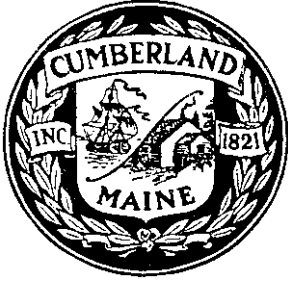


# ITEM

# 19-061

To authorize the Town Manager to execute a 4-year lease agreement with First Data Leasing Company for a point of sale system for Val Halla golf operations



# M E M O R A N D U M

TOWN OF CUMBERLAND, MAINE  
290 TUTTLE ROAD  
CUMBERLAND, MAINE 04021  
TEL: 207-829-2205 FAX: 829-2224

**To:** Town Council  
**From:** William R. Shane, Town Manager  
**Date:** April 18, 2019  
**Re:** 4 year lease for Point of Sale system

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The Point of Sale system for our payment processing, inventory, and credit cards is handled through a Clover brand system. The leasing company for the equipment is first Data Leasing Company.

The Town Attorney is completing the contractual review of the commitment and upon her approval I am seeking your authorization to enter into this agreement. The Vendor has met with Brian and Nick over the winter months and both are in agreement this system is the best fit for our operations at Val Halla.

I do not have the authority to bind the Town to any agreements longer than one year. Your authorization is required to move forward with this contract pending the positive review of the Town Attorney.

# MERCHANT PROCESSING APPLICATION AND AGREEMENT



Sales Office \_\_\_\_\_ Print Sales Rep Name \_\_\_\_\_ Sales ID # \_\_\_\_\_  
 Merchant Number \_\_\_\_\_ Sales Rep. Signature \_\_\_\_\_ Phone # \_\_\_\_\_

## I. BUSINESS INFORMATION

Client's Business Name ( <i>Doing Business As</i> ):			Client's Corporate/Legal Name ( <i>Use Also For Headquarter's Information</i> ):		
Business Address:			Billing Address ( <i>If Different Than Location Address</i> ):		
City:	State:	Zip:	City:	State:	Zip:
Location Phone #:	Location Fax #:		Contact Name:		
Business E-mail Address:			Contact Fax # / E-mail Address:		
Business Website Address:			Contact Phone #:		
Date Business Started:			Send Retrieval Requests to: <input type="checkbox"/> Business Location <input type="checkbox"/> Corp/Legal Location Send Merchant Monthly Statement to: <input type="checkbox"/> Business Location <input type="checkbox"/> Corp/Legal Location		
Customer Service Phone #:	Customer Service E-mail Address:		Statement Delivery Method: ( <i>choose one</i> ) <input type="checkbox"/> Print and Mail <input type="checkbox"/> Online via AccessOne		
<input type="checkbox"/> INDIVIDUAL/SOLE PROPRIETORSHIP: State in which Certificate of Assumed Name Filed: _____ State: _____		<input type="checkbox"/> TAX EXEMPT ORGANIZATION (501C) State: _____		<input type="checkbox"/> GOVERNMENT (Federal, State, Local)	
<input type="checkbox"/> CORPORATION – CHAPTER S, C State: _____		<input type="checkbox"/> INTERNATIONAL ORGANIZATION Location Filed: _____		<input type="checkbox"/> LIMITED LIABILITY COMPANY State Filed: _____	
<input type="checkbox"/> MEDICAL OR LEGAL CORPORATION State: _____		<input type="checkbox"/> ASSOCIATION/ESTATE/TRUST State Filed: _____		<input type="checkbox"/> PARTNERSHIP State Filed: _____	
Name ( <i>as it appears on your income tax return</i> )		FEDERAL TAX ID # ( <i>as it appears on your income tax return</i> )		<input type="checkbox"/> I certify that I am a foreign entity/nonresident alien. ( <i>If checked, please attach IRS Form W-8.</i> )	

**NOTE:** Failure to provide accurate information may result in a withholding of merchant funding per IRS regulations. (See Part IV, Section A.4 of your Program Guide for further information.)

\*SIC/MCC: \_\_\_\_\_ Final Auth. Indicator:  0 (Pre Auth.)  1 (Final Auth.) IATA/ARC: \_\_\_\_\_ (MCC 4722 Only)

Note: \*If your business is classified as High Risk and assigned (or is later assigned based upon your business activity) any of the following Merchant Category Codes (MCC): 5966, 5967 and 7841<sup>1</sup>, then registration is required with Visa and/or MasterCard within 30 days from when your account becomes active. An Annual Registration Fee of \$500 may apply for Visa and/or MasterCard (total registration fees could be \$1,000.00). Failure to register could result in fines in excess of \$10,000.00 for violating Visa and/or MasterCard regulations<sup>2</sup>.  
<sup>1</sup>Registration for MCC 7841 is only required for non-face-to-face adult content.  
<sup>2</sup>Information herein, including applicable MCCs, is subject to change.

Detailed Explanation of Type of Merchandise, Products or Services Sold:

## 2. ADDITIONAL CREDIT / SITE SURVEY INFORMATION - ALL MERCHANTS

<p>1. Zone: <input type="checkbox"/> Business District <input type="checkbox"/> Industrial <input type="checkbox"/> Residential</p> <p>2. Location: <input type="checkbox"/> Mall <input type="checkbox"/> Office <input type="checkbox"/> Home <input type="checkbox"/> Shopping Area  <input type="checkbox"/> Apartment <input type="checkbox"/> Isolated <input type="checkbox"/> Door-to-Door  <input type="checkbox"/> Flea Market <input type="checkbox"/> Other</p> <p>3. How many employees: _____</p> <p>4. How many registers/Terminals: _____</p> <p>5. Is proper license visible? <input type="checkbox"/> Yes  <input type="checkbox"/> No, explain: _____</p> <p>6. Where is the merchant name displayed at the site?  <input type="checkbox"/> Window <input type="checkbox"/> Door <input type="checkbox"/> Store Front</p> <p>7. Merchant Occupies: <input type="checkbox"/> Ground Floor <input type="checkbox"/> Other: _____</p> <p>8. # of Floors/Levels: <input type="checkbox"/> 1 <input type="checkbox"/> 2-4 <input type="checkbox"/> 5-10 <input type="checkbox"/> 11+</p> <p>9. Remaining Floor(s) Occupied by:  <input type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Combination <input type="checkbox"/> None</p> <p>10. Approximate Square Footage:  <input type="checkbox"/> 0-250 <input type="checkbox"/> 251-500 <input type="checkbox"/> 501-2,000 <input type="checkbox"/> 2,001 plus</p> <p>11. Are customers required to leave a deposit?  <input type="checkbox"/> No <input type="checkbox"/> Yes If Yes, % of deposit required: _____%</p> <p>12. Return Policy: <input type="checkbox"/> Full Refund <input type="checkbox"/> Exchange Only <input type="checkbox"/> None</p>	<p>13. Do you have a refund policy for MC/Visa/Discover® Network-PayPal/American Express OptBlue® Sales?  <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, check one:  <input type="checkbox"/> Exchange <input type="checkbox"/> MC/Visa/Discover Network-PayPal/  <input type="checkbox"/> Store Credit American Express OptBlue® Credit                  If MC/V/Discover Network-PayPal/American Express OptBlue® Credit, within how many days do you submit credit transactions?  <input type="checkbox"/> 0-3 <input type="checkbox"/> 4-7 <input type="checkbox"/> 8-14 <input type="checkbox"/> Over 14</p> <p>14. Advertising Method (<i>Attach at least one</i>):  <input type="checkbox"/> Catalog <input type="checkbox"/> Brochure <input type="checkbox"/> Direct Mail <input type="checkbox"/> TV/Radio  <input type="checkbox"/> Internet <input type="checkbox"/> Phone <input type="checkbox"/> Newspaper/Journals <input type="checkbox"/> Other  <i>Marketing Materials required for Mail Order, B to B, Internet over \$1 Million in annual volume. Attach Web Page for Internet Merchant.</i></p> <p>15. Previous Processor: _____</p> <p>16. Check Reason For Leaving: <input type="checkbox"/> Rate <input type="checkbox"/> Service <input type="checkbox"/> Terminated <input type="checkbox"/> Other: _____</p> <p style="text-align: center;"><b>Mail/Telephone Order/Business to Business/Internet Information</b> (<i>All Questions must be Answered</i>)</p> <p>1. What is the time frame from transaction to delivery? (% of orders delivered in):                  0-7 days _____% + 8-14 days _____% + 15-30 days _____% + over 30 days _____% = <b>100%</b></p> <p>2. MC/Visa/Discover Network-PayPal/American Express OptBlue® sales are deposited (<i>check one</i>):  <input type="checkbox"/> Date of order <input type="checkbox"/> Date of delivery <input type="checkbox"/> Other (<i>specify</i>): _____</p> <p>3. Does any of your cardholder billing involve automatic renewals or recurring transactions (<i>i.e., cardholder authorizes initial sale only</i>)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
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Merchant Initials: \_\_\_\_\_

**3. OWNERS / PARTNERS / OFFICERS**

Provide the following information for each individual who owns, directly or indirectly, 25% or more of the equity interest of your business.

**OWNER / PARTNER / OFFICER 1**

Name: (First, MI, Last)		% Ownership:	Title:		
Home Address: (No P.O. Box)			City:	State:	Zip: Country:
Telephone #:	Social Security #:		D.O.B.:	DL #:	State:

**OWNER / PARTNER / OFFICER 2**

**OWNER / PARTNER / OFFICER 3**

Name: (First, MI, Last)		% Ownership:	Name: (First, MI, Last)		% Ownership:
Title:	Telephone #:		Title:	Telephone #:	
Home Address: (No P.O. Box)			Home Address: (No P.O. Box)		
City:	State:	Zip:	Country:	City:	State:
D.O.B.:		Social Security #:		Social Security #:	

**OWNER / PARTNER / OFFICER 4**

**OWNER / PARTNER / OFFICER 5**

Name: (First, MI, Last)		% Ownership:	Name: (First, MI, Last)		% Ownership:
Title:	Telephone #:		Title:	Telephone #:	
Home Address: (No P.O. Box)			Home Address: (No P.O. Box)		
City:	State:	Zip:	Country:	City:	State:
D.O.B.:		Social Security #:		Social Security #:	

**4. SETTLEMENT INFORMATION**

Deposit Bank: \_\_\_\_\_

Transit/ABA #: \_\_\_\_\_ Deposit Account #: \_\_\_\_\_

ACH Detail Flag:  Individual  Combined  Separate (defaults to Combined if option not selected)

**5. TRANSACTION INFORMATION**

**FINANCIAL DATA**

Gross YEARLY Sales Volume (Cash + Credit + Debit + Check)	\$ _____	Avg. MC/Visa/Discover Network - PayPal Ticket (Estimate If Never Processed in Past)	\$ _____	<b>WHERE IS SALE TRANSACTED?</b> (Must = 100%)
Average YEARLY MC/Visa Volume	\$ _____	Avg. American Express OptBlue® Ticket (Estimate If Never Processed in Past)	\$ _____	
Average YEARLY Discover Network - PayPal Volume	\$ _____	Highest Ticket Amount	\$ _____	
Average YEARLY American Express OptBlue® Volume	\$ _____			
Seasonal? <input type="checkbox"/> No <input type="checkbox"/> Yes High Volume Months Open: _____				
				Store Front/Swiped _____%
				Internet _____%
				Mail Order _____%
				Telephone Order _____%
				<b>Total 100%</b>

**6. GRID INFORMATION - INTERNAL USE ONLY**

AUTHORIZATION GRID ID#: \_\_\_\_\_ USER DEFINED GRID ID#: \_\_\_\_\_ MFC GRID ID: \_\_\_\_\_ 8-pos. Alpha/Numeric

MC TIERED GRID ID 8-pos. Alpha/Numeric	VISA TIERED GRID ID 8-pos. Alpha/Numeric	DISCOVER NETWORK -PayPal TIERED GRID ID 8-pos. Alpha/Numeric	AMERICAN EXPRESS OptBlue® TIERED GRID ID 8-pos. Alpha/Numeric
MC CREDIT MPG ID 8-pos. Alpha/Numeric	VISA CREDIT MPG ID 8-pos. Alpha/Numeric	DISCOVER NETWORK -PayPal CREDIT MPG ID 8-pos. Alpha/Numeric	AMERICAN EXPRESS OptBlue® CREDIT MPG ID 8-pos. Alpha/Numeric
MC DEBIT MPG ID 8-pos. Alpha/Numeric	VISA DEBIT MPG ID 8-pos. Alpha/Numeric	DISCOVER NETWORK DEBIT MPG ID 8-pos. Alpha/Numeric	

**7. SERVICE FEE SCHEDULE**

Accept all MasterCard, Visa, Discover Network and American Express OptBlue® Transactions (presumed, unless any selections below are checked)

<p><b>MasterCard</b></p> <p><input type="checkbox"/> MC Credit Transactions</p> <p><input type="checkbox"/> MC Non-PIN Debit Trans.</p> <p><input type="checkbox"/> Discount Collected <input type="checkbox"/> Daily <input type="checkbox"/> Monthly</p>	<p><b>Visa</b></p> <p><input type="checkbox"/> Visa Credit Transactions</p> <p><input type="checkbox"/> Visa Non-PIN Debit Trans.</p>	<p><b>Discover Network</b></p> <p><input type="checkbox"/> Discover Network Credit Transactions</p> <p><input type="checkbox"/> Discover Network Non-PIN Debit Trans.</p> <p><b>Discover Network - PayPal</b></p> <p><input type="checkbox"/> Discover Network -PayPal Credit Transactions</p>	<p><b>American Express OptBlue®</b></p> <p><input type="checkbox"/> American Express Credit Transactions</p>
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Merchant Initials: \_\_\_\_\_

**7. SERVICE FEE SCHEDULE (cont'd)**

<b>Tiered</b>											
<b>Discount Fees (Based on Gross Sales Volume)</b>											
	Discount	MPG TXN Fee		Discount	MPG TXN Fee		Discount	MPG TXN Fee		Discount	MPG TXN Fee
MC Qual Credit	%	\$	Visa Qual Credit	%	\$	Discover Network-PayPal Qual Credit	%	\$	American Express OptBlue® Qual Credit	%	\$
MC Mid-Qual Credit	%	\$	Visa Mid-Qual Credit	%	\$	Discover Network-PayPal Mid-Qual Credit	%	\$	American Express OptBlue® Mid-Qual Credit	%	\$
MC Non-Qual Credit	%	\$	Visa Non-Qual Credit	%	\$	Discover Network-PayPal Non-Qual Credit	%	\$	American Express OptBlue® Non-Qual Credit	%	\$
MC Worldcard Qual	%	\$	Visa Rewards 1	%	\$						
MC Worldcard Mid-Qual	%	\$	Visa Rewards 2	%	\$						
MC Worldcard Non-Qual	%	\$									
MC Qual Debit	%	\$	Visa Qual Debit	%	\$	Discover Network Qual Debit	%	\$			
MC Mid-Qual Debit	%	\$	Visa Mid-Qual Debit	%	\$	Discover Network Mid-Qual Debit	%	\$			
MC Non-Qual Debit	%	\$	Visa Non-Qual Debit	%	\$	Discover Network Non-Qual Debit	%	\$			
MC Regulated Debit Discount	%	\$	Visa Regulated Debit Discount	%	\$	Discover Network Regulated Debit Disc't	%	\$			

<b>ERR</b>											
	Discount	Non-Qual Fees		Discount	Non-Qual Fees		Discount	Non-Qual Fees		Discount	Non-Qual Fees
MC Qual Credit	%	%	Visa Qual Credit	%	%	Discover Network-PayPal Qual Credit	%	%	American Express OptBlue® Qual Credit	%	%
MC Qual Debit	%	%	Visa Qual Debit	%	%	Discover Network Qual Debit	%	%	American Express OptBlue® has Program Pricing and not Interchange and are subject to change.		

<b>Pass Through Interchange</b>											
<input type="checkbox"/> Net Only - Includes Dues and Assessments <input type="checkbox"/> Gross Only - Includes Dues and Assessments											
	Discount (Based on Gross Sales Vol.)		Discount (Based on Gross Sales Vol.)		Discount (Based on Gross Sales Vol.)		Discount (Based on Gross Sales Vol.)		Discount (Based on Gross Sales Vol.)		Discount (Based on Gross Sales Vol.)
MC Qual Credit	%	Visa Qual Credit	%	Discover Network-PayPal Qual Credit	%	American Express OptBlue® Qual Credit	%				
MC Qual Debit	%	Visa Qual Debit	%	Discover Network Qual Debit	%	American Express OptBlue® has Program Pricing and not Interchange and are subject to change.					

<b>Other Item Rate</b>											
MC Credit	\$	Visa Credit	\$	Discover Network-PayPal Credit	\$	American Express OptBlue® Credit	\$				
MC Debit	\$	Visa Debit	\$	Discover Network Debit	\$						

<b>Other Volume %</b>											
MC Credit	%	Visa Credit	%	Discover Network-PayPal Credit	%	American Express OptBlue® Credit	%				
MC Debit	%	Visa Debit	%	Discover Network Debit	%						

**PIN Debit**

Pass Through Debit Network Fees      Other Item Rate \$ \_\_\_\_\_ (per item)      Other Volume Percent \_\_\_\_\_% (per item)

**Fleet**

**WEX:** Other Item Rate \$ \_\_\_\_\_ (per item)      **Voyager:** Qual \_\_\_\_\_%      Other Item Rate \$ \_\_\_\_\_ (per item)

**TeleCheck**

In-Person Warranty     Mail Order Warranty     Single Hold Check Warranty     Multiple Hold Check Warranty     In-Person Paper Warranty     C.O.D. Warranty

SE # \_\_\_\_\_ Inquiry Rate \_\_\_\_\_% Per TXN Fee \$ \_\_\_\_\_ Stmt/Processing Fee \$ 5.00 Dec. Risk Surcharge .10%

Monthly Minimum Fee \$ \_\_\_\_\_ (Per Location)      Customer Requested Operator Call (CROC) \$ 2.50      Unauthorized Return Fee \$ 5.00

<b>Miscellaneous Fees</b>											
<input type="checkbox"/> Dues and Assessments			V/MC Chargeback Fee (Per Item) \$ _____	V/MC Retrieval Fee (12B Letter) (Per Item) \$ _____	Return Trans. Fee (Per Item) \$ _____						
Sales Transaction Fee (Per Item) \$ _____	Batch Fee (Per Item) \$ _____	Early Termination Fee (One Time Fee) \$ _____	eIDS Access Fee (Flat Rate) \$ _____								
EBT - Food Stamps (Per Item) \$ _____ #: _____	EBT - Cash Benefits (Per Item) \$ _____		Other: \$ _____								
Minimum Monthly Fee \$ _____	Monthly Statement Fee (Acct on File) \$ _____	ACH Reject Fee (Per Item) \$ _____	Pass Visa Trans Integrity Fee <input type="checkbox"/> Yes <input type="checkbox"/> No								
MC License Fee (Per Sales Item) \$ _____	(Sales Volume) _____%	(Flat Rate) \$ _____	<input type="checkbox"/> Monthly <input type="checkbox"/> Annually in December								
Visa Proc Fee (Per Item) \$ _____	MC Proc Fee (Per Item) \$ _____	Visa BIN Fee (Per Item) \$ _____	MC ICA Fee (Per Item) \$ _____								
Pass Visa Fixed Acquirer Network Fee (FANF) <input type="checkbox"/> Yes <input type="checkbox"/> No	Visa FANF Card Present Surcharge (Flat Rate) \$ _____		Visa FANF Card Not Present Surcharge (Flat Rate) \$ _____								
Pass Visa Acquirer Processing Fee <input type="checkbox"/> Yes <input type="checkbox"/> No	Pass Visa Misuse of Auth Fee <input type="checkbox"/> Yes <input type="checkbox"/> No	Pass Visa Zero Floor Limit Fee <input type="checkbox"/> Yes <input type="checkbox"/> No	Pass Visa Int'l Acquirer Fee <input type="checkbox"/> Yes <input type="checkbox"/> No								
Pass MC Acquirer Support Fee <input type="checkbox"/> Yes <input type="checkbox"/> No	Pass MC Cross Border Fee <input type="checkbox"/> Yes <input type="checkbox"/> No	Pass Discover Data Usage Charge <input type="checkbox"/> Yes <input type="checkbox"/> No	Pass Visa Acq ISA Fee <input type="checkbox"/> Yes <input type="checkbox"/> No								
Pass Discover Int'l Processing Fee <input type="checkbox"/> Yes <input type="checkbox"/> No	Pass Discover Int'l Service Fee <input type="checkbox"/> Yes <input type="checkbox"/> No	Pass MC Nat'l Acquirer Brand Usage (NABU) Fee <input type="checkbox"/> Yes <input type="checkbox"/> No									

Merchant Initials: \_\_\_\_\_

**7. SERVICE FEE SCHEDULE (cont'd)**

Authorization & Capture Transaction Fees		First Data Payeezy <sup>SM</sup> Gateway Services	
MC/Visa Auth & Capture Fee:	\$ _____ (per item)	<input type="checkbox"/> Payeezy Gateway Participation	
Discover Network PayPal Auth & Capture Fee:	\$ _____ (per item)	Payeezy Gateway Effective Date: _____	
American Express OptBlue <sup>®</sup> Auth & Capture Fee:	\$ _____ (per item)	Payeezy Gateway One Time Setup Fee	\$ _____ (one time)
American Express Pass Through (existing) SE #:	_____	Payeezy Gateway Monthly Fee	\$ _____ (monthly)
Voice Authorization	\$ _____ (per item)	Payeezy Gateway Auth Fee	\$ _____ (per item)
Electronic AVS Fee	\$ _____ (per item)	Payeezy Gateway AVS Fee	\$ _____ (per item)
Voice AVS Fee	\$ _____ (per item)	Payeezy PayPal Auth Fee	\$ _____ (per item)
ARU Fee	\$ _____ (per item)	Payeezy PayPal Sale Fee	\$ _____ (per item)
		Payeezy PayPal Return Fee	\$ _____ (per item)

**First Data Payeezy<sup>SM</sup> Gateway Services Telecheck**

Payeezy Gateway TeleCheck Auth Fee	\$ _____ (per item)	Payeezy Gateway TeleCheck Deposit Fee	\$ _____ (per item)	Payeezy Gateway TeleCheck Adjustment Fee	\$ _____ (per item)
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User Defined Grid Fees		TIN/TFN & Regulatory Product Fees	
Wireless Monthly Service Fee	\$ _____	AccessOne Fee	\$ _____
Customer Service Fee	\$ _____	Debit Access Fee	\$ _____
Supplies: _____	\$ _____	Other: _____	\$ _____
		Reg. Product Fee	(Monthly) \$ _____
		TIN/TFN Invalid	(Monthly) \$ _____
		Website Usage	(Per Item) \$ _____

**Merchant Fee Control Grid Fees**

Annual Fee	\$ _____	Other: _____	\$ _____	Other: _____	\$ _____
Month	_____	<input type="checkbox"/> Per item <input type="checkbox"/> Monthly <input type="checkbox"/> Annually	Month _____	<input type="checkbox"/> Per item <input type="checkbox"/> Monthly <input type="checkbox"/> Annually	Month _____

Pass Visa Account Verification Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa Account Verification Fee Surcharge	(Per Item) \$ _____
Pass VISA BIN/ICA Fee <i>(Note: this fee can only be used for Shared Systems Only)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No	VISA BIN/ICA Fee Surcharge	(Per Item) \$ _____
Pass Visa Staged Digital Wallet Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa Staged Digital Wallet Fee Surcharge	(Per Item) \$ _____
Pass Visa B2B Virtual Payments Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa B2B Virtual Payments Fee Surcharge	(Sales Volume) _____ %
Pass Visa File Transmission Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa File Transmission Transaction Fee Surcharge	(Per Item) \$ _____
Pass Visa Acquirer Credit Voucher Data Processing Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa Acquirer Credit Voucher Data Processing Fee Surcharge	(Per Item) \$ _____
Pass Visa AFD Non Participation Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa AFD Non Participation Fee Surcharge	(Per Item) \$ _____
Pass Discover Card Account Verification Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Discover Card Account Verification Fee Surcharge	(Per Item) \$ _____
Pass Discover Network Auth Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Discover Network Auth Fee Surcharge	(Flat Rate) \$ _____ or (Per Item) \$ _____
Discover Dispute Fee	(Per Item) \$ _____	Discover Retrieval Fee	(Per Item) \$ _____
Pass PayPal Participation Authorization Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	PayPal Participation Authorization Fee Surcharge	(Sales Volume) _____ %
Pass American Express OptBlue <sup>®</sup> Access Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Pass American Express OptBlue <sup>®</sup> Network Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	American Express OptBlue <sup>®</sup> Network Fee Surcharge	(Sales Volume) _____ %
American Express Dispute Fee	(Per Item) \$ _____	American Express Retrieval Fee	(Per Item) \$ _____
Pass MasterCard Processing Integrity Fee Pre Auth	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Processing Integrity Fee Pre Auth Surcharge	(Per Item) \$ _____
Pass MasterCard Processing Integrity Fee Undefined Auth	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Processing Integrity Fee Undefined Auth Surcharge	(Per Item) \$ _____
Pass MasterCard Processing Integrity Fee Final Auth %	<input type="checkbox"/> Yes <input type="checkbox"/> No	Pass MasterCard Processing Integrity Fee Final Auth Minimum Per Item	<input type="checkbox"/> Yes <input type="checkbox"/> No
Pass MasterCard Processing Integrity Invalid Acquirer Authorization ICA Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Processing Integrity Invalid Acquirer Authorization ICA Fee Surcharge	(Per Item) \$ _____
Pass MasterCard Processing Integrity Message Format Error Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Processing Integrity Message Format Error Fee Surcharge	(Per Item) \$ _____
Pass MasterCard Processing Integrity Image Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Processing Integrity Image Fee Surcharge	(Per Item) \$ _____
Pass MasterCard BIN/ICA Fee <i>(Note: this fee can only be used for Shared Systems Only)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard BIN/ICA Fee Surcharge	(Per Item) \$ _____
Pass MasterCard Account Status Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Account Status Fee Surcharge	(Per Item) \$ _____
Pass MasterCard Kilobyte Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Kilobyte Fee Surcharge	(Flat Rate) \$ _____ or (Per Item) \$ _____
Pass MasterCard CVC2 Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard CVC2 Fee Surcharge	(Flat Rate) \$ _____ or (Per Item) \$ _____
Pass MasterCard ICA AVS Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard ICA AVS Fee Surcharge	(Per Item) \$ _____
Pass MasterCard Digital Enablement Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Digital Enablement Fee Surcharge	(Sales Volume) _____ %
Pass MasterCard Business to Business US	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Business to Business US Surcharge	(Sales Volume) _____ %
Pass MasterCard SecureCode Transaction Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard SecureCode Transaction Fee Surcharge	(Flat Rate) \$ _____

Merchant Initials: \_\_\_\_\_

**7. SERVICE FEE SCHEDULE (cont'd)**

**Merchant Fee Control Grid Fees (cont'd)**

Pass MasterCard Location Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Location Fee Surcharge	(Flat Rate) \$ _____
Pass Retrieval Received Fax/Mail Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Retrieval Received Fax/Mail Fee Surcharge	(Per Item) \$ _____
Pass Chargeback Received Fax/Mail Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Chargeback Received Fax/Mail Fee Surcharge	(Per Item) \$ _____
Pass Retrieval Outgoing Fax/Mail Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Retrieval Outgoing Fax/Mail Fee Surcharge	(Per Item) \$ _____
Pass Chargeback Outgoing Fax/Mail Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Chargeback Outgoing Fax/Mail Fee Surcharge	(Per Item) \$ _____
Pass Visa Accept/No Accept Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa Accept/No Accept Fee Surcharge	(Per Item) \$ _____
Pass MasterCard Accept/No Accept Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Accept/No Accept Fee Surcharge	(Per Item) \$ _____
Pass Discover Accept/No Accept Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Discover Accept/No Accept Fee Surcharge	(Per Item) \$ _____
Pass American Express Accept/No Accept Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	American Express Accept/No Accept Fee Surcharge	(Per Item) \$ _____
Pass Visa Late Response to Dispute Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa Late Response to Dispute Fee Surcharge	(Per Item) \$ _____
Pass MasterCard Late Response to Dispute Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Late Response to Dispute Fee Surcharge	(Per Item) \$ _____
Pass Discover Late Response to Dispute Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Discover Late Response to Dispute Fee Surcharge	(Per Item) \$ _____
Pass American Express Late Response to Dispute Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	American Express Late Response to Dispute Fee Surcharge	(Per Item) \$ _____
Pass STAR Debit Network Annual Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	STAR Debit Network Annual Fee Surcharge	(Flat Rate) \$ _____
Pass STAR Access Dispute Fee	(Per Item) \$ _____	Pass STAR Access Retrieval Fee	(Per Item) \$ _____
Pass Pulse Debit Network Annual Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Pulse Debit Network Annual Fee Surcharge	(Flat Rate) \$ _____
Pass Jeanie Debit Network Annual Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Jeanie Debit Network Annual Fee Surcharge	(Flat Rate) \$ _____
Pass NYCE Debit Network Annual Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	NYCE Debit Network Annual Fee Surcharge	(Flat Rate) \$ _____
Pass Accel Debit Network Annual Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Accel Debit Network Annual Fee Surcharge	(Flat Rate) \$ _____
Pass NACHA Unauthorized Entry Fee	(Per Item) \$ <u>4.50</u>	NACHA Unauthorized Entry Fee Surcharge	(Per Item) \$ _____
<b>Commercial Card Interchange Service</b> <input type="checkbox"/> Yes <input type="checkbox"/> No With the Commercial Card Interchange Service, when transactions do not include any tax information we will compute the sales tax based on the applicable rate at your location to allow you to obtain the best interchange. When we compute the sales tax on your behalf, we will retain 50% of the interchange savings. If a transaction is fully or partially exempt, you should enter the tax amount (even if that amount is \$0.00) as CCIS applies your local tax rate to the full amount of transactions when the prompt is bypassed.			
TransArmor Data Protection Fee	(Flat Rate) \$ _____	TransArmor Terminal Fee	(Flat Rate) \$ _____
Pass PCI Non Compliance Fee (Monthly)	(Flat Rate) \$ _____	PCI Rapid Comply	(Flat Rate) \$ _____
Clover Security Plus Fee	(Flat Rate) \$ _____	Clover Security for Clover Fee	(Flat Rate) \$ _____
Clover Security Non Clover Fee	(Flat Rate) \$ _____	Clover Service Fee Monthly (per station)	(Flat Rate) \$ _____
Clover Security Plus w/o TransArmor Data Protection	(Flat Rate) \$ _____	Clover Insights Fee (per MID)	(Flat Rate) \$ _____
Wireless Monthly Service Fee	(Per Item) \$ _____	Wireless Activation Fee	(Flat Rate) \$ _____
Clover Go Monthly Fee (per MID)	(Flat Rate) \$ _____		
DCC Chargeback Fee	Per Chargeback \$ _____	DCC Retrieval Fee	Per Retrieval \$ _____
		DCC Transaction Fee	Per Settlement \$ _____

**8. EQUIPMENT/THIRD PARTY INFORMATION**

Network (Front End):  Omaha  North  Nashville  Bypass

Do you use any third party to store, process or transmit cardholder data?  Yes  No

If yes, identify the Third Party Processor used:  00 None  01 Yahoo  02 Authorize.net  03 Cybersource  04 Verifone  05 Merchant Link  06 Shift 4  
 08 FIS  09 Six Payment Services Corp  10 Verisign  99 Other (please specify) \_\_\_\_\_

**INTERNET GATEWAY:**  First Data Global Gateway  Other: \_\_\_\_\_

Wireless Network: \_\_\_\_\_

PC/Internet Software \_\_\_\_\_ Quantity \_\_\_\_\_  New  Rent  Lease  Existing

Terminal Model \_\_\_\_\_ Quantity \_\_\_\_\_  New  Rent  Lease  Existing

Printer Model \_\_\_\_\_ Quantity \_\_\_\_\_  New  Rent  Lease  Existing

PIN Pad \_\_\_\_\_ Quantity \_\_\_\_\_  New  Rent  Lease  Existing

Merchant Initials: \_\_\_\_\_

**8. EQUIPMENT/THIRD PARTY INFORMATION (cont'd)**

**LEASE COMPANY:** (04) First Data Global Leasing

**Annual Tax Handling Fee:**

**Lease Term:** \_\_\_\_\_ Mos.

AL, AR, CA, CT, GA, IN, KY, LA, MS, MO, NE, NV, NM, NC, OK, OR, RI, SC, TN, TX, VT, VA, WA, WV, WI, WY **30.20**

All other States **10.20**

**Total Monthly Lease Charge: \$** \_\_\_\_\_

**Total Cost To Lease (without tax): \$** \_\_\_\_\_

*(w/o taxes, late fees, or other charges that may apply – See Lease Agreement in Program Guide for details. This is a non-cancelable lease for the full term indicated.)*

**Option to purchase:** If you wish to buyout the equipment, please contact 1-877-257-2094 to obtain the cost.

Address _____	City _____	State _____	Zip _____	Attention: _____
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**9. SIGNATURE(S)**

Client certifies that all information set forth in this completed Merchant Processing Application is true and correct and that Client has received a copy of the Program Guide and Confirmation Page, which is part of this Merchant Processing Application (consisting of Sections 1-9), and by this reference incorporated herein. Client acknowledges and agrees that we, our Affiliates and our third party subcontractors and/or agents may use automatic telephone dialing systems to contact Client at the telephone number(s) Client has provided in this Merchant Processing Application and/or may leave a detailed voice message in the event that Client is unable to be reached, even if the number provided is a cellular or wireless number or if Client has previously registered on a Do Not Call list or requested not to be contacted Client for solicitation purposes. Client hereby consents to receiving commercial electronic mail messages from us, our Affiliates and our third party subcontractors and/or agents from time to time. Client further agrees that Client will not accept more than 20% of its card transactions via mail, telephone or Internet order. However, if your Application is approved based upon contrary information stated in Section 5, Transaction Information section above, you are authorized to accept transactions in accordance with the percentages indicated in that section. This signature page also serves as a signature page to the Equipment Lease Agreement, and the TeleCheck Solutions Agreement appearing in the Third Party Section of the Program Guide, if selected, the undersigned Client being the "Lessee" for purposes of such Equipment Lease Agreement and/or "You" and "Your" for the purposes of the TeleCheck Solutions Agreement.

By signing below, each of the undersigned authorizes us, our Affiliates and our third party subcontractors and/or agents to verify the information contained in this Application and to request and obtain from any consumer reporting agency and other sources, including bank references, personal and business consumer reports and other information and to disclose such information amongst each other for any purpose permitted by law. If the Application is approved, each of the undersigned also authorizes us, our Affiliates and our third party subcontractors and/or agents to obtain subsequent consumer reports and other information from other sources, including bank references, in connection with the review, maintenance, updating, renewal or extension of the Agreement or for any other purpose permitted by law and disclose such information amongst each other. Each of the undersigned furthermore agrees that all references, including banks and consumer reporting agencies, may release any and all personal and business credit financial information to us, our Affiliates and our third party subcontractors and/or agents. Each of the undersigned authorizes us, our Affiliates and our third party subcontractors and/or agents to provide amongst each other the information contained in this Merchant Processing Application and Agreement and any information received subsequent thereto from all references, including banks and consumer reporting agencies for any purpose permitted by law. It is our policy to obtain certain information in order to verify your identity while processing your account application.

As part of our approval, processing services, continuing fraud prevention and account review processes, the undersigned consents to the use of information gathered online or that you submit to us, and/or automated electronic computer security screening, by us or our third party vendors.

Client authorizes FDMS and Bank and their affiliates to debit Client's designated bank account via Automated Clearing House (ACH) for costs associated with equipment hardware, software and shipping.

You further acknowledge and agree that you will not use your merchant account and/or the Services for illegal transactions, for example, those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq, as may be amended from time to time, or processing and acceptance of transactions in certain jurisdictions pursuant to 31 CFR Part 500 et seq. and other laws enforced by the Office of Foreign Assets Control (OFAC).

**Client certifies, under penalties of perjury, that the federal taxpayer identification number and corresponding filing name provided herein are correct.**

**Client agrees to all the terms of this Merchant Processing Application and Agreement. This Merchant Processing Application and Agreement shall not take effect until Client has been approved and this Agreement has been accepted by FDMS and Bank.**

**Client's Business Principal/Officer:**

Signature <b>X</b> _____	Title _____
Print Name of Signer _____	Date _____
Signature <b>X</b> _____	Title _____
Print Name of Signer _____	Date _____
Signature <b>X</b> _____	Title _____
Print Name of Signer _____	Date _____

**(Servicers): For First Data Merchant Services LLC and Wells Fargo Bank, N.A., (a member of Visa USA, Inc. and MasterCard International, Inc.)**

**X Signature** \_\_\_\_\_

**TELECHECK ACH AUTHORIZATION**

**ACH Debit and Credit Authorization:** Client authorizes its Financial Institution to pay and charge to its account the amount(s) due TeleCheck under this TeleCheck Agreement and to accept all credits and debits made to its account by TeleCheck via electronic funds transfer in connection with TeleCheck's services under this TeleCheck Agreement. This authorization shall remain in effect until (30) thirty days after revoked in writing.

Signature **X** \_\_\_\_\_ Print Name/Title: \_\_\_\_\_ Date \_\_\_\_\_  
 Authorized Signature on TeleCheck Account for ACH

**Personal Guarantee:** In exchange for First Data Merchant Services LLC, Wells Fargo Bank, N.A., (a member of Visa USA, Inc. and MasterCard International, Inc.), and TeleCheck Services, Inc. (the Guaranteed Parties) acceptance of, as applicable, the Agreement, and/or the Equipment Lease Agreement and/or the TeleCheck/TRS Solutions Agreement, the undersigned unconditionally and irrevocably guarantees the full payment and performance of Client's obligations under the foregoing agreements, as applicable, as they now exist or as modified from time to time, whether before or after termination or expiration of such agreements and whether or not the undersigned has received notice of any amendment of such agreements. The undersigned waives notice of default by Client and agrees to indemnify the Guaranteed Parties for any and all amounts due from Client under the foregoing agreements. The Guaranteed Parties shall not be required to first proceed against Client to enforce any remedy before proceeding against the undersigned. This is a continuing personal guaranty and shall not be discharged or affected for any reason. The undersigned understands that this is a Personal Guaranty of payment and not of collection and that the Guaranteed Parties are relying upon this Personal Guaranty in entering into the foregoing agreements, as applicable.

**Personal Guarantee Signature X** \_\_\_\_\_ Print Name: \_\_\_\_\_ Date \_\_\_\_\_

**Personal Guarantee Signature X** \_\_\_\_\_ Print Name: \_\_\_\_\_ Date \_\_\_\_\_





First Data Global Leasing  
 4000 Coral Ridge Drive  
 Coral Springs, FL 33065  
 1-(877) 257-2094

**EQUIPMENT LEASE AGREEMENT**

Merchant ID \_\_\_\_\_

Sales Rep. Name \_\_\_\_\_

Sales ID \_\_\_\_\_

**MERCHANT INFORMATION**

Corporate Business Name		DBA Name			
Business Address	City	County	State	Zip Code	Business Phone Number
Type of Business	Years in Business		Tax ID#:		
Billing Address (if different than above)	City	State	Zip Code		
Bank Name	Routing Number	Account Number	<i>(Provide copy of Void Check)</i>		

Business Type

CORPORATION

PARTNERSHIP

PROPRIETORSHIP

NON-PROFIT

<b>EQUIPMENT SUPPLIER</b>	<b>DESCRIPTION OF LEASED EQUIPMENT</b>		
First Data Merchant Services Corp. 1307 Walt Whitman Road Melville, New York 11747	<u>Equipment Type</u>	<u>Quantity</u>	<u>Unit price without tax</u>
	_____	_____	\$ _____
	_____	_____	\$ _____
	_____	_____	\$ _____

**SCHEDULE OF PAYMENTS**

Payable at Lease Signing (amounts include tax) <input type="checkbox"/> Advance Payments \$ _____ <input type="checkbox"/> Security Deposit \$ _____ <input type="checkbox"/> _____ \$ _____ <b>TOTAL</b> \$ _____	<input checked="" type="checkbox"/> Equipment Service Program  <p style="text-align: center;"><i>*All charges subject to applicable tax</i></p>	Lease Term: _____ (in months) Monthly Lease Charge: \$ _____ <i>(total unit price without tax)</i> PLUS additional monthly charges: \$ _____ Total Monthly Charges:* \$ _____
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**LEASE ACCEPTANCE**

Undersigned agrees to all terms and conditions contained in this Equipment Lease Agreement. Lessee authorizes First Data Merchant Services Corp. or its agents, to request and obtain from a consumer reporting agency personal and business consumer reports. If the Application is approved, each of the undersigned authorizes us to obtain subsequent consumer reports in connection with the maintenance, updating, renewal or extension of the Agreement. Each of the undersigned furthermore agrees that all references, including banks and consumer reporting agencies, may release any and all personal and business credit financial information to us.

**THIS IS A NON-CANCELABLE LEASE FOR THE FULL TERM INDICATED HEREIN.**

**X**

Lessee Signature	Title	Print Name	Date
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**PERSONAL GUARANTY**

Undersigned unconditionally guarantees performance of this Equipment Lease Agreement by Lessee and payment of all sums due hereunder in the event of default, hereby waiving any modification, amendment or extension and notice thereof, and further agrees to the terms of this Equipment Lease Agreement insofar as they apply to the undersigned as guarantor.

**X**, An Individual

Personal Guarantor's Signature (No Title Allowed)	Print Name	Home Phone Number	Date
Home Address	City	State	Zip Code
		DOB	Social Security #

**DO NOT WRITE IN THIS SPACE**

**Lessor Acceptance:**

**X**

Name (please print or type)	Title	Signature	Date
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This Equipment Lease Agreement ("Agreement") is being entered into by and between First Data Merchant Services Corporation and the Lessee identified in the signature panel of this Agreement. In this Agreement, the words "we", "our" and "us" refer to First Data Merchant Services Corporation and its successors and assigns and the words "you" and "your" refer to Lessee and its permitted successors and assigns.

Lessee hereby authorizes us or our designees, successors or assigns (hereinafter "Lessor") to withdraw any amounts including any and all sales taxes now due or hereinafter imposed, owed by Lessee in conjunction with this Equipment Lease Agreement by initiating debit entries to Lessee's account at the bank named above (hereinafter "Bank"), or such other bank as the Lessee may from time to time use. In the event of default of Lessee's obligation hereunder, Lessee authorizes debit of its account for the full amount due under this Agreement. Further, Lessee authorizes Bank to accept and to charge any debit entries initiated by Lessor to Lessee's account. In the event that Lessor withdraws funds erroneously from Lessee's account, Lessee authorizes Lessor to credit Lessee's account for an amount not to exceed the original amount of the debit. This authorization is to remain in full force and effect until Lessor and Bank have received written notice from Lessee of its termination in such time and in such manner as to afford Lessor and Bank a reasonable opportunity to act.

1. **Equipment.** We agree to lease to you and you agree to lease from us the equipment identified on the cover page of this Agreement or such other comparable equipment we provide you (the "Equipment"), according to the terms and conditions of this Agreement. We are providing the Equipment to you "as is" and make no representations or warranties of any kind as to the suitability of the Equipment for any particular purpose.

2. **Effective Date, Term and Interim Rent.**

(a) This Lease Agreement becomes effective on the earlier of the date we deliver any piece of Equipment to you (the "Delivery Date") or acceptance by us. This Lease Agreement remains in effect until all of your obligations and all of our obligations under it have been satisfied. We will deliver the Equipment to the site designated by you.

(b) The term of this Lease Agreement begins on a date designated by us after receipt of all required documentation and acceptance by us (the "Commencement Date"), and continues for the number of months indicated on the Equipment Lease Agreement. THIS IS A NON-CANCELABLE LEASE FOR THE TERM INDICATED.

(c) You agree to pay an Interim Lease Payment in the amount of one-thirtieth (1/30th) of the monthly lease charge for each day from and including the Delivery Date until the date preceding the Commencement Date.

(d) YOU ACKNOWLEDGE THAT THE EQUIPMENT AND/OR SOFTWARE YOU LEASE UNDER THIS LEASE AGREEMENT MAY NOT BE COMPATIBLE WITH ANOTHER PROCESSOR'S SYSTEMS AND THAT WE DO NOT HAVE ANY OBLIGATION TO MAKE SUCH SOFTWARE AND/OR EQUIPMENT COMPATIBLE IN THE EVENT THAT YOU ELECT TO USE ANOTHER SERVICE PROVIDER. UPON TERMINATION OF YOUR MERCHANT PROCESSING AGREEMENT, YOU ACKNOWLEDGE THAT YOU MAY NOT BE ABLE TO USE THE EQUIPMENT AND/OR SOFTWARE LEASED UNDER THIS LEASE AGREEMENT WITH SAID SERVICE PROVIDER.

3. **Site Preparation.** You will prepare the installation site(s) for the Equipment, including but not limited to the power supply circuits and phone lines, in conformance with the manufacturer's and our specifications and will make the site(s) available to us by the confirmed shipping date.

4. **Payment of Amounts Due.**

(a) The monthly lease charge is due and payable on the same day of each successive month thereafter of the lease period for each piece of lease equipment, except that the first payment of the monthly lease charge for each piece of Equipment is due and payable upon acceptance of the Equipment by you. You agree to pay all assessed costs for delivery and installation of Equipment.

(b) In addition to the monthly lease charge, you shall pay, or reimburse us for, amounts equal to any taxes or assessments on or arising out of this Agreement or the Equipment, and related supplies or any services, use or activities hereunder, including without limitation, state and local sales, use, property, privilege and excise tax, exclusive, however, of taxes based on our net income. Reimbursement of property tax calculation is based on an average tax rate.

(c) Your lease payments will be due despite dissatisfaction with the Equipment for any reason.

(d) Whenever any payment is not made by you in full when due, you shall pay us as a late charge, an amount equal to ten percent of the amount due but no less than \$5.00 for each month during which it remains unpaid (prorated for any partial month), but in no event more than the maximum amount permitted by law. You shall also pay to us an administrative charge of \$10.00 for any debit we attempt to make against your bank account that is rejected, but in no event more than the maximum amount permitted by law.

(e) In the event your account is placed into collections for past due lease amounts, you agree that we can recover a collection expense charge of \$50 for each aggregate payment requiring a collection effort, but in no event more than the maximum amount permitted by law.

5. **Use and Return of Equipment; Insurance.**

(a) You shall cause the Equipment to be operated by competent and qualified personnel in accordance with any operating instructions furnished by us or the manufacturer. You shall maintain the Equipment in good operating condition and protect it from deterioration, normal wear and tear excepted.

(b) You shall not permit any physical alteration or modification of the Equipment, or change the installation site of the Equipment, without our prior written consent.

(c) You shall not create, incur, assume or allow to exist any consensually or judicially imposed liens or encumbrances on, or part with possession of, or sublease the Equipment without our prior written consent.

(d) You shall comply with all governmental laws, rules and regulations relating to the use of the Equipment. You are also responsible for obtaining all permits required to operate the Equipment at your facility.

(e) We or our representatives may, at any time, enter your premises for purposes of inspecting, examining or repairing the Equipment.

(f) The Equipment shall remain our personal property and shall not under any circumstances be considered to be a fixture affixed to your real estate. You shall permit us to affix suitable labels or stencils to the Equipment evidencing our ownership.

(g) You shall keep the Equipment adequately insured against loss by fire, theft, and all other hazards and you shall provide proof of insurance. **The loss, destruction, theft or damage of or to the Equipment shall not relieve you from your obligation to pay the full purchase price or total monthly lease charges hereunder.**

(h) You may choose not to insure the Equipment and participate in the Equipment Service Program. The Equipment Service Program provides a replacement of the Equipment for as long as you participate in the Program during the Lease Term. The Equipment Service Program includes (i) free comparable replacement terminal (new or refurbished) in the event of a defect or malfunction (terminal defects or malfunctions caused by acts of God are not covered by this Program), (ii) free shipping and handling on both the replacement terminal and return of defective terminal, (iii) free overnight shipping and handling on replacement terminal if requested by 3:00 pm ET (Monday - Thursday). If you don't return your damaged equipment, you will be charged the full purchase price of the replacement equipment sent to you. The monthly fee of \$4.95 for the optional Equipment Service Program is a per terminal fee. You can choose to insure the Equipment and terminate your participation in the program at any time by calling our Customer Service department.

6. **Title to Equipment.** We at all times retain title to the Equipment unless we agree otherwise in writing. You agree to execute and deliver to us any statement or instrument that we may request to confirm or evidence our ownership of the Equipment, and you irrevocably appoint us as your attorney-in-fact to execute and file the same in your name and on your behalf. If a court determines that the leasing transaction contemplated by this Agreement does not constitute a financing and is not a lease of the Equipment, then we shall be deemed to have a first lien security interest on the Equipment as of the date of this Agreement, and you will execute such documentation as we may request to evidence such security interest.

7. **Return or Purchase of Equipment at End of Lease Period.** Upon the completion of your lease term or any extension thereof, you will have the option to (a) return the Equipment to us; (b) purchase the Equipment from us for its then fair market value, calculated as a percentage of the aggregate lease payments in accordance with the following: If the term of this Lease is forty-eight (48) months or more, the buyout option as a percentage of the aggregate lease payments shall be ten percent (10%). If the term of this lease is thirty-six (36) to forty-seven (47) months, the buyout option as a percentage of the aggregate lease payments shall be fifteen percent (15%). If the term of this lease is twenty-four (24) to thirty-five (35) months, the buyout option as a percentage of the aggregate lease payments shall be twenty percent (20%); or (c) after the final lease payment has been received by FDGL, the Agreement will revert to a month by

month rental at the existing monthly lease payment. If Client does not want to continue to rent the Equipment, then Client will be obligated to provide FDGL with 30 day written notice to terminate and return the equipment to FDGL. If we terminate the lease pursuant to Section 11(b) due to a default by you, then you shall immediately return the Equipment to us no later than the tenth business day after termination, or remit to us the fair market value of the Equipment as determined in good faith by us. We may collect any amounts due to us under this Section 7 by debiting your bank account, and to the extent we are unable to obtain full satisfaction in this manner, you agree to pay the amounts owed to us promptly upon our request.

8. **Software License.** We retain all ownership and copyright interest in and to all computer software, related documentation, technology, know-how and processes embodied in or provided in connection with the Equipment other than those owned or licensed by the manufacturer of the Equipment (collectively "Software"), and you shall have only a nonexclusive license to use the Software in your operation of the Equipment.

9. **Limitation on Liability.** We are not liable for any loss, damage or expense of any kind or nature caused directly or indirectly by the Equipment, including any damage or injury to persons or property caused by the Equipment. We are not liable for the use or maintenance of the Equipment, its failure to operate, any repairs or service to it, or by any interruption of service or loss of use of the Equipment or resulting loss of business. Our liability arising out of or in any way connected with this Agreement shall not exceed the aggregate lease amount paid to us for the particular Equipment involved. In no event shall we be liable for any indirect, incidental, special or consequential damages. The remedies available to you under this Agreement are your sole and exclusive remedies.

10. **Warranties.**

(a) All warranties express or implied, made to you or any other person are hereby disclaimed including without limitation, any warranties regarding quality, suitability, merchantability, fitness for a particular use, quiet enjoyment, or infringement.

(b) You warrant that you will only use the Equipment for commercial purposes and will not use the Equipment for any household or personal purposes.

11. **Indemnification.** You shall indemnify and hold us harmless from and against any and all losses, liabilities, damages and expenses, (including attorneys' fees) resulting from (a) the operation, use, condition, liens against, or return of the Equipment or (b) any breach by you of any of your obligations hereunder, except to the extent any losses, liabilities, damages or expenses result from our gross negligence or willful misconduct.

12. **Default; Remedies.**

(a) If any debit of your bank account initiated by us is rejected when due, or if you otherwise fail to pay us any amounts due hereunder when due, or if you default in any material respect in the performance or observance of any obligation or provision of this Agreement or any agreement with any of our affiliates, alliances or joint ventures, any such event shall be a default hereunder. Without limiting the foregoing, any default by you under a Merchant Processing Agreement ("MPA") with us or with an Alliance or joint venture to which we are a party will be treated as a default under this agreement. Such a default would include a default resulting from early termination of the MPA, if applicable.

(b) Upon the occurrence of any default, we may at our option, effective immediately without notice, either (i) terminate this lease and our future obligations under this Agreement, repossess the Equipment and proceed in any lawful manner against you for collection of all charges that have accrued and are due and payable, or (ii) accelerate and declare immediately due and payable all monthly lease charges for the remainder of the applicable lease period together with the fair market value of the Equipment (as determined by us), not as a penalty but as liquidated damages for our loss of the bargain. Upon any such termination for default, we may proceed in any lawful manner to obtain satisfaction of the amounts owed to us and, if applicable, our recovery of the Equipment, including entering onto your premises to recover the Equipment. In any case, you shall also be responsible for our costs of collection, court costs and reasonable attorneys' fees, as well as applicable shipping, repair and refurbishing costs of recovered Equipment. You agree that we shall be entitled to recover any amounts due to us under this Agreement by charging your bank account or any other funds of yours that come into our possession or control, or within the possession or control of our affiliates, alliances or joint ventures, or by setting off amounts that you owe to us against any amounts we may owe to you, in any case without notifying you prior to doing so. Without limiting the foregoing, you agree that we are entitled to recover amounts owed to us under this Agreement by obtaining directly from an alliance or joint venture to which we are a party and with which you have entered into an MPA any funds held or available as security for payment under the terms of the MPA, including funds available under the "Reserve Account; Security Interests" section of the MPA, if applicable.

13. **Assignment.** You may not assign or transfer this Agreement, by operation of law or otherwise, without our prior written consent. For purposes of this Agreement, any transfer of voting control of you or your parent shall be considered an assignment or transfer hereof. We may assign or transfer this Agreement and our rights and obligations hereunder, in whole or in part, to any third party without the necessity of obtaining your consent. This Agreement will be assigned to First Data Merchant Services Corporation shortly after execution.

14. **Lease Guaranty.** No guarantor shall have any right of subrogation to any of our rights in the Equipment or this Lease or against you, and any such right of subrogation is hereby waived and released. All indebtedness that exists now or arises after the execution of this Agreement between you and any guarantor is hereby subordinated to all of your present and future obligations, and those of your guarantor, to us, and no payment shall be made or accepted on such indebtedness due to you from a guarantor until the obligations due to us are paid and satisfied in full.

15. **Governing Law; Miscellaneous.** This Agreement shall be governed by and will be construed in accordance with the laws of the State of New York (without applying its conflicts of laws principles). If any part of this Agreement is not enforceable, the remaining provisions will remain valid and enforceable.

16. **Dispute Resolution and Arbitration.** If the parties disagree as to any matter governed by this Agreement, the parties shall promptly consult with one another in an effort to resolve the disagreement. If such effort is unsuccessful, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, except that equitable relief may also be sought in any court of competent jurisdiction.

17. **Notices.** All notices must be in writing, if to you at your address appearing on the cover page of this Agreement and if to us at 4000 Coral Ridge Drive, Coral Springs, Florida, 33065. Attn: Lease Department, and shall be deemed to have been given (i) if sent by mail or courier, upon the earlier of five (5) days after mailing or when actually received or, in the case of courier, when delivered, and (ii) if sent by facsimile machine, when the courier confirmation copy is actually received. Notice given in any other manner shall be effective when actually received, if to you at the address appearing on the cover page of this Agreement or by any electronic means, including but not limited to the email address you have provided on the cover page of the Agreement. Notices sent to the Merchant's last known address, as indicated in our records, shall constitute effective notice to the Merchant under this Agreement. Customer Service toll free number 1-877-257-2094.

18. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties with respect to its subject matter, supersedes any previous agreements and understandings and can be changed only by a written agreement signed by all parties. This Agreement may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement.