

MerchantService.com Terms and Conditions Agreement

Last Updated October 26, 2011

1. PARTIES TO THIS AGREEMENT

This MerchantService.com (MS) Agreement (Agreement) is between Merchant Service Payments, LLC, a Florida limited liability company, with offices at the Interstate Park Corporate Center, 341 Interstate Blvd., Sarasota, FL 34240 dba MerchantService.com, which term includes its affiliates, MerchantService.com, Inc., CompleteMerchantServices.com, Inc. and 1st American Leasing, LLC, e.g. entities controlling, controlled by or under common control with Merchant Service Payments, LLC and you.

2. THIS AGREEMENT IS A CONTRACT BETWEEN YOU AND MS

2.1

This Agreement is a contract between you and MS and applies to your use of the MS Services. BY USING ANY WEBSITES OR ELECTRONIC SERVICES OFFERED BY MS and Assigns (THE "SERVICE"), OR BY ELECTRONICALLY CLICKING AN "I ACCEPT" BUTTON OR CHECKBOX IN THE REGISTRATION PAGES OF THE SERVICES, YOU ARE HEREBY AGREEING TO ALL OF THESE TERMS, FEES AND CONDITIONS OF SERVICE (THE "TERMS") AND ANY TERMS INCORPORATED HEREIN BY SPECIFIC REFERENCE.

2.2

We may amend this Agreement at any time by posting a revised version on our website. The revised version will be effective at the time we post it. In addition, if the revised version includes a Substantial Change, we will provide you with 30 Days prior notice of any Substantial Change by posting notice on the POLICY Updates page of our web site.

2.3

This is an important document which you must consider carefully when choosing whether to use the MS Services. Please note the following risks of using the MS Services.

2.4

Bundled Service programs such as your **eC PCI Breach Coverage™** insurance and **eC Insurance Coverage™** will terminate if your MS provisioned Merchant Account is terminated or cancelled. Bank or Processor may close, suspend or terminate your Merchant Account, and/or limit access to your funds for up to 180 days if you violate your terms and conditions of services.

2.5

MS may close, suspend, or limit your access to your MS Account or Services if you violate this Agreement, or any other Agreement you enter with MS.

2.6

If you wish to enter a Dispute with MS you must do so within 45 days of making your payment.

3. OUR RELATIONSHIP WITH YOU

3.1

MerchantService.com is Only a Merchant Service Payments and Related Merchant Product and Services Marketing Company. MS helps you to accept payments from and make payments to third parties, and provides you solutions to help protect your business, accept more forms of payments to increase sales, reduce losses and collect more payments rightfully due you. MS is a independent contractor vendor to you for all purposes. MS is not a custodian of your funds. MS does not have control of, or liability for, the products and services provided by third parties including the Bank and Processors.

3.2 YOUR PRIVACY

Protecting your privacy is very important to MS. Please review our Privacy Policy in order to better understand our commitment to maintaining your privacy, as well as our use and disclosure of your information.

3.3 PRIVACY OF OTHERS; MARKETING

If you receive information about another User through MS Services, you must keep the information confidential and only use it in connection with the MS Services. You may not disclose or distribute a User's Information to a third party or use the information for marketing purposes unless you receive the User's express consent to do so.

3.4 INTELLECTUAL PROPERTY

"MerchantService.com", Merchant Service Group", all "eC Products™" and all logos and marks related to the MS Services and Products are either trademarks or registered trademarks of MS or its licensors. You may not copy, imitate or use them without MS's prior written consent. In addition, all page headers, custom graphics, button icons, and scripts are service marks, trademarks, and/or trade dress of MS. You may not copy or imitate them without our prior written consent. You may use HTML logos provided by MS through our MerchantService.com site without prior written consent for the purposes of directing web traffic to the MS Services. You may not alter, modify or change these HTML logos in any way, use them in a manner that is disparaging to MS ort the MS Products and Services or display them in any manner that implies MS's sponsorship or endorsement. All rights, title and interest in and to the MS website, any content thereon, the MS Products and Services, the technology related to the MS Products and Services, and any and all technology and any content created or derived from any of the foregoing is the exclusive property of MS, its program providers and its licensors.

3.5 ASSIGNMENT

You may not transfer or assign any rights or obligations you have under this Agreement without MS's prior written consent. MS reserves the right to transfer or assign this Agreement or any right or obligation.

3.6 PASSWORD SECURITY AND CURRENT EMAIL ADDRESS

You are responsible for maintaining adequate security and control of any and all ID's, passwords, personal identification numbers (PINs), or any other codes that you use to access the MS Products and services. You are responsible for keeping your bank account, mailing address and email address up to date in your Account Profile.

3.7 NOTICES TO YOU

You agree that MS may provide you Communications about your Account and the MS Products and Services electronically as described in our Electronic Communications Delivery Policy. Keeping you informed about your Account and the MS Product and Services is very important to MS, so please review the Electronic Communications Delivery Policy in order to better understand how we communicate with you. MS reserves the right to close your Account if you withdraw your consent to receive electronic Communications. Any electronic Communications will be considered to be received by you within 24 hours of the time we post it to our website or email it to you. Any communications sent you by postal mail will be considered to be received by you three (3) Business days after we send it.

3.8 NOTICES TO MS

Except as otherwise stated below, notices to MS must be sent by postal mail to: MerchantService.com, Attention: Office of the President, Interstate Park Corporate Center, 341 Interstate Blvd., Sarasota FL 34240.

3.9 CALLS TO YOU; MOBILE TELEPHONE NUMBERS

By providing MS a telephone number (including a mobile telephone number) you consent to receiving autodialed and prerecorded message calls from MS at that number. If we determine that a telephone number you have provided is a mobile telephone number, we may categorize it as such in our system and in your Account Profile, and you consent to receive text messages from us about your use of the MS Products and Services at that number.

You are hereby notified:

All directors, officers, employees, agents, vendors and associates of your company are hereby notified as required under the Florida Statutes 934 – SECURITY OF COMMUNICATIONS ACT that the MS phone system used in the ordinary course of business will record all inbound and outbound calls, and video recording will be made within the MS PCI DSS compliant office. And that placing or receiving any such call shall constitute your consenting to recording in compliance with the ACT.

3.10 IDENTITY AUTHENTICATION

You authorize MS, directly or through third parties, to make any inquires we consider necessary to validate your identity. This may include asking you for further identification, requiring you to provide a taxpayer identification number, requiring you to take steps to confirm ownership of your email account or financial instruments, ordering a credit report, or verifying your information against third party databases or through other sources.

3.11 THIRD PARTY PERMISSIONS

If you grant express permission to a third party to take specific actions on your behalf, or access particular information about your Account, either through your use of the third party's product or service or through your Account Profile, you acknowledge that MS may disclose the information about your Account that is specifically authorized by you to this third party. You also acknowledge that granting permission to a third party to take specific actions on your behalf does not relieve you of any of your responsibilities under this Agreement. Further, you acknowledge and agree that you will not hold MS responsible for, and will indemnify MS from, any liability arising from the actions or inactions of this third party in connection with the permissions you grant.

3.12 ACCURACY OF INFORMATION

You are responsible for confirming the accuracy of all information you provide MS, including without limitation your Taxpayer Identification number, Bank account numbers, email address, telephone numbers, method of effecting sales, products and services you sell, and principals/owners of the business, as well as all other information you provide to MS. Further, you acknowledge and agree that you will not hold MS responsible for, and will indemnify MS from, any liability arising from the inaccuracy of any of your information.

4. RESTRICTED ACTIVITIES

4.1 RESTRICTED ACTIVITIES

In connection with your use of our web site, your Merchant Account, the MS Services, or in your course of interaction with MS, other users, or third parties, you will not:

- a.** Breach this Agreement, the **eC PCI Compliance™**, **eC PCI Breach Coverage™** insurance, **eC Insurance Coverage™** or any other agreement or policy that you have agreed to with MS;
- b.** Violate any law, statute, ordinance, or regulation (for example, those governing financial services. Consumer protection, unfair competition, anti-discrimination or false advertising);
- c.** Infringe MS's or any third parties copyright, patent, trademark, trade secrete or other intellectual property rights, or rights of publicity or privacy;
- d.** Act in a manner that is defamatory, trade libelous, threatening or harassing;
- e.** Provide false or misleading information;
- f.** Take any action that imposes an unreasonable or disproportionately large load on our infrastructure; facilitate any virus, Trojan horses, worms or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or information; use an anonymizing proxy; use any robot, spider, other automatic devise, or manual process to monitor or copy our website without our written permission; or use any devise, software or routine to bypass our robot exclusion headers, or interfere or attempt to interfere with our web site or the MS Services;
- g.** Take any action that may cause us to lose any of the services from our Internet service providers, payment processors, third party providers, or other suppliers.

5. FEES OVERVIEW

MS will charge you fees based on your Merchant Service contracted program and other programs you may enroll in. Fees vary and may include as an example, among other fees to be collected, annual service fees, paper and supply fees for products you purchase, early termination fees, IRS TIN In-Validation fees, E-Merchant View monthly service fees and fees for other service programs you may enroll to use.

5.1

Our **eC PCI Compliance™** program includes three bundled components. This bundled service program has one Annual Fee billing of \$99.95:

- a. Your **eC PCI Compliance™** Certificate program to become compliant. You should log onto MerchantService.com and register to access the **eC PCI Compliance™** Certificate compliance program site.
- b. \$50,000 of **eC PCI Breach Coverage™** insurance to help keep you in business and protect you against many of the payment industry costs that will be assessed to you if and when you are hacked or compromised.
- c. **eC Insurance Coverage™** that covers the amount of cash stolen from you up to \$2,500, and up to \$1,000 from your customers, as well as many other valuable benefits.

5.2

The **eC PCI Compliance™** program Annual Fee billing occurs after the end of your third month when your account went live, on or before the 10th of the following month. So as an example, if your account went live on 10/10/2011, the end of the third month after your account went live would be 12/31/2011. And you would be billed the \$99.95 annual fee on or before 1/10/2012.

5.3

The **eC PCI Compliance™** Program also includes a monthly PCI Non-compliance fee. Should you choose NOT to complete the important **eC PCI Compliance™** Certificate program by the 20th of the fourth month after your account went live, you will be assessed a monthly PCI Non-compliance fee of \$19.95 on or before the 10th of the following month, and every month thereafter until you do become compliant. As an example, if your account went live on 9/10/2011, the 20th of the fourth month after your account went live would be 12/20/2011. And you would be billed the \$19.95 monthly fee on or before 1/10/2012, and every month thereafter until you completed the program and obtained your compliance Certificate

5.4

For your benefit to help protect your business, the coverage is in effect beginning on 11/1/2011, irrespective of whether you are, or are not compliant, and includes the **eC PCI Breach Coverage™** insurance and **eC Insurance Coverage™**. And the coverage's will continue to protect your business even if you NEVER become compliant.

6. AUTHORITY TO CHARGE YOUR BANK ACCOUNT FOR FEES

6.1

By agreeing to these terms, you are giving MS permission to charge your bank account for fees and other amounts or charges that you authorize for MS. Depending on your Agreement with MS, MS may charge your bank account on a one-time, annual, sporadic, or recurring basis.

6.2

Your bank account will become your payment method on file with MS for automatic payment of your MS fees. If you previously had another payment method on file for automatic payment of fees, your bank account will replace that method.

6.3

If you change your merchant account from a MS provisioned account to a non MS provisioned account this Agreement will not be cancelled. Separate Cancellation Notice is required to terminate this Agreement as other service programs may continue on uninterrupted after you have terminated your MS provisioned merchant account.

6.4

If this Agreement is cancelled, or if payment of your MS fees through your bank account cannot be completed for any reason, you remain obligated to pay MS for all unpaid fees, and MS may charge a payment method previously on file with MS for payment of all unpaid fees, such as a credit card or other electronically accessible account.

6.5

You authorize MS to initiate debit and/or credit entries and if necessary, adjusting entries for any credit and/or debit entries made in error to your current checking account as provided for in the Merchant Agreement, hereinafter called "Bank" to credit and/or debit the same to such account(s). You further authorize MS to debit said account for such amount allowed by law in the event an ACH Debit entry is rejected by the Bank. This authorization is to remain in full force and effect until MS has received written notification from you in such time, but no less than fifteen (15) business days before any payments are due to be made, and in such manner as to afford MS and Bank a reasonable opportunity to act on it. You also authorize your Bank to accept any correction or adjustment transaction made under this Agreement if an error has been made. You also understand that the Bank at which you have the designated account is required to provide to you the procedures for resolving errors on entries made under this Agreement. You hereby hold MS and Assigns harmless from any liability except for loss of funds transferred to an account not designated in the Merchant Agreement in force at the time of the transfer.

7. DISPUTES WITH MS

7.1 CONTACT MS FIRST

If a dispute arises between you and MS, our goal is to learn about and address your concerns and respond promptly in an attempt to resolve the matter. If we are unable to do so to your satisfaction, we will provide you with a neutral and cost effective means of resolving the dispute quickly through the Better Business Bureau. Disputes between you and MS regarding the MS Services may be reported to Customer Service through email to support@merchantservice.com, or by calling **888-288-3816** from 8:30 Am to 5 PM Monday through Friday, Eastern Time.

7.2 ARBITRATION

Excluding claims for injunctive or other equitable relief, if we do not agree to provide you the relief you requested, you may elect to resolve the dispute in a cost effective manner through the Better Business Bureau online dispute resolution process at www.BBBWestFlorida.org. We agree to make a good faith effort to resolve the dispute, which may include mediation if requested by the BBB at no charge to you. If our efforts to resolve the dispute fail and you disagree with the results of the BBB mediation, you may pursue a Binding Arbitration action. To proceed with the Binding Arbitration action you agree to pre-pay a fee of \$150.00 (or the fee then in effect as it may vary from time to time) to the www.BBBWestFlorida.org to start the process and we both agree to comply with any settlement, agreements or decisions reached as an outcome of the BBB Binding Arbitration dispute resolution process.

7.3 ARBITRATION PROCESS

When you elect to pursue BBB Binding Arbitration and pre-pay your \$150.00 fee, then we must both comply with the **BBB Rules of Binding Arbitration**, which we agree to honor with you, and any judgment of a award rendered by the arbitrator may be entered in any court of competent jurisdiction.

7.4 LAW AND FORUM FOR DISPUTES

Except as otherwise agreed by the parties in Section 7.2 and 7.3 above, you agree that any claim or dispute you may have against MS must be resolved by a court located in Sarasota County, Florida. You agree to submit to the personal jurisdiction of the court located in Sarasota County, Florida for the purpose of litigating all such claims or disputes. This Agreement shall be governed in all respects by the laws of the State of Florida.

You absolutely, unconditionally, knowingly and expressly waive:

1. Any right you may have to assert the doctrine of Forum Non Conveniens or to object to venue to the extent any action or proceeding is brought according to this section; and
2. The Parties specifically waive the right to a jury trial in any matter with respect to this Agreement or any instrument or document delivered pursuant to this Agreement. Each party shall bear its own expenses and attorneys' fees incurred in connection with this dispute resolution procedure and any court action. The prevailing party in any court action shall be entitled to an award for reasonable attorney fees and associated costs and expenses.

7.5 IMPROPERLY FILED LITIGATION

All claims you bring against MS must be resolved in accordance with Section 7 of this Agreement. All claims brought contrary to Section 7 shall be considered improperly filed and a breach of this Agreement. Should you file a claim contrary to Section 7, MS may recover attorney fees and costs (including in-house resources) up to \$2,500.00 USD, provided that MS has notified you in writing of the improperly filed claim, and you have failed to promptly withdraw the claim.

7.6 INSOLVENCY PROCEEDINGS

If any proceeding by or against you is commenced under any provision of the United States Bankruptcy Code, as amended, or under any other bankruptcy or insolvency law, MS will be entitled to recover all reasonable costs or

expenses (including staff resource costs, reasonable attorney fees and expenses) incurred in the enforcement of this Agreement.

7.7 NO WAIVER

Our failure to act with respect to a breach by you or others does not waive our right to act with respect to subsequent or similar breaches.

7.8 INDEMNIFICATION

You agree to defend, indemnify and hold MS, its parent, the officers, directors, agents joint ventures, employees, vendors and suppliers of MS or its parents, harmless from any claim or demand (including staff costs and attorney fees and expenses) made or incurred by any third party due to or arising out of your breach of this Agreement and/or your use of the MS Services.

7.9 RELEASE OF MS

If you have a dispute with one or more of our third party service providers including the Bank or Processor, you release MS (and our parent, the officers, directors, agents joint ventures, employees, vendors and suppliers of MS or its parents) from any and all Claims, demands and damages (actual and consequential) of every kind and nature arising out of or in any way connected with such disputes. In addition, you waive any protection available to you under California Civil Code §1542, which says: (a) general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if not known by him must have materially affected his settlement with the debtor.

8. GENERAL PROVISIONS

8.1 LIMITATIONS OF LIABILITY

IN NO EVENT SHALL WE, OUR PARENT, THE OFFICERS, DIRECTORS, AGENTS, JOINT VENTURERS, EMPLOYEES, VENDORS, THIRD PARTIES AND SUPPLIERS OF MS OR OUR PARENT BE LIABLE FOR LOST PROFITS OR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH OUR WEBSITE, SERVICES, OR THIS AGREEMENT (HOWEVER ARISING, INCLUDING NEGLIGENCE). Some states do not allow the exclusion or limitation of incidental or consequential damages so the above limitation or exclusion may not apply to you. OUR LIABILITY, AND THE LIABILITY OF OUR PARENT, THE OFFICERS, DIRECTORS, AGENTS, JOINT VENTURERS, EMPLOYEES, VENDORS, THIRD PARTIES AND SUPPLIERS OF MS OR OUR PARENT, TO YOU OR TO ANY THIRD PARTIES IN ANY CIRCUMSTANCES IS LIMITED TO THE ACTUAL AMOUNT OF DIRECT DAMAGES.

8.2 NO WARRANTY

THE MS SERVICES ARE PROVIDED "AS IS" AND WITHOUT ANY REPRESENTATION OF WARRANTY, WHETHER EXPRESS, IMPLIED OR STATUTORY. MS, OUR PARENT, THE OFFICERS, DIRECTORS, AGENTS, JOINT VENTURERS, EMPLOYEES, VENDORS, THIRD PARTIES AND SUPPLIERS OF MS OR OUR PARENT SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

MS does not have any control over the products and services that are paid for with the MS Services and MS cannot ensure that a buyer or a seller you are dealing with will actually complete the transaction or is authorized

to do so. MS does not guarantee continuous, uninterrupted or secure access to any part of the MS Services, and operations of our site may be interfered with by numerous factors outside of our control. MS will make reasonable efforts to ensure that requests for electronic debits and credits involving bank accounts, credit cards, and checks are processed in a timely manner but MS makes no representations or warranties regarding the amount of time needed to complete processing because the MS Services are dependent upon many factors outside of our control, such as delays in the banking system or the U.S. or international mail service. Some states do not allow the disclaimer of implied warranties, so the foregoing disclaimers may not apply to you. This paragraph gives you specific legal rights and you may also have other legal rights that vary from state to state.

8.3 COMPLETE AGREEMENT

This Agreement, along with any applicable policies and agreements pages on the MS website, sets forth the entire understanding between you and MS with respect to the MS Services. Sections one through eight, as well as any other terms which by their nature should survive, will survive termination of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced.

9. eC PCI Compliance™

9.1 TERMS OF USE

These Terms of Use are made as of this day, by and between MS and its Assigns, Justified Data Security LLC, a Virginia limited liability company ("Assigns"), and you (the "Account Holder") on behalf of you and on behalf of the owners of any domains you administer.

9.2 APPLICABILITY OF THESE TERMS OF USE; AMENDMENT TO THESE TERMS OF USE

These Terms of Use sets forth the terms and conditions that apply to your access and use of www.MerchantService.com and www.JDSCompliance.com. MS and Assigns may amend or revise these Terms of Use at any time. By using these sites, you agree to be bound by the Terms of Use as in effect from time to time. Please review the Terms of Use regularly. Your continued access and use of www.MerchantService.com and www.JDSCompliance.com following the posting of any such changes shall be deemed your acceptance of the same.

9.3 ENTIRE AGREEMENT

You acknowledge that these Terms constitute the entire agreement between you, MS and Assigns pertaining to your use of the Services. You agree that these terms supersede any prior agreements or statements made verbally or in writing concerning your use of the Services.

9.4 TERM AND TERMINATION

You agree that the initial term of this agreement shall be twelve (12) months and shall remain in effect for as long after that as you subscribe to, renew, or use the Services. You agree that this agreement can only be terminated by you once you have stopped using the Services and have paid all monies owed to MS.

You agree that your termination request must be delivered via written notice to MerchantService.com, Interstate Park Corporate Center, 341 Interstate Blvd., Sarasota, FL 34240 or via email at

compliance@MerchantService.com. Upon termination, the Account Holder will be responsible for current charges up to and including the day of termination, including outstanding balances and late fees. You agree that MS and Assigns can terminate this agreement at any time for any reason, with or without cause and that such termination will result in the termination of your account. Re-subscription shall again be subject to these or modified Terms in effect at the time of re-subscription.

9.5 AUTO RENEWAL

The Paying Account Holder's account will automatically renew on a yearly basis, unless either party suspends or terminates the account ninety (90) days in advance of the monthly renewal date agreed to by the parties.

9.6 GOVERNING LAW; JURISDICTION AND VENUE

Limited in regards to a dispute with the PCI Compliance Service, these Terms of Use are to be governed and construed in accordance with the laws of the State of Florida or Virginia as the MS chooses, without regard for principles of conflicts of laws. All provisions of Section 7 pertain herein.

9.7 IDENTIFICATION OF IP ADDRESSES

a. Because of the sensitive nature of performing security checks on IP addresses, Account Holder represents and warrants that it has full right, power, and authority to consent to have the service test for vulnerabilities ("scan") the IP addresses identified to MS and Assigns for scanning, whether electronically or by any other means, whether at the time of initial purchase or thereafter. Account Holder further agrees to immediately notify MS and Assigns if, at any time, it changes the IP address of its primary website or any other that it has contracted with MS and Assigns to scan without limiting any other remedy that MS and Assigns may have, Account Holder agrees to indemnify and hold MS and Assigns, its employees, board of directors, shareholders and its partners harmless from and against any and all liabilities, losses, damages, costs and expenses, including without limitation reasonable attorneys' fees and costs, incurred by MS and Assigns, its employees, board of directors or shareholders, or such partner resulting from Account Holder's breach of this section.

b. Account Holder also acknowledges and agrees that the scanning of such IP addresses may expose vulnerabilities and in some circumstances could result in the disruption of services at such site(s).

9.8 OWNERSHIP, INTELLECTUAL PROPERTY, LINKS AND TRADEMARKS

The Service is owned and operated by MS and Assigns. The trademarks, logos, service marks (the "Marks") displayed on the Website are owned by MS. Your use of the Website or the Service confers no rights to the Marks and you may not use, reproduce or display a Mark without MS's prior written consent.

9.9 VALIDATION OF COMPLIANCE

The MerchantService.com web portal provides a web based tool for Level 4 merchants to achieve and maintain compliance with the most current PCI DSS requirements. Self Assessment Questionnaires are answered by the User and the User attests that the answers provided are true and correct to the best of their knowledge. MS and Assigns relies on this information when validating compliance with the PCI DSS requirements. User agrees that information provided on the web portal was supplied by the User and to the best of our knowledge is correct.

In validating compliance MS and Assigns does not make any representation as to their currency or accuracy. MS and Assigns disclaims liability and responsibility for any and all loss, damage, or inconvenience suffered by any person, company, corporation or partnership or other entity as a result of use of such contact and descriptive details, as provided in this web portal. Anyone proposing to use or rely on such information should seek confirmation of the accuracy and currency of such information directly from the User concerned. The user hereby agrees that the use of the information provided therein is at his/its own risk and responsibility. MS and Assigns shall not be liable for any damages (including but not limited to damages resulting from loss of business or loss of profit) arising in contract, tort or otherwise, from the use or inability to use this web portal, or any link contained therein, or from any action or decision taken as a result of using such web portal or any link, material or information contained therein.

9.10 RIGHT TO DISPLAY THE COMPANY AND ASSIGNS CERTIFICATION SEALS

You agree to place the HTML source code only on sites provided by MS and Assigns for the display of the MS and Assigns Certification seals. You agree to only place this HTML code on sites that are approved by MS and Assigns. The MS and Assigns Certification seals shall at all times be served only from MS and Assigns 's designated servers and remain under the full control of you, MS and Assigns. MS and Assigns shall have the right to discontinue the serving of the MS and Assigns Certification seals should any Web site, or other device being scanned that is used in connection with the Web site or its services fail to meet the MS and Assigns certification guidelines. Removal of MS and Assigns Certification seals for reasons stated in the previous sentence does not relieve any financial obligation you have to MS nor does it constitute any responsibility for MS and Assigns to provide refunds during the time that the seals are not displayed. Should you discontinue services with MS and Assigns you agree to immediately remove all HTML source code supplied by MS and Assigns from your servers. You are prohibited from using the MS and Assigns Certification seals for or on behalf of any other organization or in connection with any domain name and/or organization name other than those approved by MS and Assigns, and enrolled and established under your User Account. The MS and Assigns Certification Seals shall reside on MS and Assigns' server. You will not alter the MS and Assigns' seals in any form, change the data contained within the image, change the file name of the image, or artificially change the size or shape of the image(s). The right to display the Certification Seals is a non-exclusive, limited license which may be revoked at any time at the sole discretion of MS and Assigns.

9.11 COPYRIGHTS

The Website and all its contents ("Content") are copyrighted, and such copyrights are owned by MS and Assigns or the author of such content. You are granted a non-exclusive, limited license to view, print, and/or distribute Content in hard copy from the Website provided that:

- a.** you use the Content for your personal or internal business use and not for any purpose contrary to MS and Assigns' commercial interests;
- b.** you do not copy, use or place any Content on any network or other website for any purpose other than as contemplated by this agreement.
- c.** you do not modify, alter, or create derivative works of, the Content; and

d. you include MS and Assigns' copyright notice on such Content as follows: Copyright MS and Assigns, All Rights Reserved. The license may be revoked at any time at the sole discretion of MS and Assigns and shall automatically be revoked if your User Account, as defined below, is revoked.

9.12 RIGHTS AND MARK

Except as expressly provided herein, nothing included in the Website or the Service is intended, nor shall be construed, as conferring any rights under any Mark, copyright, or patent.

9.13 LINKS TO THIRD-PARTY SITES

The Website may contain links to third-party sites. You acknowledge and agree that MS and Assigns is not responsible or liable for the content, information, services, or products of such third-party sites. You expressly assume all risk of accessing third-party sites. Links to a third-party site do not constitute endorsement of that site by MS and Assigns.

9.14 ACKNOWLEDGEMENT AND CONSENT TO INTRUSION

Account Holder understands and acknowledges that, in some situations, based on analysis of Account Holder practices by MS and Assigns, certain automated or manual system probes to identify website and network vulnerabilities (the "Evaluation Services")

1. Will be inherently invasive and intrusive, and include attempts by MS and Assigns or its agents, as applicable, to gain unauthorized access to Account Holder's systems in an effort to make Account Holder aware of those areas in which Account Holder's system is vulnerable to intrusion, damage, and/or unauthorized use,
2. May result in inadvertent damage to Account Holder's system as a result of dissimilarities among network systems,
3. May cause excessive amounts of log messages resulting in excessive disk space consumption, and
4. May cause degradation of Account Holder' system as a result of attempts to penetrate it including, but not limited to possible "slowdowns", "hanging" or "crashing" of Account Holder's system, possible failure of Account Holder's system as a result of attempts to invade it, or any other damage resulting from intrusive and/or invasive techniques used to gain access to Account Holder's system. Account Holder hereby gives its informed consent to intrusion into Account Holder's systems by MS and Assigns and its agents for the sole purpose of performing the Evaluation Services provided herein.

9.15 REGISTRATION AND PAYMENT FOR THE SERVICE

a. Accounts and Account Holders

These Terms of Use are made as of this day, by and between the MS and the Account Holder. You agree to provide truthful and accurate account information for purposes of registration to use the Service and creation of a MS and Assigns Account.

b. Password and Security

An Account Holder must select the login names for each "Account Holder." The Account Holder is solely responsible for all activity of the Account Holders it has authorized to use its MS and Assigns Account. Confidentiality of the passwords and login names is the sole responsibility of the Account Holder. The Account Holder agrees to immediately notify MS and Assigns if the security of his/her account is compromised. The user name and password shall be referred to as the User Account.

You acknowledge and agree MS and Assigns is not liable for any damages resulting from any other parties use of access of Account Holders' User Account regardless of whether other parties use or access is with or without the Account Holder's knowledge or consent. Account Holder may end authorization by administrating the user through the Website or by providing notice to compliance@MerchantService.com. Such notice will be effective upon confirmation by MS and Assigns, via email, of receipt.

c. Default

Account Holder will be in default under these Terms if it, without limitation

1. Is a Account Holder who fails to pay any amount when due,
2. Fails to comply with any provision of these Terms, or
3. Makes any representation that is or becomes inaccurate or untrue. Upon default, MS and Assigns may
 1. Terminate all or any part of the Service and the User Account, and/or
 2. Take any other lawful action MS and Assigns deems appropriate to enforce Account Holder's performance of these Terms and/or obtain damages for Account Holder's breach. In the event of default, Account Holder agrees to pay all costs and reasonable attorney's fees MS and Assigns incurs in enforcing its rights or collecting payment under this Agreement. Nothing in this paragraph is meant to limit MS and Assigns' rights under the contract, common law or equity.

9.16 CONFIDENTIALITY

You will, by using the services or by contact with MS and Assigns employees come into contact with confidential information. Information including, but not limited to, trade secrets, methods, details about product or service feature, enhancement, or release plans, and business or marketing plans ("Confidential Information") is considered to be proprietary and confidential. You agree to hold Confidential Information in strict confidence and take reasonable measures to keep it secure. You agree to abide by these terms for one year after you stop using the Services. MS and Assigns will, by providing these Services and/or by contact with Account Holders and Users come into contact with confidential information. Information including, but not limited to, trade secrets, methods, details about product or service feature, enhancement, or release plans, and business or marketing plans ("Confidential Information") is considered to be proprietary and confidential. MS and Assigns agrees to hold Confidential Information in strict confidence and take reasonable measures to keep it secure. MS and Assigns agrees to abide by these terms for one year after Services are terminated.

9.17 FORCE MAJEURE

Neither party shall be liable (except for nonpayment) for interruptions, delays, failures to perform, damages, losses or destruction, or malfunction of any equipment, or any consequence thereof caused or occasioned by, or due to fire, flood, water, earthquake, the elements, acts of God, war and threat of imminent war, terrorism, labor disputes or shortages, utility curtailments, power failures, explosions, civil disturbances, governmental actions, shortages of equipment for supplies, unavailability of transportation, acts or omissions of third parties, or any other cause beyond the either parties' reasonable control. The party so delayed or prevented from performing shall exercise good faith efforts to remedy any such cause of delay or cause preventing performance.

9.18 LIMITATIONS ON LIABILITY; DISCLAIMER

BY USING THIS SITE, YOU ASSUME ALL RESPONSIBILITY AND RISK FOR THE USE OF THIS SITE AND THE INTERNET GENERALLY. THE CONTENT IS PROVIDED "AS IS," WITHOUT ANY EXPRESS OR IMPLIED WARRANTY OF ANY KIND, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OF INTELLECTUAL PROPERTY, AND FREEDOM FROM ERRORS, VIRUSES, BUGS, OR OTHER HARMFUL COMPONENTS.

MS and Assigns SHALL IN NO EVENT BE RESPONSIBLE TO, OR LIABLE TO, YOU, OR ANY THIRD PARTY, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY DAMAGES, INCLUDING, BUT NOT LIMITED TO, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES THAT INCLUDE, BUT ARE NOT LIMITED TO, DAMAGES FOR ANY LOSS OF PROFIT, REVENUE OR BUSINESS ARISING OUT OF MS and Assigns' SERVICES PROVIDED HERE UNDER.

9.19 WARRANTY AND DISCLAIMER

THE MS and Assigns MARK(S) IS LICENSED "AS IS" WITH NO WARRANTY OF ANY KIND. JUSTIFIED DATA SECURITY LLC DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE AND NON-INFRINGEMENT.

9.20 INDEMNIFICATION BY JUSTIFIED DATA SECURITY LLC AND ACCOUNT HOLDER

Account Holder and Users will defend, indemnify and hold MS and Assigns, and its officers, directors, agents, employees and representatives, harmless from and against any liability, damages, costs and expenses, including without limitation reasonable attorneys' fees, in connection with any third party claims against MS and Assigns, its officers, directors, agents, employees or representatives, arising from or relating to the services, Account Holder's use of the MS and Assigns Mark(s) (except for claims that the MS and Assigns Mark(s) or use of the MS and Assigns Mark(s) infringes any trademark, service mark or certification mark rights of third parties) or Account Holder's and/or Users failure to maintain the privacy or security of any data or other information; provided that MS and Assigns

1. provides prompt written notice of any such claim, action or demand;
2. provides Account Holder, at Account Holder's request, with reasonable assistance in the defense of such claim, action or demand, so long as Account Holder reimburses MS and Assigns for MS and Assigns' reasonable out-of-pocket expenses associated therewith; and

3. Account Holder may not settle a claim in a manner that causes MS and Assigns to incur un-indemnified liability, take action, or suffer other injury, without MS and Assigns' written consent, which consent shall not unreasonably be withheld. MS and Assigns' Services are provided on an "As Is, As Available" basis without any warranty of any kind. You understand that assessing computer security is highly complex and changeable. MS and Assigns makes no warranty that the Services will find every vulnerability in your network or server(s), or that the solutions suggested and advice provided in this report will be complete or error-free. MS and Assigns and its Agents shall be held harmless and free from all liabilities for any use or application of the information provided by MS and Assigns and its Agents in connection with using the services. Additionally, MS and Assigns makes no warranty that the services will always be available, that they will be error free, that they are free from viruses or harmful components, or that they will meet your requirements. You use the Services or any related third party services at your own risk. You are solely responsible for any damage to your Devices as a result of using the services. MS and Assigns MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IN CONNECTION WITH THIS AGREEMENT OR YOUR USE OF THE SERVICES.

9.21 QUESTIONS, COMMENTS AND COMPLAINTS

MS and Assigns encourages you to provide MS and Assigns with feedback regarding this Terms of Use Policy. If you have questions, comments or concerns regarding this Terms of Use Policy, please contact compliance@MerchantService.com or send mail to the following address: Justified Data Security LLC Inc., 2776 S. Arlington Mill Drive, Suite 238, Arlington, VA 22206.

9.22 MISCELLANEOUS

The headings contained in these Terms of Use are for convenience of reference only, are not to be considered a part of these Terms of Use, and shall not limit or otherwise affect in any way the meaning or interpretation of these Terms of Use.

10. eC PCI Breach Coverage™ INSURANCE

10.1 TERMS

This Guaranty provides CLAIMS-MADE COVERAGE. Claims must first be made against the ACQUIRER during the GUARANTY period. Any payment reduces the MERCHANT'S \$50,000.00 limit of liability. Please read the entire GUARANTY carefully. Subject to the Merchant's \$50,000.00 Limit of Liability, terms, conditions, limitations and exclusions herein, this guaranty provides coverage as set below.

10.2 AGREEMENTS

a. Security Event Expenses

We shall pay the named merchant for all reasonable security event expenses resulting from any data security event first discovered by the named merchant during the guaranty period and reported to us within the notice period.

b. Post Event Services

We shall pay the named merchant for all reasonable post event services expenses resulting from a data security event first discovered by the named merchant during the guaranty period and reported to us within the notice period.

10.3 DEFINITIONS

- a.** Bank card means a financial transaction card, including a debit card, credit card or prepaid card, issued by a card association or a financial institution as a member of a card association.
- b.** Cardholder means a natural person or entity to which a bank card has been issued.
- c.** Cardholder Information means the data contained on a bank card, or otherwise provided to a merchant, that is required by the card association or the named insured in order to process, approve and/or settle a bank card transaction.
- d.** Card association means each of Visa International, MasterCard Worldwide, Discover Financial Services, JCB, American Express and any similar credit or debit card association that is a participating organization of the PCI Security Standards Council.
- e.** Card association assessment means a monetary assessment, fee, fine or penalty levied against the named merchant by a card association as the result of
1. a data security event or
 2. a security assessment conducted as the result of a data security event.
- f.** Card replacement expenses means the costs that the named merchant are required to pay to replace compromised bank cards as the result of
1. A data security event or
 2. A security assessment conducted as the result of a data security event.
- g.** Claim means a written demand for payment of money.
- h.** Data security event means the actual or suspected unauthorized access to or use of cardholder information, arising out of a merchant's possession of or access to such cardholder information, which has been reported
1. To a card association by the named merchant or
 2. To named merchant by a card association.
- All security event expenses and post event services expenses resulting from the same, continuous, related or repeated event or which arise from the same, related or common nexus of facts, will be deemed to arise out of one data security event.
- i.** Forensic audit expenses means the costs of
1. A forensic investigation conducted to determine the cause and extent of a data security event, and

2. A security assessment conducted by a qualified security assessor approved by a card association or the PCI Security Standards Council.

j. Named merchant means the entity indicated in Item 1. of the Certificate. (link to new certificate page – example of certificate at bottom of this file.

k. Notice period means the sixty (60) day period of time the named merchant shall have to notify us that a data security event has occurred. The notice period shall commence immediately upon first discovery of the data security event by the named merchant.

l. Guaranty period means the period commencing on the effective date specified in Item 2. of the Certificate and ending on the earlier of either the expiration date specified in Item 2 of the Certificate or the effective date of cancellation of this guaranty.

m. Post event services expenses means reasonable fees and expenses incurred by the named merchant with our prior written consent, for any service specifically approved by us in writing, including without limitation, identity theft education and assistance and credit file monitoring. Such services must be provided by or on behalf of the named merchant within one (1) year following discovery of a data security event covered under this guaranty to a cardholder whose cardholder information is the subject of that data security event for the primary purpose of mitigating the effects of such data security event.

n. Regulatory action means a request for information, civil investigation, demand or civil proceeding commenced by service of a complaint or similar pleading, brought by, or on behalf of, a governmental agency, that alleges a violation of any federal, state, foreign or local privacy statute arising out of a data security event reported to us within the notice period.

o. Security event expenses means card association assessments, forensic audit expenses and card replacement expenses

p. We, us and our mean the guarantor issuing this guaranty.

10.4 DUTIES IN THE EVENT OF A DATA SECURITY EVENT OR CLAIM

a. Before coverage will apply under this guaranty, the named merchant shall notify us in writing as soon as practicable within the notice period of an actual or alleged data security event first discovered by the named merchant during the guaranty period. Notice must include:

1. The name of the merchant;
2. A description of the data security event;
3. The number of cardholders affected by the data security event; and
4. A copy of all notices and correspondence from the named insured, the merchant, or a card association concerning the data security event.

b. Under all circumstances, the named merchant shall not admit any liability, assume any financial obligation, pay any money, or incur any expense in connection with any data security event without our prior written consent. If the named merchant does, it will be at the named merchant's own expense.

c. The named merchant shall take reasonable steps to prevent a data security event and to mitigate the damages arising out of a data security event, including without limitation, following the procedures required by a card associations in the event of a data security event. In all events, no named merchant shall take any action, or fail to take any action, without our prior written consent, which prejudices our rights under this guaranty.

10.5 EXCLUSIONS

This guaranty shall not apply to:

a. any security event expenses and post event services expenses arising out of or resulting from a claim, suit, action or proceeding against the named merchant that is brought by or on behalf of any federal, state or local government agency arising out of or resulting from a regulatory action;

b. any data security event relating to a merchant which has experienced a prior data security event unless such merchant was later certified as PCI compliant by a qualified security assessor;

c. any expenses, other than security event expenses and post event services expenses, incurred by the named merchant, arising out of or resulting, directly or indirectly, from a data security event, including without limitation, expenses incurred to bring a merchant into compliance with the PCI Data Security Standard or any similar security standard ;

d. any security event expenses, and post event services expenses arising out of or resulting, directly or indirectly, from physical injury, sickness, disease, disability, shock or mental anguish sustained by any person, including without limitation, required care, loss of services or death at any time resulting therefrom;

e. any security event expenses, and post event services expenses arising out of or resulting, directly or indirectly, from any of the following:

1. fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, an act of God or any other physical event, however caused;
2. strikes or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against these actions; or
3. electrical or mechanical failures, including any electrical power interruption, surge, brownout or blackout; a failure of telephone lines, data transmission lines, satellites or other infrastructure comprising or supporting the Internet, unless such lines or infrastructure were under the named merchant's operational control;

f. any security event expenses, and post event services expenses arising out of or resulting, directly or indirectly, from the presence of or the actual, alleged or threatened discharge, dispersal, release or escape of pollutants (including nuclear materials), or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, or in any way respond to or assess the effects of pollutants;

g. any data security event that was not properly reported to us during the notice period;

h. any data security event occurring before the effective date of the customer agreement between the named merchant and us or after the termination of such agreement.

i. any claim seeking non-monetary relief, including without limitation, injunctive relief, declaratory relief, or other equitable remedies;

j. any expenses incurred for, or as a result of, regularly scheduled, recurring or routine security assessments, regulatory examinations, inquiries or compliance activities;

k. any liability or obligation of the named merchant under any contract or agreement; however, this exclusion shall not apply to:

1. liability the named merchant would have in the absence of such contract or agreement,
2. liability or obligation under any customer agreement with a merchant, or
3. any agreement with a card association relating to the named merchant's processing and settling of transactions involving bank cards issued or authorized by such card association.

l. any data security event that first occurred prior to the guaranty period set forth in Item 2. of the Certificate;

m. any security event expenses, and post event services expenses arising out of or resulting, directly or indirectly, from the infringement of copyright, patent, trademark, trade secret or other intellectual property rights;

n. any security event expenses, and post event services expenses alleging, arising out of or resulting, directly or indirectly, from any discrimination against any person or entity on any basis, including but not limited to: race, creed, color, religion, ethnic background, national origin, age, handicap, disability, sex, sexual orientation or pregnancy; or

o. any claim against the named merchant that is brought, directly or indirectly, by or on behalf of:

1. any entity that is owned, managed or operated, directly or indirectly, in whole or in part, by the named merchant; or

2. any parent company, subsidiary, director, officer, partner, trustee, successor or assignee of the named merchant, or anyone affiliated with the named merchant or such business entity through common majority ownership or control.

10.6 LIMITS OF INSURANCE

a. The Limit of Insurance indicated in Item 3. of the Certificate of this guaranty will be the most we shall pay for all coverages combined, regardless of the number of data security events, regulatory actions, persons, entities or claims covered by this guaranty and regardless of the total of all security event expenses and post event services expenses resulting from all data security events first discovered by the named merchant during the guaranty period and reported to us within the notice period.

b. All security event expenses and post event services expenses resulting from the same, continuous, related or repeated data security event shall be subject to the terms, conditions, exclusions and Limit of Insurance of the guaranty issued by us to the named merchant in effect at the time the first such data security event is first discovered by the named merchant.

10.7 OTHER PROVISIONS AFFECTING COVERAGE

a. Coverage Territory

Subject to its terms, conditions and exclusions, this policy applies to a data security event occurring, and security event expenses and post event services expenses incurred, anywhere in the world.

b. Legal Action Against Us

Except as provided in paragraph IX.H. of this guaranty, with respect to Insuring Agreements A. and C., no legal action may be brought or made against us under this guaranty unless:

1. there has been full compliance with all of the terms of this guaranty; and
2. with respect to Insuring Agreement C., the action is brought within two (2) years after the date on which a data security event is first discovered by the named merchant.

c. Subrogation

In the event of any payment under this guaranty, we shall be subrogated to the extent of such payment, to all rights of recovery of the named merchant arising out of a covered data security event. The named merchant shall do whatever is necessary, including signing documents, to help us obtain any recovery we may seek.

d. Other Insurance

This guaranty shall be primary with respect to any other valid and collectible insurance available to the named merchant, unless such other valid and collectible insurance is also stated to be primary. In that case, we will share with all other insurance by the method described below.

1. If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer shall contribute equal amounts in excess of the applicable Retention until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.
2. If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share shall be based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

e. Assignment

This guaranty and any rights provided by this guaranty are not assignable without our written consent.

f. Changes

Changes to the provisions of this guaranty shall be made only by written endorsement issued by us and made a part of this guaranty.

g. Reimbursement

Payments made under this guaranty to or on behalf of the named merchant shall be repaid to us by the named merchant in the event and to the extent that the named merchant shall not be entitled to such payment.

10.8 Alternative Dispute Resolution

It is hereby understood and agreed that all disputes or differences which may arise under or in connection with this guaranty, whether arising before or after termination of this guaranty, including any determination of the amount of security event expenses and post event services expenses, must first be submitted to the non-binding mediation process as set forth in Section 7.

The non-binding mediation will administered by the BBB. In the event that such non-binding mediation does not result in a settlement of the subject dispute or difference:

1. either party shall have the right to commence a judicial proceeding; or
2. either party shall have the right, with all other parties consent, to commence an arbitration proceeding with the AAA that will be submitted to an arbitration panel of three (3) arbitrators as follows:
 - a. the insured merchant shall select one (1) arbitrator;
 - b. we shall select one (1) arbitrator; and
 - c. said arbitrators shall mutually agree upon the selection of the third arbitrator.

The arbitration shall be conducted in accordance with the AAA's then prevailing Commercial Arbitration Rules. provided, however, that no such judicial or arbitration proceeding shall be commenced until at least ninety (90) days after the date the non-binding mediation shall be deemed concluded or terminated. The non-binding BBB mediation shall be commenced in Florida, Sarasota County.

10.9 Title of Paragraphs

The titles of the various clauses and paragraphs of this guaranty and endorsements, if any, attached to this guaranty, are inserted solely for convenience or reference and are not to be deemed in any way to limit or expand the provisions to which they relate, and are not part of this guaranty.

10.10 Cancellation

There shall be no coverage for any data security event first discovered by the named merchant after the effective date and time of the expiration, cancellation or non-renewal of this guaranty.

This guaranty may be canceled by the named merchant by surrender of this guaranty to us or by giving written notice to us stating when thereafter such cancellation shall be effective. This guaranty may not be canceled by us at any time during the guaranty period, provided however, we may cancel for non-payment of premium by delivering to the named merchant by registered, certified, or other first class mail or other reasonable delivery method at the address of the named merchant set forth in Item 1 of the Certificate, written notice, stating when, not less than ten (10) days thereafter, the cancellation shall be effective. The mailing of such notice, as aforesaid, shall be sufficient proof of notice. This guaranty shall be deemed canceled at the date and hour specified in such notice.

In the event of cancellation, the premium shall be fully earned on the date premium is due. If the period of limitation relating to the giving of notice for cancellation by us, as set forth above, is also set forth in any controlling law, the period set forth above shall be deemed so as to be equal to the minimum period of limitation set forth in such controlling law if it is a longer period.

10.11 Organizational Changes

If during the policy period:

1. the named merchant shall consolidate with, merge into, or sell all or substantially all of its assets to any other person or entity or group of persons or entities acting in concert; or
2. any person or entity or group of persons or entities acting in concert shall acquire securities or voting rights which result in ownership or voting control by other entities or persons of more than fifty percent (50%) of the outstanding securities representing the rights to vote for the election of the named merchant's directors; (any of such events being a "transaction"), then this guaranty shall continue in full force and effect as to data security events occurring on or after the guaranty period and prior to the effective time of the transaction; provided that such data security event is first discovered prior to the effective time of the transaction and otherwise reported to us during the notice period and in accordance with the terms and conditions of this guaranty. There shall be no coverage afforded by any provision of this guaranty for any data security event that is first discovered, or that occurs, on or after the effective time of the transaction, unless
 1. within thirty (30) days of such transaction we have been provided with full particulars of the transaction, the related entities and any other information requested by us, and
 2. The named merchant or its successor, has agreed to any additional premium and amendments to this policy required by us.

Post-transaction coverage as described above is conditioned upon the named merchant or its successor paying when due any additional premium required by us. This policy may not be canceled after the effective time of a transaction and the entire premium for this guaranty shall be deemed earned as of such time.

11. eC Insurance Coverage™

The Company, in consideration of an agreed premium, subject to the other terms hereof, agrees to pay on behalf of the Insured all sums that the Insured shall become obligated by reason of:

11.1 ROBBERY OF COVERED RETAILERS

maximum benefit of \$2,500.

If during a Covered Activity, an Insured merchant or retailer is robbed at a qualified Merchant or Retail Location (“redemption facility”) during or within 10 minutes of a covered merchant transaction and subsequent stolen funds are not recovered within 48 hours of the Robbery, the Company will pay a benefit equal to the amount stolen up to the maximum limit stated in the schedule less any reimbursements from the Merchants primary commercial coverage.

This coverage will also apply for insured merchants that use smart phones to effectuate remittance transactions (wire transfers) for their customers. The Maximum Benefit of \$2,500 includes both cash and funds that are stored on a smart phone – in the aggregate.

In no event will the sum of the benefit paid by this policy, funds recovered from subsequent actions or benefits paid under other policies exceed the amount of the actual loss. <BR.&NBSP;
Coverage will begin one hour prior to the posted retail hours of the retail establishment and will remain in effect for one hour after the posted closing of the retail establishment.

This Benefit will be payable provided the Robbery is reported to the police within 48 hours of its occurrence, and the following documentation is produced upon submission of a claim:

1. A copy of the police report;
2. A fully completed dated and signed (by the insured) claim form;
3. A copy of transaction receipt, showing the amount withdrawn, time, date and location of the retail establishment; and
4. Confirmation from the Retail Management’s records that the transaction and robbery occurred at the time, date and said location.

The Robbery Benefit is limited to one benefit per calendar year.

11.2 CUSTOMER ROBBERY BENEFIT - MOBILE REMITTANCE DEVICE

maximum benefit of \$300.

If during a Covered Activity, an Insured is robbed of or otherwise loses the mobile remittance device and subsequently, funds stored, associated with or credited to the mobile remittance device are fraudulently withdrawn within 24 hours and the stolen mobile device or funds are not recovered within 48 hours of the Robbery, the Company will pay a benefit equal to the amount withdrawn up to the maximum limit stated in the schedule.

This Benefit will be payable provided the Robbery is reported to the police within 48 hours of its occurrence, the phone is immediately deactivated and the following documentation is produced upon submission of a claim:

1. A copy of the police report;
2. A fully completed dated and signed (by the insured) claim form;
3. A copy of the transaction receipt, showing the amount withdrawn, time, date and location of the redemption facility; and
4. Confirmation from the redemption facility records that the transaction occurred at the time, date and said location.

The Robbery Benefit is limited to two benefits per Customer [Claimant], per year.

11.3 CUSTOMER ROBBERY BENEFIT – REMITTANCE TRANSACTION – NON ELECTRONIC OR MECHANICAL DEVICES maximum benefit \$300.

If during a Covered Activity an Insured is robbed within 10 minutes after the Insured's redemption of a remittance at an "over the counter" physical location ("redemption facility") not involving an ATM or similar device and the stolen funds are not recovered within 48 hours of the Robbery, the Company will pay a benefit equal to the amount withdrawn up to the maximum limit stated in the schedule.

This Benefit will be payable provided the Robbery is reported to the police within 48 hours of its occurrence, and the following documentation is produced upon submission of a claim:

1. A copy of the police report;
2. A fully completed dated and signed (by the insured) claim form;
3. A copy of the transaction receipt; showing the amount withdrawn, time, date and location of the redemption facility; and
4. Confirmation from the redemption facility records that the transaction occurred at the time, date and said location.

The Robbery Benefit is limited to two benefits per Customer [Claimant], per year.

11.4 CUSTOMER ACCIDENTAL DEATH

maximum benefit of \$5,000

If injury to the insured merchant/retailer or employee of the insured merchant/retailer results in death within 90 days of the date of the Robbery that caused the injury, the Company will pay 100% of the Maximum Amount.

11.5 CUSTOMER IN-HOSPITAL INDEMNITY BENEFIT

daily Maximum of \$25 to a maximum of 30 days per event.

If an Insured merchant/retailer or employee of the insured merchant/retailer suffers an injury that, within 30 days of the date of the Robbery that caused the injury, requires him or her to be confined to a Hospital as an Inpatient, the Company will pay a benefit after 3 Days of Confinement due to that injury, retroactive to the first Day of Confinement.

The amount of the benefit is equal to 100% of the Daily Maximum Amount (\$25) for the In-Hospital Indemnity Benefit per day of inpatient confinement due to that injury. The benefit is payable monthly up to the Maximum Number of Days for the In-Hospital Indemnity Benefit during any one Period of Confinement. Only one benefit is provided for any One Day of Confinement, regardless of the number of injuries for which confinement is required.

11.6 CUSTOMER LIMIT OF LIABILITY

SINGLE LOSS PER CUSTOMER PER OCCURRENCE

Subject to the Aggregate Loss of Funds per Customer, the Company's liability for any one robbery of the Insured customer immediately following the withdrawal of funds from an account linked to the registered card, device or redemption activity is the amount of cash the customer is robbed of or the daily maximum withdrawal limit, whichever is the lesser amount.

11.7 AGGREGATE LOSS OF FUNDS PER CUSTOMER

The Company's total liability for all losses of funds by use of any ATM, credit or debit card, mobile remittance device or redemption facility involving any customer's account is the insured's daily withdrawal limit with a limit of [2] robberies per the policy period.

In the case the Insured is held by force at the site of the robbery and subsequent withdrawals are made during the same robbery incident, the aggregate amount paid will equal the amount of cash the customer is robbed of or the total of the daily withdrawal limits during the period of captivity to a maximum aggregate liability of [\$300] per the policy period.

11.8 GENERAL PROVISIONS

JOINT INSURED

Only the Insured listed on the registered card is covered under this policy. Coverage by election can be extended to immediate family members for incidental use of an ATM for a known and/or authorized transaction.

Payment by the Company to the first named Insured for loss sustained by any Customer shall fully release the Company on account of such loss.

REPRESENTATION

It is represented that the particulars and statements contained in the application for this policy are true and are the basis of this policy and are incorporated in and constitute part of this policy. Any material untrue statement contained in the application shall be ground for the rescission of this policy whether or not relevant to any loss reported to the Company.

CONDITIONS AND LIMITATIONS DEFINITIONS

ATM: An automatic electronic device designed to permit the customer of the retailer or merchant to interface with a financial institution without teller assistance using a Registered Card.

Activation: A transaction initiated by the retail customer of the insured merchant or retailer at an ATM or similar point of sale device located within the covered retail location, or within a secured and segregated area of a retail outlet designated for proscribed financial transactions that is reported on the records of the policyholder.

Benefit Schedule: the Benefit Schedule section of the Policy.

Commercial or Other Policy: Any policy maintained by the merchant or retailer in accordance with prudent business practices which provides for the reimbursement of losses due to robbery.

Covered Activity (ies): those activities set out in the policy with respect to which Insureds are provided insurance under this Policy.

Financial activities specified by the terms of agreement between the policy holder and the merchant/retailer when conducted at the retail location including ATM withdrawals and “over the counter” transactions. Such transaction must be conducted in a designated secure area and be conducted within the requirements and procedures of the policy holder.

Cash Dispensing Machine: any mechanical device designed to permit the customer to interface with the Insured's banking system to withdraw funds with an ATM, credit, debit card or a device used for similar purpose.

Cash Withdrawal Receipt: any mechanical device designed to permit the customer to interface with the Insured's banking system to withdraw funds with an ATM, credit, debit card or a device used for similar purpose.

Customer: any person who has an account(s) with the Insured and is issued an ATM, credit or debit card that can be used to withdraw funds from any automated cash-dispensing machine.

Day(s) of Confinement: a day of Hospital confinement as an Inpatient.

Felonious Assault: any willful or unlawful use of force upon the Insured:

1. with the intent to cause bodily Injury to the Insured; and
2. that results in bodily harm to the Insured; and
3. that is a felony or a misdemeanor in the jurisdiction in which it occurs; and
4. that is documented by:
 - a. a police report within 48 consecutive hours from the time during which said incident occurred;
 - b. a fully completed dated and signed (by the relevant person) loss claim form;
 - c. an ATM receipt confirming the time during which the incident or alleged incident giving rise to the claim occurred; and
 - d. a medical report (death certificate where appropriate).

Hospital: a facility which:

1. is operated according to law for the care and treatment of injured and sick people;
2. has organized facilities for diagnosis and surgery on its premises or in facilities available to it on a prearranged basis;
3. has 24 hour nursing service by registered nurses (R.N.'s); and
4. is supervised by one or more Physicians. A Hospital does not include:
 - a. a nursing, convalescent or geriatric unit of a hospital when a patient is confined mainly to receive nursing care; or
 - b. a facility which is, other than incidentally, a rest home, nursing home, convalescent home or home for the aged; nor does it include any ward room, wing, or other section of the hospital that is used for such purposes.

Injury: bodily injury caused by a Felonious Assault that:

1. occurs while this Policy is in force as to the person whose injury is the basis of claim; and
2. occurs while such person is participating in a Covered Activity; and
3. results directly and independently of all other causes in a covered loss.

Inpatient: a person who is

1. confined in a Hospital as a registered bed patient; and
2. for whom at least one day's room and board is charged by the Hospital unless the Insured is confined as an Inpatient in any military, veterans or other government supported or sponsored Hospital for which a charge for room and board is not made.

Insured: a person who is

1. a member of an eligible class of persons as described in the Classification of Eligible Persons section of the Master Application;
2. for whom premium has been paid; and
3. while covered under this Policy.

Mobile Remittance Device: A mobile electronic or similar device which stores monetary value, receives remittances or can access the financial accounts to make deposits or withdrawals without teller assistance using secured financial networks and technology.

Period of Confinement: a period of consecutive Days of Confinement as an Inpatient for all Injuries caused by the same accident. However, successive confinements as an Inpatient for all Injuries caused by the same accident are considered to be part of the same Period of Confinement, unless the discharge date for the prior confinement is separated from the admission date for the next confinement by at least 120 days.

Physician: a licensed practitioner of the healing arts acting within the scope of his or her license who is not:

1. the Insured;
2. an Immediate Family Member; or
3. retained by the Policyholder.

Qualified Retailer / Merchant: Any establishment which utilizes the financial services of the policy holder to conduct specific financial transactions in accordance with the standards and procedures of the policy holder.

Qualified Retail Location: Any establishment which utilizes the financial services of the policy holder to conduct specific financial transactions in accordance with the standards and procedures of the policy holder.

A facility, retail location or other physical structure with a teller or similar functionary which receives funds from one person ("sender") and distributes the received funds to another person ("receiver") or conducts limited retail financial activities.

Qualified Transactions: Financial activities specified by the terms of agreement between the policy holder and the merchant/retailer when conducted at the retail location including ATM withdrawals and "over the counter" transactions. Such transaction must be conducted in a designated secure area and be conducted within the requirements and procedures of the policy holder.

Registered Card: a cash card, credit card, debit card or device used for similar purpose, registered in the territory for coverage and for which a premium is paid and such premium is current at the time of loss.

Remittance: A financial transaction, often international, where funds are transferred from one person to another through electronic or similar platforms.

Remittance Redemption Facility: A facility, bank, retail location or other physical structure with a teller or similar functionary which receives funds from one person ("sender") and distributes the received funds to another person ("receiver").

Robbery: the taking of cash withdrawn from any automated Cash Dispensing Machine from any ATM, credit or debit card customer by inflicting or threatening imminent physical harm or bodily injury to the customer or by placing any such customer in fear of imminent physical harm or bodily injury while withdrawing funds from any automated cash dispensing machine, provided that the robbery is not committed by an officer or employee of the Insured.

Single Loss: all covered loss incurred by the Insured under the Insuring Agreement resulting from any one act or series of related acts of robbery.

Transaction: the act of carrying out a cash withdrawal from any automated cash-dispensing machine.

Transaction Receipt: Any machine printed slip or ticket indicating date, time, machine number, account number and dollar amount of cash withdrawal or covered transactions.

POLICY EXCLUSIONS

This Policy does not cover any loss caused in whole or in part by, or resulting in whole or in part from, the following:

1. Suicide or any attempt at suicide or intentionally self-inflicted injury or any attempt at intentionally self-inflicted injury.
2. Sickness, disease or infections of any kind; except bacterial infections due to an accidental cut or wound, botulism or ptomaine poisoning directly caused by a Robbery as defined in this policy.
3. The Insured's commission of or attempt to commit a felony.
4. Declared or undeclared war, or any act of declared or undeclared war.

In addition to all other exclusions listed above, Robbery, Accidental Death, exposure or disappearance or In Hospital benefits are not payable for any loss caused in whole or in part by, or resulting in whole or in part from:

1. Subsequent loss that arises out of the theft of a Registered Card, or from theft of captured information by any means from the ATM unless the card is obtained during the covered robbery;
2. Loss caused by an officer or employee of the financial institution;
3. Any incident giving rise to a loss or potential loss involving the Insured's family members as perpetrators of the Robbery (for purposes of this exclusion, family members includes relatives as far removed as first cousins);
4. Any costs, charges or expenses incurred by the Insured or by any financial institution, in establishing the existence of loss or potential loss provided under the Policy or as a party to any legal proceeding, whether or not such legal proceeding, exposes the Insured to loss covered by this policy;
5. Cash left unattended;
6. Any loss resulting from use of a Registered Card for any reason other than the withdrawal of cash from an ATM;
7. Loss resulting from the voluntary giving or surrendering of funds in any exchange or purchase;
8. Any loss resulting from the use of a Registered Card by anyone other than the Insured;
9. Damages of any type for which the Insured is legally liable, except compensatory damages, but not multiples thereof, arising directly from a loss covered under this policy;
10. Indirect or consequential loss of any nature;
11. Loss that arises from a mysterious or unexplainable disappearance of cash;

12. Subsequent loss that arises out of the theft of any ATM, credit or debit card;
13. Loss caused by an officer or employee of the Insured;
14. Loss of property voluntarily purchased with any ATM, Credit or Debit Card.

LIMITS OF INSURANCE / SETTLEMENT OPTIONS

The Limit of Liability stated above is the total limit of the Company's liability hereunder for loss of funds per customer's account arising out of any withdrawals during the Insured's 24-hour business day.

The Limit of Liability stated above is the total limit of the Company's liability hereunder for all losses of funds involving any customer's account per the policy period.

TERRITORY

This policy applies only to loss arising out of a robbery at a "redemption facility" [retail location] or within 10 minutes of an ATM cash transaction or cash remittance transaction at such facility.

COVERAGE PERIOD

This policy applies to robbery of the Insured's customer immediately following the withdrawal of funds from any automated Cash Dispensing Machine, the loss of funds resulting from the theft of a mobile remittance device or the redemption of a remittance which occurred during the policy period.

REPORT OF ROBBERY

As a result of the robbery which may give rise to a claim for loss:

1. The Customer shall report the robbery to the police within 48 hours of the robbery and;
2. Submit to the Company as soon as practicable, but no later than {10 days} after robbery,
 1. A completed claim form, and
 2. A copy of the police report, and
 3. A copy of the cash withdrawal receipt, if available
3. The Insured must notarize a statement that a cash withdrawal transaction from the account occurred at the date, time and location of the robbery, and submit the claim form, copy of police report, notarized statement and copy of cash withdrawal receipt to the Company at the earliest practicable moment, not to exceed 60 days after receipt of information from the Customer.

ACTION AGAINST COMPANY

No action shall lie against the Company unless as a condition precedent thereto, the Insured shall have fully complied with all the terms of this policy, nor until 90 days after the required information has been submitted to the Company, nor at all unless commenced within two years from the date when the robbery is reported to the Company. If any limitation of time for report of robbery or any legal proceeding herein contained is shorter than that permitted to be fixed by agreement under any law controlling the construction of this policy, the shortest permissible limitation of time shall govern and shall supersede the time limitation herein stated.

OTHER INSURANCE

If there is any other valid and collectible insurance that would apply in the absence of this policy, the insurance under this policy shall apply only as excess insurance over such other insurance.

RECOVERIES

Any recoveries, less the cost of obtaining, made after settlement of loss covered by this policy will be distributed to the Customer until the Customer is reimbursed for any loss that the Customer sustains that exceeds the Limit of Liability and then to the Company until the Company is reimbursed for the settlement made.

CANCELLATION

This policy may be cancelled by the Insured by mailing to the Company written notice stating when thereafter the cancellation shall be effective. The Company may cancel this policy by mailing to the Insured at the address shown in this policy, written notice stating when (not less than 30 days thereafter) such cancellation shall be effective. The mailing of notice aforesaid shall be sufficient proof of notice. The effective date and hour of cancellation stated in the notice shall become the end of the policy period.

Delivery of such written notice either by the Insured or by the Company shall be equivalent to mailing.

ASSIGNMENT

Assignment of interest under this policy shall not bind the Company until its consent is endorsed hereon.

NON-ACCUMULATION OF LIMIT OF INSURANCE

Regardless of the number of years this policy remains in force or the number of premiums paid, no limit of insurance accumulates from year to year or period to period.

INTEREST COVERED

Benefits payable under this policy will be payable in the name of the Customer. This policy provides no rights to any Customer of the Insured.