

PAYMENT SERVICES AGREEMENT

THIS AGREEMENT CONTAINS AN ARBITRATION CLAUSE.

Dated: September 5, 2024

This Payment Services Agreement ("**Agreement**") is a legal agreement between you ("**you**," "**your**") and PROPAY, INC., a Utah corporation ("**ProPay**," "**we**," "**our**," "**us**") governing your use of your ProPay Account (as defined below) and our payment processing services (collectively, the "**Services**"). You must accept all of the terms of this Agreement to use the Services. Changes to this Agreement will be dated and posted on the ProPay website.

1. **THE SERVICES.** You may use the Services to accept credit and debit card payments from your business customers using Visa, Mastercard, Discover and American Express (collectively the "**Card Brands**"). You may not use the Services for personal, family, or household use.
2. **PROPAY ACCOUNT.** You must open an account with us ("**ProPay Account**") to use the Services. A ProPay Account is not a bank account and no funds are actually held in this account. Rather, it is a ledgering system that tracks your transaction proceeds resulting from your use of the Services. We will instruct our sponsor bank to deposit the proceeds from your transactions into a custodial account. We require certain information to open your ProPay Account.
3. **REQUIRED INFORMATION.** You must provide the information that we request from you to open your ProPay Account including verification of your identity, credit, business operations, financial statements, customer information and other information. We reserve the right to decline your application for any reason and we can close your ProPay Account at any time for failure to update this information as requested or if the provided information is incorrect. If the scope or nature of your business, or the type of products or services you offer changes, you must notify us prior to the change. You will be responsible for all our losses and expenses incurred by your failure to report any changes to us.
4. **VERIFICATION.** You authorize us to periodically make any business and personal credit inquiries, identity-verification inquiries, and other inquiries that we consider necessary to verify the information provided on your ProPay Account application.
5. **COMPLIANCE WITH LAWS AND RULES.** You must comply with all Card Brand rules and regulations (collectively, "**Rules**"). Some of these Rules include Payment Card Industry Data Security Standards ("**PCI DSS**") and the Payment Application Data Security Standard ("**PA-DSS**"). An abridged version of the Visa and Mastercard Rules may be viewed at usa.visa.com and www.Mastercardmerchant.com. An abridged version of the American Express Rules (the American Express Merchant Operating Guide – US) may be viewed at www.americanexpress.com/merchantopguide. You also agree to comply with all applicable federal, state, and local laws, rules, and regulations ("**Laws**"). If any document is needed to show your compliance with Laws and Rules, you agree to execute and deliver it to us. If any terms of this Agreement conflict with the Rules, the Rules will govern. We will comply with all applicable Rules and Laws including PCI DSS.
6. **COMPLIANCE WITH PROPAY POLICIES.** As a condition of using the Services, you agree our terms of the [Electronic Funds Transfer Agreement](#), [Privacy Policy](#), [Electronic Communications Agreement](#), [Terms of Use](#), and other policies applicable to your ProPay Account ("**Policies**"). These policies are found at <https://www.propay.com/en-US/Legal/>.
7. **HARDWARE AND SOFTWARE REQUIREMENTS.** You are required to provide and maintain your own compatible hardware and software necessary to use the Services. We recommended that you use a firewall and frequently updated anti-virus software. We will not be responsible for losses due to a security breach.

of your hardware or software. For use of our mobile app, you must have: (a) a compatible mobile phone on a supported carrier; (b) a wireless Internet connection or data coverage to download, install, and use the app; and (c) a compatible card reader device. We are not responsible for charges from your Internet provider or mobile phone carrier that allow you to access the Services.

8. **PROCESSING LIMITS.** There are no monthly processing minimums, but we will assign a maximum dollar amount allowed per sales ticket and an aggregate maximum dollar amount allowed in Card transactions per calendar month. You may request an increase in your per sales ticket or monthly processing sales limit by submitting a request to us. Any increase shall be at our sole discretion, and we reserve the right decrease any previously authorized increase.
9. **TRANSACTION PROCESSING RULES.** In order to process Card transactions, you must understand and adhere to the applicable Rules. The following sections address some but not all of the Rules that must be followed in order to process Card transactions. For instance, chapter 4 of the American Express Merchant Operating Guide contains a description of Rules you must follow for American Express transaction processing. It is your responsibility to understand and follow all Rules.
10. **CARD ACCEPTANCE.** You must honor any valid Card presented by a Cardholder and not express a preference for any of the Card Brands that you accept. You may elect not to accept a certain Card Brand's credit cards or Visa or Mastercard branded debit cards, but you must provide ProPay with written notice if you choose to do so. You must not accept any expired Card or a Card with a card number listed on a current Electronic Warning Bulletin file. You will properly disclose to the Cardholder, prior to processing the transaction, your name, return policy, and other limitations you may have on accepting returned merchandise. Our name will appear in conjunction with your name on Cardholders' statements.
11. **CARD AUTHORIZATION.** You must obtain authorization via methods acceptable to us prior to completing any Card transaction. You must follow any instructions received during the authorization process and not process any transactions that are not authorized. We are not liable to you if we refuse to authorize a transaction. Authorized transactions using expired Cards or that are deemed to be fraudulent will not be funded. You will not have any claim against, or right to receive payment from, a Cardholder or any other customer in any Card transaction if we refuse to authorize the transaction or if the authorized transaction involved fraud or an expired Card.
12. **RECORDS.** You must provide the Cardholder a complete and legible receipt from the Card transaction or refund. You must retain the merchant copy of the receipt in accordance with the applicable Card Brand information security and confidentiality requirements for at least three years following the date of completion of the Card transaction (or such longer period as the Rules may require).
13. **RECURRING TRANSACTIONS.** You may process recurring transactions if you obtain a written request from the Cardholder including a description of the goods and/or services to be charged to the Cardholder's account, the frequency of the recurring charge and its duration. You must retain this information for 24 months. You must notify the Cardholder that he or she is able to withdraw consent for recurring billing charges at any time. The termination of your ProPay Account constitutes immediate cancellation of the Cardholder's consent for recurring billing charges. We have no obligation to notify you of such cancellation, nor shall we have any liability to you arising from any such cancellation. You will not complete any recurring transaction after receiving a cancellation notice from the Cardholder, notice from us to not complete a recurring transaction, or notification that the Card is not to be honored.
14. **FUTURE DELIVERY.** You may only charge a Cardholder for a good or service that has a future delivery date if the charges: (a) represent deposits on (i) custom or special orders (provided that in doing so you are in compliance with applicable law); and (ii) mail orders for items not in inventory at the time the order is placed; and (b) represent advance, partial, or full payment for items the Cardholder requests you to deliver at a later date. You agree to maintain sufficient capital to provide for the delivery of goods or services at the agreed upon future date, independent of any proceeds resulting from Card transactions taken in connection with future delivery transactions.

15. **E-COMMERCE TRANSACTIONS.** You may process e-commerce transactions only if the transactions have been encrypted by a third party vendor acceptable to us. You are liable for all chargebacks and losses related to e-commerce transactions, whether or not they were encrypted. Encryption is not a guarantee of payment and will not waive any provision of this Agreement or otherwise validate a fraudulent transaction. You may obtain authorization up to seven calendar days prior to the shipment date of an e-commerce order. You need not obtain a second authorization if the Card transaction amount is within 15% of the authorized amount, provided that the additional amount only represents shipping costs. Your website must contain all of the following information: (a) complete description of the goods or services offered; (b) return and refund policies; (c) customer service contact information, including email address or telephone number; (d) transaction currency (such as U.S. or Canadian dollars); (e) any export or legal restrictions, if known; and (f) delivery policy.
16. **PROHIBITED PRACTICES, FINES.** We do not allow the Service to be used for high risk transactions or transactions for illegal activities (“**Prohibited Transactions**”). You agree to comply with our High Risk Transactions/Acceptable Use Policy found at <https://www.propay.com/en-us/Legal/ProPay-High-Risk-Acceptable-Use-Policy>. We may, at our sole discretion, suspend the Services for a reasonable period of time required to investigate suspicious or unusual activity. We have no liability for any losses you may attribute to any suspension of your ProPay Account. If you use the Services and engage in Prohibited Transactions, we will hold you responsible for all damages, including, without limitation, fines and other similar charges from the Card Brands, our sponsor banks, payment processors, and service providers. Without limitation, you agree to reimburse us for any and all costs, expenses, and fines levied on us by the Card Brands, our sponsor banks, payment processors, or service providers as a result of your use of the Services or your ProPay Account in violation of this Agreement.
17. **FRAUDULENT TRANSACTIONS.** You will not present any transaction for processing or credit that you know or should know to be fraudulent or not authorized by the Cardholder. We will refer perpetrators of fraudulent transactions, in our discretion, to the appropriate law enforcement agency.
18. **PROPAY MERCHANT SERVICES AGREEMENT FOR HIGH VOLUME MERCHANTS.** The Rules require that you enter into a merchant agreement with our sponsor bank and us if certain Card processing volume thresholds are met by your use of the Services. We will notify you if this occurs.
19. **DEPOSIT OF FUNDS.** You can see the balance of funds in your ProPay Account on periodic statements that can be accessed by you online on our website. All amounts settled to your ProPay Account will remain in your ProPay Account until: (a) the funds are released by you at your discretion; (b) you inform our sponsor bank in accordance with our instructions to release the funds to the Checking Account (defined below) designated by you in accordance with the Electronic Funds Transfer Agreement; or (c) you use our prepaid debit card for the purchase of goods and services from an authorized merchant in accordance with the Cardholder Agreement. You acknowledge that all credits provided to you are provisional and subject to chargebacks and adjustments in accordance with this Agreement and the Rules, whether or not a transaction is charged back by the Card issuer. We may revoke or reverse at any time any credit given to you if the Card transaction was not made in compliance with this Agreement. If revoking or reversing a credit deposited to your ProPay Account results in a negative balance in your ProPay Account, we may immediately debit your Checking Account as authorized under the Agreement. If you have chosen to activate our prepaid debit card to access the funds in your ProPay Account, you irrevocably authorize the transfer of funds from your ProPay Account to the issuing bank card account for purchases or ATM withdrawals you make using the prepaid debit card and any reserve amount which may be required by the issuing bank.
20. **FEES.** Your ability to access the Services is conditioned upon your paying all required fees. Such fees will be netted out from the funds due you. You may be granted processing credit. This processing credit may only be used by you to offset processing fees you may owe to us. We may, at our sole discretion, cancel any processing credit granted to you. The fees that apply to your account are set forth in exhibit A.

21. **CHECKING ACCOUNT.** You may identify a checking account ("**Checking Account**") at the financial institution of your choice to facilitate payment for Card transactions and the transfer of amounts from your ProPay Account. The Checking Account must be in your name and associated with your government-issued identification number at all times that this Agreement is in effect. We may debit your Checking Account to recoup our losses for fraudulent transactions on or chargebacks to your ProPay Account.
22. **CHARGEBACKS.** When a Cardholder disputes a Card transaction and it is reversed, this is a "**Chargeback**." You authorize us to offset from incoming transactions, debit your ProPay Account, and/or the Reserve Account to recover any chargeback. If we ask you to pay us the amount of any chargebacks incurred by you, you agree to pay us these amounts on demand. We may suspend the Services until you reimburse us for all unpaid chargebacks. Furthermore, if you are an independent sales consultant, you authorize us to report any chargeback not reimbursed by you within 30 days to your affiliated company. You must not reenter or reprocess any Card transaction that has been charged back. If you disagree with a chargeback, the Rules allow you to request a chargeback reversal. A reversal request must be made within the applicable Card Brand's timeline specified in its Rules. If you wish to dispute a chargeback (or retrieval request in the case of American Express transactions), then you must provide us with the required information to dispute the chargeback in a timely manner. We will provide this information to the Card Brands and inform you of the status of your disputed chargeback.
23. **EXCESSIVE CHARGEBACKS.** "**Excessive Activity**" means: (a) chargebacks in excess of .50% of the transaction ratio of your Card transactions; (b) chargebacks in excess of .50% of the transaction ratio of the dollar amount of your Card transactions; (c) returns in excess of 3% of the transaction ratio of your Card transactions; or, (d) denied transactions in excess of 5% of the transaction ratio of your Card transactions. You authorize us, upon the occurrence of Excessive Activity, to suspend your processing privileges or create or maintain a Reserve Account in accordance with this Agreement.
24. **CUSTOMER CONTACT.** Upon our request, you will provide us with the contact information for your customers.
25. **REFUND CREDITS.** You will issue a credit instead of making a cash advance, disbursement, or cash refund on any Card transaction. You will not submit a credit relating to any Card transaction not originally submitted to us, nor will you submit a credit that exceeds the amount of the original Card transaction. Within the time period specified by applicable law, you agree to, provide us with a credit memorandum or credit statement for every return of goods or forgiveness of debt for services that were the subject of a Card transaction.
26. **USE OF TRADEMARKS.** Your use of Card Brand trademarks will fully comply with the Rules. Your use of our trademarks must comply with our Policies and instructions. Your right to use our marks and the Card Brand marks will cease upon termination of this Agreement. You agree to not to contest the ownership of our marks for any reason. You agree to make changes to your website or otherwise as we deem necessary or appropriate to ensure that you remain in compliance with the Rules governing the use of our marks and the Card Brand trademarks. We may at any time, immediately and without advance notice, prohibit the use any of our marks and the Card Brand trademarks for any reason. We reserve all rights to our marks not expressly granted in this Agreement.
27. **INFORMATION SECURITY.** We have implemented measures to secure your data from loss or unauthorized access. However, since we cannot guarantee that bad actors will not defeat these security measures, you understand that you are providing your personal information at your own risk. You must also keep all account, Cardholder, or transaction information (physical or electronic, including but not limited to account numbers) (the "**Data**") secure, to prevent access by or disclosure to anyone other than

your authorized personnel. You may not sell the Data to anyone and if you store the Data in a database, you must follow Card Brand guidelines for securing such Data. You must destroy the Data when you no longer need to store it under the Rules. You must take all steps reasonably necessary to ensure Cardholder information is not disclosed or otherwise misused. You may not retain or store magnetic stripe, CVV2, CVC2, or CID data after authorization. You must notify us if you use any agent that will have access to Cardholder data. The Rules mandate that all agents that access, store, transmit, or process Data must be registered and comply with PCI DSS and PA-DSS. As applicable, you must at all times also remain in compliance with the PCI DSS and PA-DSS. If you share your ProPay Account password with any third party, we deem that you authorized the action taken by the third party regarding your ProPay Account, whether or not such authority actually exists. You shall maintain industry "best practices" regarding continuity procedures and systems to ensure security of the Data in the event of a disruption, disaster, or failure of your respective data storage system and/or facility.

28. **BREACH** In the event of breach of, intrusion of, compromise of, or otherwise unauthorized access to Data which is stored and in the possession of you or your agents, you must immediately notify us and provide us with information regarding the type, nature, and extent of Data which has been compromised. Further, you must cooperate with us regarding reasonable requests for information and details regarding the compromise of the Data. You will make all reasonable, good faith efforts to remedy and address the cause of the breach, intrusion, compromise, or otherwise unauthorized access to the Data.
29. **THIRD PARTY SERVICE PROVIDERS.** You may be using special services or software provided by a third party to assist you in processing transactions, including authorizations and settlements, or accounting functions. You are responsible for ensuring compliance with the requirements of any third party in using its products. We are not responsible for the performance of any third-party product.
30. **SECURITY INTEREST, RESERVE, RECOUPMENT, PERSONAL GUARANTY.** Because we are financially responsible for actions taken by you using the Services, we require certain protective measures as outlined below.
- 30.1. This Agreement will constitute a security agreement under the Uniform Commercial Code. You grant to us a security interest in and lien upon: (a) all funds representing amounts owed to you under this Agreement; (b) all funds at any time in the Reserve Account (as defined below); and (c) present and future Card transactions (collectively, the "**Secured Assets**"). You agree to provide other security to us upon request. These security interests will secure all of your obligation to pay any amounts due and owing to us. We may exercise this security interest without notice or demand of any kind by making an immediate withdrawal or freezing your Secured Assets. Upon our request, you will execute the documents necessary to evidence this security interest. You represent and warrant that no other person or entity currently has a security interest in the Secured Assets and that you will obtain our consent prior to granting a security interest in the Secured Assets to a third party. You agree that we are not required to file a motion for relief from a bankruptcy action automatic stay to realize on any of the Secured Assets. You agree not to contest or object to any motion for relief from the automatic stay filed by us. You authorize us and appoint us your attorney in fact to sign your name to any financing statement used for the perfection of any security interest or lien granted hereunder.
- 30.2. You understand and agree that you may be required to establish a Reserve Account in an amount determined by us to protect us against losses resulting in transactions initiated by you. The ("**Reserve Account**") shall be maintained by us and titled to our sponsor bank. We may, without notice to you, apply funds deposited in your Reserve Account against any outstanding amounts you owe us. Any funds left in the Reserve Account will be refunded after this Agreement is terminated and you have paid us in full all amounts owing or that could ever be owed under this Agreement, including, without limitation, all outstanding or uncollected amounts and potential chargebacks. In no event shall you be entitled to a return of any sums remaining in the Reserve Account after 270 days following the effective date of termination of this Agreement. We have the right to increase the required amount in the Reserve Account and deposit into the Reserve Account funds that we would otherwise be obligated to pay you if we determine such action is reasonably necessary to protect our interests.

30.3. We have the right of recoupment and set-off. You acknowledge that in the event of a bankruptcy proceeding we will have the right to set-off against the Reserve Account for any and all obligations which you may owe to us, without regard as to whether the obligations related to Card transactions were initiated or created before or after the filing of the bankruptcy petition.

30.4. By electronically signing the Application, you unconditionally and irrevocably, guarantee the continuing full and faithful performance and payment by you as an individual of each of your duties and obligations to us pursuant to this Agreement. You understand that we may proceed directly against you without first exhausting our remedies against any other person. This guaranty will not be discharged or affected by your death, and will bind all heirs, administrators, representatives and assigns. You understand that this guaranty is an inducement to us to enter into this Agreement and remains in full force and effect even if you receive no additional benefit from the providing the guaranty.

31. **TAXES.** You are obligated to pay all taxes and other charges imposed by any governmental authority on the Services provided under this Agreement.

32. **REPRESENTATIONS AND WARRANTIES.** You represent and warrant to us that: (a) all information you submit to us is correct and complete, including, but not limited to the information contained in your Application regarding the nature, type, and scope of the business in which you are engaged, the products and/or services you intend to sell, the URL and website associated with your business, and the purpose for which you contemplate using your ProPay Account; (b) that you are at least 18 years of age; (c) if you are an individual, you are a sole proprietorship validly existing in the United States or its territories, and if an entity, that the entity was validly formed, registered and is in good standing in at least one of the fifty United States or its territories; (d) you have the authority to execute and perform the terms and conditions of this Agreement and you are authorized to execute any documents related to this Agreement; (e) 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 or which would adversely affect your financial condition or operations; (f) if you have been placed on the Mastercard MATCH system or the Combined Terminated Merchant File, you have disclosed this to us; (g) no transaction involves the use of a Card for any purpose other than the purchase of goods or services from you and does not involve a Cardholder obtaining cash from you unless allowed by the Rules and agreed in writing with us; (h) you have read and agree to be bound by this Agreement and Policies; (i) you and all transactions initiated by you will comply with all Laws, Rules and Policies, and (j) entering this Agreement will not violate any law, or conflict with any other agreement to which you are subject.

33. **CONFIDENTIALITY.**

33.1. You will not use for your own purposes, will not disclose to any third party, and will retain in strictest confidence all information and data belonging to or relating to our business ("**Confidential Information**") including without limitation: (a) the terms of this Agreement; (b) information relating to ProPay (including its operations, policies, procedures, accounts and personnel); (c) any documents provided to you by ProPay; (d) information that is proprietary to a third party such as ProPay's customers and contractors that ProPay is obligated to treat as confidential; and (e) any other information that can reasonably be deemed to be of a confidential nature. You will safeguard such information and data by using the same degree of care, but no less than a reasonable amount of care, that you use to protect your own confidential information. You authorize us to disclose your name and address to any third party who has a reason to know such information, including to law enforcement or as otherwise required by the legal process.

33.2. Any information that is or becomes generally known to the public other than a disclosure by you or your employees, or any information that is required by law to be divulged shall not be considered confidential information. If you are required by law to divulge our Confidential Information, you will give us prior notice so that we may limit disclosure, if possible. Upon ProPay's request, you shall return or destroy all Confidential Information in your possession or control. You acknowledge that

failing to do so may cause ProPay irreparable injury and that ProPay may have no adequate remedy at law. Accordingly, ProPay may seek provisional or injunctive relief in addition to any other rights or remedies.

- 33.3. Confidential Information shall include ProPay or its affiliates' Attestation of Compliance under any standard promulgated by the Payment Card Industry Security Standards Council ("PCI-SSC") and any similarly functioning audit report/attestation ("AOC"). If you are entitled to receive a copy of an AOC, you may disclose the AOC only to your legal counsel and PCI-SSC Qualified Security Assessor(s) ("QSA") who are bound to an obligation of confidentiality similar to those set forth herein. You may not share an AOC with any other third party without the prior written consent of ProPay. We shall have no liability whatsoever to you relating to or resulting from the use of Confidential Information or any errors or omissions therein. You acknowledge and agree that this Agreement does not obligate ProPay to disclose to you any information of any kind, including any Confidential Information.
34. **INDEMNIFICATION.** You indemnify and hold us, our sponsor bank, and the Card Brands harmless and will defend each of us for and from any of your acts or omissions with respect to your obligations under this Agreement. You also indemnify and hold harmless our sponsor bank for acting in accordance with any instruction from you or us regarding your use of the Services. Further, you shall indemnify and hold harmless our sponsor banks, the Card Brands, and us, and each of our employees, officers, directors, shareholders and agents from any and all loss, cost, expense, claim, damage, and liability (including attorneys' fees and costs) paid or incurred by any one or more of them, arising from, caused by, or attributable to: (a) any Card transaction processed under this Agreement; (b) your breach of this Agreement; (c) any bankruptcy proceeding; (d) willful misconduct, fraud, intentional tort or negligence of you or your employees, agents or representatives; (e) theft, embezzlement, or unauthorized use of your ProPay Account; or (f) action by us exercising any right we have under this Agreement.
35. **LIMITATION OF LIABILITY.** *Any liability our sponsor bank, the Card Brands, and we have under this Agreement, whether to you or any other party, whatever the basis of the liability, will not exceed in the aggregate the difference between the amount of fees we received from you during the month in which the liability arose and any assessments, chargebacks, and offsets against such fees which arose during that month. If more than one month is involved, the aggregate amount of the Card Brands and our liability will not exceed the lowest amount determined in accordance with the previous sentence for any one month involved. In no event shall we, our agents, officers, directors, employees, or the Card Brands, be liable for indirect, special, or consequential damages that result from the use of, inability to use or unavailability of the Services.*
36. **DISCLAIMER OF WARRANTIES.** *The Services are provided "As Is." We make no warranty, express or implied, regarding the Services, and nothing contained in this Agreement will constitute such a warranty. We disclaim all implied warranties and conditions, express, implied or statutory, including without limitation those of merchantability and fitness for a particular purpose, the implied warranties of title and/or non-infringement. We do not warrant that the Services will be uninterrupted or error free, nor do we make any warranty as to the performance or any results that may be obtained by the use of the Services.* We shall make reasonable efforts to ensure that all transaction requests are processed in a timely manner. However, we make no representations or warranties regarding the amount of time needed to complete processing. Your legal right to a warranty varies from state to state and so this limitation may not apply to you. *Each party acknowledges that it has not entered into this Agreement in reliance upon any warranty or representation except those specifically set forth herein.*
37. **TERM AND TERMINATION.** This Agreement will become effective the earlier of day you accept it by either signing the application or processing a transaction ("**Effective Date**") and will remain in effect for the length of the Initial Term you selected at the time of sign-up ("**Initial Term**") and is renewable for successive terms the same length as the Initial Term ("**Renewal Term**"). You may terminate this Agreement by providing notice of intent not to renew at least 30 days prior to the expiration of the then current term. ProPay enters into this Agreement expecting that there will be at least 180 days of account activity, therefore if you elect the month-to-month Term and terminate within 180 days of the Effective

Date, you agree to pay liquidated damages of \$20 at the time of termination. You acknowledge that this amount is a genuine pre-estimate of ProPay's lost revenue and not a penalty. We may terminate this Agreement at any time, with or without cause, and without prior notice. Any provisions of this Agreement that protect our interests and any provisions which by their nature are intended to survive termination of this Agreement shall survive termination of this Agreement.

38. **ACCOUNT INACTIVITY.** Failure to present any transaction for clearing and settlement or failure to add funds or access funds in your ProPay Account, for: (a) the applicable time period as mandated by state law; or (b) 24 months, whichever is less, may result in your ProPay Account being terminated.
39. **ACTION UPON TERMINATION AND UNCLAIMED PROPERTY.** We are required to report you to the Card Brands if your ProPay Account is terminated due to a reason listed in the Card Brand Rules. You agree to waive and hold us harmless for any claims you may raise as a result of such report. If your ProPay Account has been terminated for inactivity, 30 days after the termination of your ProPay Account, any funds due to you, shall either be remitted to any state or other governmental body as a result of any unclaimed property or similar laws.
40. **IRS REPORTING.** To comply with IRS reporting requirements, if you do not supply your legal name, SSN or EIN to us, we may: (a) be required to file a form 1099-K with the U.S. Internal Revenue Service (IRS), and (b) on behalf of the IRS collect 28% federal backup withholding from you upon transaction settlement. To avoid potential backup withholdings, you should notify us any time there is a change to your SSN, EIN, legal name, or business address, and ensure you respond to any request for verification and record update from us.
41. **RIGHTS AND REMEDIES CUMULATIVE.** The rights conferred upon us, our sponsor banks, and the Card Brands in this Agreement are not intended to be exclusive of each other or of any other rights and remedies we have under this Agreement, at law, or in equity. Each and every right we have at law or in equity will be cumulative and concurrent and in addition to every other right.
42. **ENTIRE AGREEMENT.** This Agreement, including, Policies, the completed Application, the Rules, and any amendment or supplement to this Agreement or other referenced agreements, all of which are incorporated into this Agreement, constitutes the entire agreement between the parties, and all prior or other agreements or representations, written or oral, are superseded by this Agreement.
43. **GOVERNING LAW, JURISDICTION, WAIVER OF JURY TRIAL.** This Agreement will be governed by and construed in accordance with the laws of the State of Georgia, except where Federal law is applicable. ***You consent to and agree to exclusive jurisdiction and venue for any disputes hereunder in the appropriate federal or state court located in Muscogee County, Georgia. You waive any right to trial by jury in any action concerning any rights or disputes under this Agreement. You agree that all disputes arising out of this Merchant Agreement shall be resolved on an individual basis without resort to any form of class action or consolidation with other parties.***
44. **CONSTRUCTION.** The headings used in this Agreement are inserted for convenience only and will not affect the interpretation of any provision. The language used will be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction will be applied against any party.
45. **ASSIGNABILITY.** This Agreement may not be assigned by you directly or by operation of law, without our prior written consent. Any such assignment is void. If you sell your business and transfer this Agreement without our consent, and the new owners incur chargebacks, the original owner and all original guarantors will be held personally liable for all chargebacks and any other liabilities of the new owners. This Agreement may be assigned by us without consent or notice.
46. **ELECTRONIC SIGNATURE, COMMUNICATION, AND NOTICES.** Your electronic signature, including, clicking "Agree and Continue," shall be the legal equivalent of your manual signature. Any written notice

under this Agreement will be deemed given and delivered upon the earlier of: (a) actual receipt; (b) five days after being deposited in the United States mail, and addressed, if to us, to: ProPay, Inc., 2675 W. 600 N., Lindon, UT 84042, and if to you: to the last address shown on our records; or (c) one business day after being sent by email or other electronic communication if to you at the last email address provided by you to us and if to ProPay at <http://www.propay.com/propay-company/contact-propay/>. Updates and changes published to our website constitute notice to you as of the date of publication.

47. **BANKRUPTCY.** You will immediately notify us of any bankruptcy, receivership, insolvency or similar action or proceeding initiated by or against you. You will include us on the list and matrix of creditors as filed with the Bankruptcy Court and failure to do so will be cause for immediate termination or any other action available to us under applicable Rules or Law. You acknowledge that this Agreement constitutes an executory contract to make a loan or extend other debt financing or financial accommodations to or for the benefit of you, and, as such, cannot be assumed or assigned in the event of your bankruptcy.
48. **ATTORNEYS' FEES.** You will be liable for and will indemnify and reimburse us for all attorneys' fees, with or without suit, court costs, collection agency fees (not to exceed 50% of the amount owed), and other costs and expenses paid or incurred by us in the enforcement of this Agreement, or in collecting any amounts due from you to us or resulting from your breach of this Agreement.
49. **AMENDMENTS.** This Agreement and the Policies referenced and incorporated in this Agreement may be amended, modified, or revised at any time without notice. While we may notify you as the Agreement or Policies are modified, you are bound by any changes and it is your sole responsibility to review and maintain familiarity with the Agreement and Policies. The amendments to this Agreement and/or Policies referenced herein will become effective and binding upon you immediately and contemporaneously as the amendments are published to our website (www.propay.com). In the event you do not agree to any amendments and do not wish to continue be bound the terms and conditions, you shall provide written notice to us (by submitting to ProPay Customer Service at <http://www.propay.com/propay-company/contact-propay/>) with your name, your current email address, the last four (4) digits of your Social Security Number and a statement that you do not agree to the terms. Upon our receipt of this notice, your ProPay Account will be closed. Changes to fees authorized by this Agreement will be effective upon notice to you.
50. **SEVERABILITY AND WAIVER.** If any provision of this Agreement is held invalid, illegal, void, or unenforceable by judicial decision, all other provisions of this Agreement shall remain in full force and effect. No course of dealing, delay, or failure to enforce any provision or exercise any right under this Agreement by us shall be construed as a waiver or estoppel of such provision or right, nor shall it amend this Agreement or affect the validity of this Agreement or limit our ability to enforce such provision or exercise such right in the future. Any waivers must be in writing and signed by us.
51. **AGENCY RELATIONSHIP, REMITTANCE OF FUNDS.** You authorize us to act as your agent for the limited purposes of holding, receiving, and disbursing funds on your behalf. This authorization permits us to generate an electronic funds transfer to process each payment transaction and will continue until your ProPay Account is closed or terminated. You agree that our receipt of transaction proceeds satisfies your customers' obligations to you. We will remit to you funds actually received by us on your behalf, less amounts owed to us, subject to any chargebacks or reserve withheld or applied as per this Agreement.
52. **FORCE MAJEURE.** No party will be liable to the other party for any failure or delay in its performance of this Agreement if such failure or delay arises out of causes beyond the control and without the fault or negligence of such party.
53. **ARBITRATION.** Notwithstanding anything in this Agreement to the contrary, we may require that any claim or dispute under this Agreement be resolved exclusively and finally by binding arbitration, administered by the National Arbitration Forum ("NAF") and conducted under its rules, except as otherwise provided below. ("**Dispute**") means any dispute, controversy, or claim arising out of or relating to this Agreement, negotiations leading to the Agreement, its interpretation, any act of any party related to

the Agreement, or the breach, termination, applicability, or validity thereof. Any action involving a Dispute must commence within one year of the events leading to the cause of action. The arbitration will be conducted before a single arbitrator, and will be limited to our Dispute with you. You may not bring a Dispute on behalf of others or join others in any similar claims including as a class action. The arbitration shall be held in Georgia by submission of documents, by telephone, online, or in person as determined by the parties. Any decision rendered in such arbitration proceedings shall be final and binding on each of the parties to the Dispute and judgment may be entered in any court of competent jurisdiction. Should any party bring a Dispute in a forum other than NAF, the arbitrator may award the other party or parties their reasonable costs and expenses, including actual attorneys' fees, incurred in staying or dismissing such other proceedings or in otherwise enforcing compliance with this dispute resolution provision. You understand that you would otherwise have had a right to litigate disputes through a court, and that you have expressly and knowingly waived that right and agreed to resolve any Dispute through binding arbitration. The parties intend that the Federal Arbitration Act (9 U.S.C. §§ 1 et seq.) shall govern this arbitration provision. Information on arbitration procedure may be obtained from the NAF on-line at www.arb-forum.com by calling 800-474-2371 or by writing to P.O. Box 50191, Minneapolis, MN, 55405.

54. **PROCESSING ACH TRANSACTIONS.** If approved by ProPay, you may accept payment via automated clearing house transactions ("ACH") from your customers as long as you comply with the National Automated Clearing House Association ("NACHA") rules. Copies are available at www.achrulesonline.org. You agree not to initiate any ACH debits or credits to or from a savings account, or a foreign bank or the branch of a foreign bank in a U.S. territory. The term foreign bank does not include: (a) a U.S. agency or branch of a foreign bank; and (b) an insured bank organized under the laws of a U.S. territory. You authorize us to originate credit or debit records for the purpose of a funds transfer and agree to only process ACH transactions in accordance with this Agreement, the Rules, and Laws. All disputes between you and any of your customers relating to any ACH transaction must be resolved between you and that customer. If ProPay receives any notice of an ACH dispute or NACHA inquiry, we will forward such notice directly to you. ProPay bears no financial responsibility for any disputed ACH transaction.

EXHIBIT A

FEES

Discount Fee for Visa, Mastercard, and Discover Volume	Up to 3.5%
Discount Fee for American Express Volume	Up to 3.75%
Authorization / Per Transaction Fee	Up to \$0.35
Void Fee (before capture)	\$0.00
Refund Fee (after capture)	\$0.35
ProPay Account Annual Fee	Up to \$99.95
Month-to-Month Renewal Fee for Trial and Basic ProPay Accounts (for accounts with insufficient funds to pay the ProPay Account Annual fee)	Four times the previous Annual Fee divided by 12
Monthly Maintenance Fee (for ProPay Accounts with no ProPay Account Annual Fee)	\$5.00 per month after 180 days of inactivity
Month-to-Month Early Termination Liquidated Damages (for ProPay Accounts with month-to-month Term that terminate within 180 days of the Effective Date).	\$20.00
Chargeback Fee	\$25.00 per chargeback
Insufficient Funds Fee	\$20.00 each occurrence
Printed Monthly Statement Fee	Up to \$10.00
Investigation Fee (up to 3 hours)	\$20.00 per investigation
Extended Investigation Fee (for each hour beyond 3 to investigate or respond to government order)	\$180 per hour
Merchant is also responsible for any transaction related fees that are assessed by the Card Brands or sponsor bank, including, but not limited to, assessments, pass through fees, cross border fees, FANF, and network access fees, as adjusted or allocated by ProPay.	
Electronic Funds Transfer Fees and Limitations	
ACH Out Fee	Between \$0.10 and \$0.35 (depending on ProPay Account type)
ACH Debit (transferring Funds into your ProPay Account, maximum of \$250 per transfer and \$1,000 per month. If you wish to increase the maximum, please contact a customer service representative. The maximum for your particular ProPay Account may be increased or decreased in ProPay's sole discretion upon notice from ProPay.)	\$0.00
ACH Return Item/NOC Fee (insufficient funds in or closure of your ProPay Account or Checking Account, or if the account number or other information you provided is incorrect.)	\$15.00

Intra-ProPay Transfer Fee (transferring funds between your ProPay Account and any other ProPay Account)	\$0.00
ACH Fee Schedule (if you are approved by ProPay to accept ACH payments from customers)	
ACH Payment Fee (per transaction)	\$0.75
Notification of Change Fee (per item)	\$5.00
Return Item Fee (insufficient funds, etc.) (per item)	\$20.00
ACH Stop Payment/Customer Cancellation Fee (per item)	\$20.00

EXHIBIT B

AMERICAN EXPRESS® CARD ACCEPTANCE

This exhibit applies only if Merchant accepts American Express Cards. For the purposes of this section, you are “Sponsored Merchant.” Other terms in this section that are not defined shall have the meaning given them in the American Express Rules. If there is a conflict between any of the following sections and any other section of this Agreement, as they apply to American Express Cards, the following sections will govern.

1. AMERICAN EXPRESS COMPLIANCE.

- 1.1. Sponsored Merchant authorizes ProPay and/or its affiliates to submit American Express Transactions to, and receive settlement on such Transactions from, American Express on behalf of Merchant. Sponsored Merchant agrees to comply with all applicable laws, rules and regulations, including the American Express Merchant Operating Guide requirements, which are incorporated into this Agreement by reference. The American Express Merchant Operating Guide may be viewed at: www.americanexpress.com/merchantopguide.
- 1.2. Sponsored Merchant shall abide by and fully comply with DSR and Payment Card Industry Data Security Standard (PCI DSS). A copy of the American Express Data Security Requirements (“**DSR**”) can be obtained online at www.americanexpress.com/dsr.
- 1.3. Sponsored Merchant acknowledges and agrees to: (a) ensure data quality and that Transaction Data and customer information is processed promptly, accurately, and completely, and in compliance with the American Express Technical Specifications; (b) report all instances of a Data Incident immediately to ProPay after discovery of an incident; (c) be aware of and adhere to privacy and data protection laws; and (d) provide specific and adequate disclosures to Cardmembers regarding collection, use, and processing of personal data.
- 1.4. Sponsored Merchant certifies that all indebtedness arising from Transactions will be for bona fide sales of goods and services (or both) at its business locations and free of liens, claims, and encumbrances other than ordinary sales taxes.

2. **HIGH CHARGE VOLUME SPONSORED MERCHANTS.** In the event that Sponsored Merchant’s Estimated Annual Charge Volume becomes \$1,000,000 USD or greater, Sponsored Merchant will become a direct Card-accepting merchant under the standard American Express acceptance program and cease to be a Sponsored Merchant under Payment Service Provider. As a direct Card-accepting merchant, Sponsored Merchant will be bound by the then-current American Express Card acceptance and American Express will set pricing and other fees payable by the Sponsored Merchant for card acceptance.
3. **PROCESSING RESTRICTIONS.** Sponsored Merchant is prohibited from processing Transactions or receiving payments on behalf of, or (unless required by law) re-directing payments to any other party. Provided, however, that Sponsored Merchant may sell and assign future American Express-related Transaction receivables to ProPay, its affiliated entities and/or any other cash advance funding source that partners with ProPay or its affiliated entities, without consent of American Express. However, ProPay prohibits Sponsored Merchant from selling or assigning future American Express-related Transaction receivables to any third party.
4. **THIRD PARTY BENEFICIARY RIGHTS.** You understand and covenant that you are not a third-party beneficiary under our agreement with American Express, or the American Express Rules. You acknowledge and agree that American Express is a third-party beneficiary under this Agreement between you and ProPay. This means American Express has the rights, but not the obligation, to enforce the terms of this Agreement against you.

5. **AMERICAN EXPRESS LIABILITY.** *Sponsored Merchant acknowledges and agrees that in no event shall American Express, its affiliates, agents, successors, or assigns be liable to Sponsored Merchant for any damages, losses, or costs incurred, including incidental, indirect, speculative, consequential, special, punitive, or exemplary damages of any kind (whether based on contract, tort, including negligence, strict liability, fraud, or otherwise, or statutes, regulations, or any other theory), arising out of or in connection with the agreement.*
6. **MERCHANT WEBSITE DISPLAY REQUIREMENTS.** If Sponsored Merchant has a website and/or e-commerce business ("**Merchant Website**"), it will adhere to the following website information display guidelines. The Merchant Website must display the following:
 - 6.1. An accurate description of the goods/services offered, including the cost in U.S. Dollars
 - 6.2. Sponsored Merchant's physical address in the U.S
 - 6.3. An email address or telephone number for customer service disputes
 - 6.4. Return/refund policy
 - 6.5. A description of the Sponsored Merchant's delivery policy
 - 6.6. A description of the Sponsored Merchant's security practices including practices the Sponsored Merchant uses to secure Transactions on its systems and the internet
 - 6.7. A statement of known export restrictions, tariffs, and any other government regulations
 - 6.8. A privacy statement regarding the type of personal information collected and how the information is used. Sponsored Merchant must provide to customers the option to decline being included in marketing campaigns or having their personal information included on lists sold to third parties
7. **COMMUNICATION.**
 - 7.1. Sponsored Merchant agrees that ProPay may disclose to American Express information regarding Sponsored Merchant, its Merchant Agreement and its Transactions, and that American Express may use such information (a) to perform its responsibilities in connection with American Express Card Acceptance; (b) to promote the American Express Network; (c) to perform analytics and create reports; (d) for any other lawful business purposes including commercial marketing purposes within the parameter of the Program Agreement; (e) for important transactional or relationship communication from American Express; and (f) to screen and/or monitor Sponsored Merchant in connection with American Express marketing and administrative purposes
 - 7.2. Sponsored Merchant agrees it may receive information about American Express products, services, and resources available to its business. These messages may be sent to the mailing address, phone numbers, email addresses or fax numbers of Sponsored Merchant. Sponsored Merchant may be contacted at its wireless telephone number and the communications sent may include autodialed short message service ("**SMS**" or "**Text**") messages or automated or prerecorded calls. Sponsored Merchant may opt-out of receiving future commercial marketing communications from American Express by contacting ProPay. Sponsored Merchant may continue to receive marketing communications while American Express updates its records to reflect this choice. Opting out of commercial marketing communications will not preclude Sponsored Merchant from receiving important transactional or relationship messages from American Express.

8. **TERMINATION.**

- 8.1. ProPay has the right to terminate Sponsored Merchant's participation in American Express Card Acceptance immediately upon written notice to Sponsored Merchant: (a) if Sponsored Merchant breaches any of the provisions of this Agreement or any other terms of the Merchant Agreement applicable to American Express Card Acceptance, including, but not limited to, the American Express Merchant Operating Guide; or (b) if ProPay has for cause to believe Sponsored Merchant is engaged in illegal or fraudulent activity; or (c) upon American Express's request.
- 8.2. Sponsored Merchant may opt out of accepting American Express at any time by written request to ProPay without directly or indirectly affecting its rights to accept other Cards.
- 8.3. In the event Sponsored Merchant's participation in American Express Card Acceptance is ended for any reason, Merchant must immediately cease using and remove all American Express branding and marks from Sponsored Merchant's business location(s), website(s) and anywhere else they are displayed.

- 9. **REFUND POLICY.** Sponsored Merchant's refund policies for American Express-related Transactions must be at least as favorable as its refund policy for purchase with any other Card, and the refund policy must be disclosed to Cardholders at the time of purchase and in compliance with Applicable Law. Sponsored Merchant may not bill or attempt to collect from any cardholder for any American Express-related Transaction unless: (a) a Chargeback has been exercised; (b) Sponsored Merchant has fully paid for such Chargeback; and (c) Sponsored Merchant otherwise has the right to do so.