse or delete an entry, but will under no circumstance be liable for the failure to comply with such request.

16.1 **INDEMNIFICATION.** MERCHANT agrees to indemnify GETI for any cost, expense, damage, lost profit and/or attorney's fees caused by any breach of its obligations or representations in this Agreement.

17.1 **NON-WAIVER.** Neither the failure nor any delay on the part of GETI to exercise any right, remedy, power or privilege hereunder shall operate as a waiver thereof or give rise to an estoppel nor be construed as an agreement to modify the terms of this Agreement, nor shall any single or partial exercise of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver by a party hereunder shall be effective unless it is in writing and signed by the party making such waiver, and then such waiver shall apply only to the extent specifically stated in such writing.

18.1 **ASSIGNMENT.** MERCHANT may not assign or transfer any rights under this Agreement unless and until it receives the prior written approval of GETI

18.2 **TERMINATION.** This Agreement shall continue indefinitely unless and until terminated by any party. MERCHANT may terminate this Agreement after one (1) year and thereafter upon **sixty (60)** days written notice to GETI. There will be a termination charge (\$125.00) for terminating services. Monthly minimum and subscription fees will continue in effect for this time. GETI shall have the right to suspend or terminate this Agreement immediately and without notice to MERCHANT.

19.1 **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, such counterparts to constitute but one and the same instrument.

20.1 **SCHEDULE OF FEES.** Attached to this Agreement and incorporated herein by reference is a Schedule of Fees, which contains the Discount Fee, Transaction Fees Minimum Monthly Discount Fee, Subscription Fee, and other terms and conditions in effect on the commencement date of this Agreement. GETI reserves the right at all times to unilaterally change all or part thereof, or any other terms of this Agreement upon written notice to MERCHANT.

20.2 **APPLICATION FEE.** Any application fee paid to GETI is non-refundable whether or not this Agreement is accepted by GETI.

21.1 **ENTIRE AGREEMENT.** This Agreement, including the attached Schedules, together with the Account Agreement, is the complete and exclusive statement of the agreement between GETI and the MERCHANT with respect to the subject matter hereof and supersedes any prior agreement(s) between GETI and the MERCHANT with respect to the subject matter. In the event of any inconsistency between the terms of this Agreement and the Account Agreement, the terms of this Agreement shall govern. In the event the performance of the services provided herein in accordance with the terms of this Agreement would result in a violation of any present or future statute, regulation or government policy to which GETI, the Originating Depository Financial Institution (ODFI) or MERCHANT is subject, and which governs or affects transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation or policy and GETI, the ODFI and MERCHANT shall incur no liability as a result of such changes except as provided in the following paragraph.

22.2 **AMENDMENTS.** As stated in paragraph 21.1, GETI, the ODFI or MERCHANT may amend operations or processing procedures in order to conform to and comply with any changes in the Rules or applicable Federal or State Regulations. The changes would be, without limitation, those relating to any cut-off time and the close of any business day. Such amendments to operations or procedures shall become effective upon receipt of written notice to the other party, as provided for herein, or upon such date as may be provided in the NACHA Rules or applicable law or regulation referenced in the written notice, whichever is earlier in time. Use of the ACH services after any such changes shall constitute acceptance of the changes by the parties. No other amendments or modifications to this Agreement will be effective unless such changes are reduced to writing and are signed by the duly authorized party or parties to this Agreement and such Amendments are incorporated into and made a part of this document.

23.1 **BINDING AGREEMENT: BENEFIT.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns. This Agreement is not for the benefit of any other person or entity and no other person or entity shall have any right against GETI.

24.1 **ATTORNEYS' FEES.** In the event that it becomes necessary for GETI to employ an attorney to enforce, interpret, mediate or arbitrate this Agreement, GETI shall be entitled to recover its reasonable attorneys' fees, costs, and disbursements related to such dispute from MERCHANT

25.1 **GOVERNING LAW, VENUE, & JURISDICTION.** Notwithstanding any language to the contrary, all issues related to the electronic processing of ACH Debits under the terms of this Agreement shall be determined in accordance with the NACHA Rules, laws of the United States of America and the State of Florida as it applies to contracts. In the event of a conflict between the Rules and applicable local, state or federal law, the Rules shall prevail unless otherwise prohibited by law. MERCHANT acknowledges that this Agreement was formed in Destin, Florida upon its acceptance by GETI. All parties hereby submit to the exclusive jurisdiction and venue of the State of Florida, County of Okaloosa or Federal District Court for the Northern District of Florida for the purposes of any legal action arising in connection with such obligations.

26.1 **SEVERABILITY.** If any provision of the Agreement is held to be illegal, invalid, or unenforceable, in whole or in part, by court decision, statute, or rule (or otherwise would go in if you wanted to include arbitration) such holding shall not affect any other provisions of this Agreement. All other provisions or parts thereof shall remain in full force and effect and this Agreement shall, in such circumstances, be deemed modified to the extent necessary to render enforceable the provision hereof.

27.1 **HEADINGS.** The headings in this Agreement are used for referenced purposes only. They shall not be deemed as part of this Agreement and shall not affect its interpretation.

28.1 **EFFECTIVE DATE.** This Agreement shall be effective only upon acceptance by GETI.

29.1 **IN WITNESS WHEREOF** the parties hereto have caused this Agreement to be executed by their duly authorized officers.

Rev. 04-07-09 GETI, INC. MERCHANT AGREEMENT 3.0

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