TERMS OF SERVICE

STAX SUB-MERCHANT AGREEMENT

These terms of service (the "**General Terms**"), to include all appendices attached hereto, including the Stax Application Form ("**Application**"), Merchant Services Agreement for Sub-Merchants (collectively, the "**Agreement**") govern the Sub-Merchant's participation in the Services. The Sub-Merchant agrees to be bound by the terms and conditions of the Agreement, as evidenced either by the signature of an authorized representative of the Sub-Merchant on the Stax Application or by the transmission of a Transaction receipt or other evidence of a Transaction (collectively, the **"Signature"** or **"Signing"**). The parties to this Agreement shall be the Sub-Merchant as named in the Application that applies to participate in Transactions using Stax's processing products ("**Sub-Merchant**," "**Merchant**," or "**you**") and Fattmerchant, Inc. d/b/a Stax, with its principal place of business located at 618 E South Street, #510, Orlando, Florida 32801 ("**Stax**," "**we**," or "**us**") each of which may be referred to individually as a "**Party**" or collectively as "**Parties**." The effective date of this Agreement shall be the date Stax approves Sub-Merchant for participation in the Processing Services ("**Effective Date**").

WHEREAS, Sub-Merchant and Stax are entering into the Agreement to set forth, among other things, terms and conditions under which Stax will provide to Sub-Merchant services that facilitate Sub-Merchant's acceptance of card payments, e-check, and/or ACH payments for goods and services provided, and Stax, as an agent for Sub-Merchant, may accept settlement payments from the Acquirer on behalf of Sub-Merchant;

WHEREAS, Stax is party to an agreement with an Acquirer and a Bank under which Acquirer and Bank provide payment processing and Association sponsorship services to Stax on behalf of Sub-Merchant and other sub-merchants of Stax; and

WHEREAS, as a condition of providing services to Stax on behalf of Sub-Merchant, Acquirer, and Bank require that Stax include certain terms and conditions in the Agreement relating to the payment processing services being provided to Sub-Merchant.

THEREFORE, Stax and Sub-Merchant hereby agree to the terms and conditions set forth herein.

On and subject to the terms and conditions hereof, Stax is: (i) acting in the capacity of a "**Payment Service Provider**" (under the Visa Rules) and a "Payment Facilitator" (under the MasterCard Rules) and will provide you card processing services as described herein; and (ii) will provide you with additional services as agreed by the Parties. Stax provides processing services with respect to credit card transactions including Visa U.S.A., Inc. ("**Visa**"), MasterCard Worldwide ("**MasterCard**"), DFS Services LLC ("**Discover Network**"), American Express, PayPal, JCB, Discover, Diners Club ("**Associations**"), as well as e-check and ACH transactions. We are intending for you to be able to accept transactions for all of these Associations and all the other Services designated in this Agreement or any attachment to this Agreement, unless you notify us that you do not elect to accept all the card types and Services we offer and name those you do not elect to offer. You may change your election of card types and Services from time to time upon at least sixty (60) days' advance notice to us; we will use reasonable efforts to accommodate your requests in less time, but we will not be obligated to do so. Upon our approval of a changes to new card type or Service, the Parties will enter into an amendment or supplement to this Agreement. You will not seek authorization for or submit a transaction of a new card type, which was not included in original agreement, until the Parties have executed such amendment or supplement. Unless otherwise directed by us, you will not seek authorization for or submit a transaction of a card type you desire to discontinue accepting later than the effective date of your notice to us. With respect to inadvertent or intentional acceptance of a transaction other than the type or service anticipated for your account (including, without limitation, a different card type), you will also be subject to payment to us of our then-current fee(s) with respect to such card, transaction or service and be liable, obligated and responsible under this Agreement for any such transaction or service to the same extent as you would be if it was of an anticipated card type or service.

You will honor a card by accepting it for payment. You will not engage in any acceptance practice or procedure that discriminates against, or discourages the use of, any particular card type elected by you and approved by us, in favor of any competing card brand also elected and approved. You understand and agree that you are expressly prohibited from presenting sales transactions for any purposes related to any illegal or prohibited activity, including but not limited to money-laundering or financing of terrorist activities. For all Cards issued by U.S. Issuers, you will honor all cards within the card types elected and approved in accordance with this Agreement. For example, if you elect and are approved to accept Visa credit cards, you will submit payments from Visa-branded credit card Cardholders without regard to whether the credit card is a Visa-branded rewards credit card or Visa-branded business purpose credit card. You acknowledge that no party will acquire any right, title, or interest in or to the marks of any Associations. You will not assign to any third party any of the rights to use the marks of any Associations, and the Associations may use information obtained in the Application to monitor

you in connection with Card marketing and administrative purposes. In order to facilitate the provision of the Services, you hereby irrevocably appoint Stax as your special attorney-in-fact to execute and deliver, in your name(s), all applications, documents, agreements and other instruments required by an Acquirer, Bank or processor.

1. **DEFINITIONS**. For the purposes of the General Terms, the definitions contained in Appendix I apply to capitalized words contained within the Agreement unless the context otherwise requires or unless the term is assigned an alternative definition within the General Terms.

2. **SERVICES AND PRIORITY**. Subject to the terms and conditions of the Agreement, the Parties will provide those Services for which they are respectively responsible as set forth in the Agreement. In the event that terms and conditions described within the appendices differ from those indicated within the General Terms, the terms and conditions contained within the Appendices shall prevail over any conflicting terms and conditions in the General Terms.

   3. **SUB-MERCHANT OBLIGATIONS AND REQUIREMENTS**.

A.   Association Operating Rules and Compliance. Sub-Merchant acknowledges that Acquirer and Bank must maintain closer controls over high-volume sub-merchants of Stax and, therefore, Sub-Merchant must immediately notify us if it has, or in Sub-Merchant's reasonable opinion will, have greater than $1,000,000 in annual card sales volume processed hereunder (based upon the date Sub-Merchant's account is boarded) for any one Association. Further, Sub-Merchant must also immediately notify us if it has, or in Sub-Merchant's reasonable opinion will, have greater than $2,000,000 in annual Card sales volume processed hereunder.

You shall comply with the Associations' operating rules ("**Operating Rules**"), including the Operating Rules applicable to the Visa PSP and MasterCard Payment Facilitator programs and all applicable local, state, and federal laws, rules, and regulations ("**Applicable Laws**"). The Operating Rules are available on websites, such as http://www.usa.visa.com/merchants and http://www.mastercardmerchant.com, as updated from time to time. Further, Sub-Merchant acknowledges receipt and review of the Bank Card Merchant Rules and Regulations (the "Rules Summary"), as amended from time to time, which are incorporated into this Agreement by reference. Sub-Merchant agrees to fully comply with, all of the terms and obligations in the then current Rules Summary, as changed or updated by Acquirer from time to time. Without limiting the foregoing, Sub-Merchant agrees that it will fully comply, with any and all confidentiality and security requirements of the USA Patriot Act (or similar law, rule or regulation), the Associations, including but not limited to Payment Card Industry Data Security Standard ("**PCI**"), the Visa Cardholder Information Security Program, the MasterCard Site Data Protection Program, and

any other program or requirement that may be published and/or mandated by the Associations. Should any Operation Rules(s) not be publicly available or otherwise made available to Sub-Merchant, such unavailability shall not alter or limit Sub-Merchant's obligation to comply with the Operating Rules. Notwithstanding Stax's assistance in understanding the Operating Rules, Sub- Merchant expressly acknowledges and agrees that it is assuming the risk of Sub-Merchant's compliance with all provisions of the Operating Rules, regardless of whether Sub-Merchant have possession of those provisions. Both MasterCard and VISA make excerpts of their respective Operating Rules available on their

internet sites. Sub-Merchant agrees that it will not take any action that could interfere with or prevent the exercise of this right by the Associations. In the event of any inconsistency between any provisions hereof and the Operating Rules, the Operating Rules will govern to the fullest extent possible under Applicable Laws.

B.   On an ongoing basis, you must promptly provide Stax with the current address of each location, all "doing business as" (DBA) names used by you, and a complete description of goods sold and services provided by you. You agree to provide Stax with 30 days' prior written notice of your intent to change your business form or entity in any manner (e.g., a change from a limited liability company to a corporation), and/or of your intent to sell all of its stock or assets to another entity. You may not use the Services for any service other than as set forth in this Agreement.

C.   Identify Sub-Merchant. To the extent Sub-Merchant interacts with Cardholder, Sub-Merchant will prominently and unequivocally inform the Cardholder of the identity of the Sub-Merchant at all points of interaction so that the Cardholder readily can distinguish the Sub-Merchant from any other party, such as a supplier of products or services to Sub-Merchant, including Stax. Further, Sub-Merchant must ensure that the Cardholder understands who is responsible for the card transaction, including delivery of the products (whether physical or digital) or provision of the services that are the subject of the card transaction, and for customer service and dispute resolution, all inaccordance with the terms applicable to the card transaction.

D.   Third Parties. Stax and Sub-Merchant may use one or more third party service providers ("TPSP's") in connection with the Services and/or the processing of some or all of its Card transactions. In no event shall Sub-Merchant use a TPSP unless such TPSP is compliant with PCI and/or the Payment Application Data Security Standard ("PA-DSS"), depending on the type of TPSP, as required by the Operating Rules. Sub-Merchant acknowledges and agrees that Sub-Merchant shall cause its TPSP to complete any steps or certifications required by any Association (e.g., registrations, PA-DSS, PCI, audits, etc). Sub-Merchant shall cause its TPSP

to cooperate with Acquirer in completing any such steps or certifications (if applicable), and in performing any necessary due diligence on such TPSP. Sub- Merchant shall be solely responsible for any and all applicable fees, costs, expenses and liabilities associated with such steps, registrations and certifications. Sub- Merchant shall bear all risk and responsibility for conducting Sub-Merchant's own due diligence regarding the fitness of any TPSP(s) for a particular purpose and for determining the extent of such TPSP's compliance with the Operating Rules and applicable law. Sub-Merchant expressly agrees that neither Acquirer, Bank, or Stax shall in any event be liable to Sub-Merchant or any third party for any actions or inactions of any TPSP used by Sub-Merchant, even if Acquirer, Bank or Stax introduced or recommended such TPSP.

E.   Operating Account. Sub-Merchant shall establish an Operating Account at a financial institution of Sub-Merchant's choice prior to processing any payments. The Operating Account shall be utilized for deposits from Payment Card or eCheck Processing Transactions. Sub-Merchant shall advise Stax of the name and address of the financial institution, routing number and account number of the account. Sub-Merchant authorizes Stax to debit fees and charges from the Operating Account either daily, monthly or at other times deemed appropriate by Stax through the ACH Network or by a manual debit of the account.

F.   Maintenance of the Operating Account. Sub-Merchant shall maintain the Operating Account throughout the term of this Agreement, to include any extensions or renewals thereof. Sub-Merchant shall, at all times, maintain sufficient funds in the Operating Account to ensure that all credit Entries originated and returns of debit Entries originated, as well as any and all fees, charges, and costs provided for under the Agreement are paid, including any reserve requirements set by Stax in accordance with this Agreement. Sub-Merchant agrees to deposit funds into the Operating Account as required in order to ensure that sufficient funds are maintained in the Operating Account at all times.

G.   Sub-Merchant Authorization and Waiver. Sub-Merchant authorizes Stax to make deposits to or withdrawals from the Operating Account. Stax will have no signatory or ownership rights in the Operating Account and will have no right to negotiate or assert ownership rights in deposited funds. Sub-Merchant shall be responsible for all Bank charges and Sub-Merchant shall designate employees authorized to make changes to the Operating Account. Any changes proposed to the Operating Account shall be submitted in writing to Stax and must be approved in writing by Stax. Should Sub-Merchant modify these terms without following the aforementioned process, Sub-Merchant indemnifies and holds Stax harmless for any administration and ACH activity initiated by Stax or its employees. If required by Stax, or any other financial institution where the Operating Account is maintained, Sub-Merchant agrees to sign any other additional documents to authorize the deposits and withdrawals, including

without limitation, ACH Transactions. Sub-Merchant waives any claims for loss or damage arising out of any charges or debits to the Operating Account against any other designated financial institution where the account is maintained.

H.   Retention of Sales Information. Sub-Merchant shall store all sales/service drafts and Transaction records in a limited access area for at least one year after the date of sales. Sub-Merchant shall retain all original sales drafts or legible microfilm or electronic copies of all sales drafts and Transaction records for at least three years. Sub-Merchant is responsible for maintaining complete backup records of all information relating to its patient's/customers' order s, inquiries, purchases, sales and any other patient/customer information.

4. **SECURITY INTEREST; RESERVE; SETOFF RIGHTS.**

A.   Security Interest and Lien. Sub-Merchant hereby grants a security interest and lien upon the Operating Account or any substitute account now and in the future and all proceeds thereof to Stax to secure all fees, costs, and charges due in accordance with this Agreement, including all fees indicated in the Stax Application or any other agreement between you and Stax, including without limitation, Chargebacks, Return Entries, refunds and Association fees or fines (the "**Amounts Due**"). In the exercise of its rights with regard to the security interest and lien, Stax may only debit the Operating Account to the extent of the then existing amounts due and shall only do so if Stax becomes reasonably concerned about whether the Sub-Merchant will otherwise fulfill its financial obligations. Sub-Merchant shall provide such documentation as required by Stax in connection with the security interest and lien. The security interest and lien granted herein shall survive the termination of this Agreement until all amounts due are determined and paid in full. Sub-Merchant hereby authorizes Stax to prepare all documents or to take other actions reasonably necessary to perfect its security interest or lien in the Operating Account or any substitute account therefor.

B.   Establishment of Reserve Account. We may withhold funds by temporarily suspending or delaying payouts of proceeds to you and/or designate an amount of funds that you must maintain in your Operating Account or in a separate reserve account ("**Reserve**") to secure the performance of your obligations under any agreement between you and Stax. We may require a Reserve for any reason related to your use of the Services. The Reserve will be in an amount as reasonably determined by us to cover potential losses to Stax. The Reserve may be raised, reduced or removed at any time by Stax, in its sole discretion, based on your payment history, a credit review, the amount of any arbitration award or court judgment against you in Stax's favor, or otherwise as Stax or Acquirer may determine or require. If you do not have sufficient funds in your Reserve, we may fund the Reserve from any funding source associated the Services,

including any funds (a) deposited by you, (B) due to you, or (c) available in your Operating Account, or other payment instruction registered with us. You authorize us to make any withdrawals on debits from the Reserve or your Operating Account, without prior notice to you, to collect amounts that you owe us. You shall have no ability to make withdrawals from the Reserve Account without the written consent of Stax.

C.   Funding of Reserve Account. The Reserve Account may be funded by deduction from payments due Sub-Merchant, a charge against the Operating Account, or against any of Sub-Merchant's accounts at the financial institution at which Sub-Merchant maintains the Operating Account. Subject to Stax's approval and agreement, the reserve may be funded by an irrevocable letter of credit. The amount required to be maintained in the Reserve Account and the terms and conditions for maintaining the account shall be established by Stax in its discretion.

D.   Additional Reserve. Upon termination of this Agreement, Stax may require an additional reserve to cover possible indebtedness to Stax for Transactions initiated prior to termination. This Reserve Account will be maintained for a minimum of six (6) months from the termination date or until such time as Stax determines that the release of the funds to Sub-Merchant is prudent, in the best interest of Stax, commercially reasonable and Sub- Merchant's account with Stax is fully resolved. Upon expiration of this period, any balance remaining in the Reserve Account will be paid to Sub-Merchant. Stax will inform Sub-Merchant in writing of any charges debited to the Reserve Account during this period.

E.   Set-Off Rights. To the extent permitted by law, we may set off against the proceeds for any obligation you owe us under any agreement with Stax (i.e., Chargebacks or refunds). If you owe us an amount that exceeds your cumulative incoming proceeds, we may debit the Operating Account. Your failure to fully pay amounts that you owe us on demand will be a breach of these terms. You are liable for any of our costs associated with collection in addition to any amounts owed, including attorneys' fees and expenses, collection agency fees, and any applicable interest.

F.   Auditing and Credit Investigation. Sub-Merchant authorizes Stax, or its respective agents to investigate the background and personal credit history of any of the principals and employees associated with Sub-Merchant's business from time to time, and to obtain a business report on Merchant's business from Dunn & Bradstreet or any company providing a similar service. Stax may terminate this Agreement if the information received in any investigation is unsatisfactory in Stax's sole discretion. Stax may also audit from time to time Sub-Merchant's compliance with the terms of this Agreement. Sub-Merchant shall provide all information requested by Stax necessary to complete the audit. Upon Stax's request, Sub-Merchant shall provide all of its

books and records, including financial statements for Sub-Merchant and personal financial statements for all guarantors. Sub-Merchant authorizes Stax to make on- site visits to any and all of the Sub-Merchant's locations with regard to all information necessary or pertinent to the Services.

G.   Guarantor. A duly authorized officer of Sub-Merchant, Signing on behalf of Sub-Merchant (each such person, a "Guarantor"), promises to pay any Obligation that Sub-Merchant has not promptly paid when due. Guarantor promises to pay irrespective of Stax's actions or inactions regarding the Obligations, or whether Stax has enforced any security interest created under this Agreement. Guarantor further promises to pay irrespective of the invalidity, insufficiency, or unenforceability of any Obligation. Guarantor's obligations shall not be affected, modified or impaired by any counterclaim, set-off, deduction or defense based upon any claim the Guarantor may have against the Sub-Merchant or Stax, except payment or performance of the Obligations. Guarantor waives presentment, demand, protest, notice of protest, and notice of dishonor or other nonpayment of any Obligations. Further, Guarantor waives notice of sale or other disposition of any collateral or security now held or later acquired. The duties of Guarantor shall not be released, discharged, or modified by: (i) Stax's extending the time for payment (for Sub-Merchant or Guarantor); or (ii) Stax's delay or omissions in exercising any rights, taking any actions, or pursuing any remedies against Sub-Merchant or Guarantor. Guarantor agrees that Stax may release or modify any collateral, security, or other guaranties without notice or consent from Guarantor and without modifying Guarantor's duties to Stax. Guarantor waives all defenses based on suretyship or impairment of collateral. Following a default under this Agreement, Stax may apply and/or setoff against amounts due to Stax any deposits, account balances, or other credits of Guarantor in Stax's possession. Guarantor grants Stax a security interest in the items just described. The obligations of any Guarantor shall be joint and several with Sub-Merchant and any other Guarantor under this Agreement.

5. **SUB-MERCHANT REPRESENTATIONS AND WARRANTIES**.

A.   Without limiting any other warranties hereunder, you represent, warrant and covenant with us and with the submission of each card transaction, the following representations, warranties and/covenants:

A.   Each transaction is genuine and arises from a bona fide transaction, permissible under the Operating Rules and Applicable Law, by the Cardholder directly with you;

B.   Each transaction represents a valid obligation for the amount shown on the sales draft and does not involve the use of a card for any other purpose;

C.   Each transaction represents an obligation of the related Cardholder for the amount of the transaction;

D.   The amount charged for each Card Transaction is not subject to any dispute, set off or counterclaim;

E.   Each transaction amount is only for respective merchandise or services (including taxes) sold, leased, or rented to a Cardholder by you and, except for any delayed delivery or advance deposit transactions expressly authorized by this Agreement, that merchandise or service was actually delivered to or performed for the Cardholder entering into that transaction simultaneously upon your accepting and submitting that transaction for processing;

F.   With respect to each transaction, you have no knowledge or notice of any fact, circumstance, or defense which would indicate that such transaction is fraudulent or not authorized by the related Cardholder or which would otherwise impair the validity or collectability of that Cardholder's obligation arising from that transaction or relieve that Cardholder from liability with respect thereto;

G.   Each transaction is made in accordance with this Agreement and Applicable Law; and

H.   Each sales draft is free of any alternation not authorized by the related Cardholder.

I.   Sub-Merchant agrees to be bound to the Terms and Conditions, as may be updated from time to time, included on the Stax website, which can be found here and the Stax Privacy Policy which can be found here.

Further, you are authorized to carry on your own business as it is conducted and to enter into this Agreement. You further represent that no other authorizations, consents, or approvals are required in connection with the validity and enforceability of this Agreement or your execution, delivery, and performance of this Agreement. You have not changed the nature of your business, card acceptance practices, delivery methods, return policies, or types of products or services sold requiring a different merchant category code under Operating Rules, in a way not previously disclosed to us. You will use the Services only for your own proper business purposes and will not resell, directly or indirectly, any part of the Services to any person. You, or your third-party service providers, have not filed, or intend to file, a bankruptcy petition not previously disclosed to us. All information and data you provide to us, or for which you engage a third party to provide to us, is complete, truthful, accurate, valid, your lawful property, and you have the right to communicate such information. You own or otherwise have the full right and authority to use and disseminate all information, data, graphics, text, video, music, or other intellectual property which forms a part of your website, or which you use in your advertising. You and your third-party service providers are legally authorized to sell any product or services offered and have obtained all necessary regulatory approvals and certificates (hereafter, "Certificates"). You will provide us any copies of Certificates immediately upon receipt of our request.

6. **TERM AND TERMINATION.**

A.   Term. This Agreement shall become effective on the Effective Date, and, unless sooner terminated in accordance with this Agreement, shall remain in effect for a term of three (3) years (the "**Initial Term**"). At the end of the Initial Term, this Agreement shall renew automatically for successive terms of one year, unless either Party provides written notice of termination to the other Party as set forth herein. All existing obligations, warranties, indemnities, and agreements with respect to Transactions entered into before such termination shall remain in full force and effect and Sub-Merchant shall remain liable for all obligations to any Payor, Stax incurred prior to the termination of this Agreement.

B.   Termination of Services. The Associations may terminate your use of the Services at any time for any reason. Stax may terminate your use of the Services and/or this Agreement at any time if Stax has reason to believe, in its sole discretion, that any action of Sub-Merchant is not a best practice or could cause Stax to violate or run afoul of any agreement(s), including but not limited to its payment facilitator agreement or the payment card network rules. Any termination of these terms does not relieve you of obligations to pay fees or costs accrued prior to termination, Chargebacks, and any other amounts owed to us as provided in this Agreement, including the General Terms, or any other agreement between you and Stax. Any funds that we are holding in custody for

you at the time of closure, less any applicable fees, will be paid out according to your payout schedule, subject to other conditions in this Agreement. If an investigation is pending at the time you close your Stax account, we may hold your funds as described herein. If you are later determined to be entitled to some of the funds, we will release those holds for you.

C.   Suspension of Services. Stax may, in its sole discretion, suspend the Services at any time in its reasonable discretion upon notice to you.

Stax may selectively terminate one or more of Sub-Merchant's approved locations or certain Services without terminating this Agreement. Sub-Merchant's obligations with respect to any Transaction shall be deemed incurred and existing on the posted transaction date of the Transaction.

D.   Deconversion Fees. If this Agreement is terminated and Sub-Merchant requests assistance from Stax with moving to a new processor, Sub-Merchant agrees to pay Stax for its then-fees associated with such deconversion services as provided by Stax; provided, however, in no event shall Stax be obligated to provide deconversion services to Sub-Merchant, regardless of

the scope of such request. Sub-Merchant agrees to pay Stax any and all fees associated with the deconversion process, including but not limited to a one-time $750 processing deconversion fee.

E. Notwithstanding anything to the contrary, Sub-Merchant shall also reimburse Stax for any damage, loss or expense incurred by Stax as a result of a breach by Sub-Merchant, including any damages set forth in any addendum and/or schedule and/or exhibit hereto and including all past due, unpaid and/or future invoices for services rendered by Stax in connection with this Agreement. All such amounts shall be due and payable by Sub-Merchant upon demand.

7. **FEES**. Sub-Merchant agrees to pay all fees, including, but not limited to processing fees, monthly service fees and set-up fees as specified on the Stax Application and/or Stax website, and in accordance with this Agreement and any other agreement between you and Stax. Sub-Merchant also agrees to pay Stax, as applicable, the amount of any fees, charges, or penalties assessed against Stax, as applicable, by any Association, Issuer, Acquirer, Bank. NACHA, or any other third party. This Agreement subjects you to a Minimum Monthly Bill of $25 and a PCI non-compliance Fee of $35, unless otherwise noted on the Application. If applicable, we may also assess the ACH/DBA and Chargeback/Inquiry Fees listed on the Application for administrative service s.

A.   Third Party Assessments. Notwithstanding any other provision of this Agreement, Sub-Merchant shall be responsible for all amounts imposed or assessed to Sub- Merchant, Stax, Acquirer, or Bank in connection with this Agreement by third parties such as, but not limited to, Associations and third-party service providers (including telecommunication companies) to the extent that such amounts are not the direct result of the gross negligence or willful misconduct of Acquirer, Bank or Stax, as applicable. Such amounts include, but are not limited to, fees, fines, assessments, penalties, loss allocations etc. Any changes or increases in such amounts shall automatically become effective upon notice to Sub-Merchant. In the event that Acquirer assesses Stax with the cost of funds associated with a circumstance where Acquirer, for whatever reason, advances settlement or any amounts and/or delays the assessment of any fees, Sub-Merchant shall be fully responsible for any portion of such assessment that is attributable to the Services for Sub-Merchant.

B.   Late Fees. If Sub-Merchant does not pay sums due to Stax within 30 days of the invoice date, Stax may charge and Merchant agrees to pay a late fee of 1.5% per month on the outstanding balance, or the highest amount allowed by law, whichever is less.

C. Collection Charges. Should Stax take any action against Sub-Merchant to collect sums due hereunder, Sub-Merchant agrees to pay all costs associated with such collection efforts, including but not limited to reasonable attorney's fees.

D. Taxes, Information Filings and Backup Withholding. Sub-Merchant agrees to pay all federal, state, and local sales, use, income, property and excise taxes, which may be assessed in connection with the Services and related products provided under this Agreement. Sub-Merchant agrees and understands that Stax or its designee will provide information reporting to the Internal Revenue Services and applicable state treasurers for all reportable payment transactions of Sub- Merchant as defined in IRC § 6050W. If necessary, Stax or its designee will conduct backup withholding on the revenue generated by the reportable payment transactions of the Sub-Merchant.

E. Performance Analytics Fee. Unless Sub-Merchant provides notice or opts out of the Performance Analytics feature, Sub-Merchant agrees to pay a monthly service fee itemized on the Sub-Merchant Statement.

8. **INDEMNIFICATION AND LIMITATIONS OF LIABILITY**.

A. Indemnification. Sub-Merchant shall indemnify, defend, and hold harmless Stax, and its directors, officers, employees, affiliates and agents from and against all proceedings, claims, losses, damages, demands, liabilities and expenses whatsoever, including all reasonable legal and accounting fees and expenses and all reasonable collection costs, incurred by Stax, its directors, officers, employees, affiliates and agents resulting from or arising out of the Services in this Agreement, Sub-Merchant's payment activities, the business of Sub-Merchant or its customers, any sales transaction acquired by Acquirer or Member Bank, any noncompliance with the Operating Rules (or any rules or regulations promulgated by or in conjunction with the Associations) by Sub-merchant or its agents (including any TPSP), any issue, problems, or disputes between Acquirer and any Sub-merchant, or Bank and Sub-Merchant, any Data Incident, any infiltration, hack, breach, or violation of the processing system of Sub-merchants, TPSP, or any other third party processor or system, or by reason of any breach or nonperformance of any provision of this Agreement, on the part of Sub-Merchant, or its employees, agents, TPSPs, or customers. The indemnification obligations hereunder shall survive the termination of the Agreement.

"**Data Incident**" is defined as any alleged or actual compromise, unauthorized access, disclosure, theft, or unauthorized use of a Card or Cardholder information, regardless of cause, including without limitation, a breach of or intrusion into any system, or failure, malfunction, inadequacy, or error affecting any server, wherever located, or hardware or software of any system, through which Card information resides, passes through, and/or could have been compromised.

B. Limitation of Liability. Neither Party shall be liable for lost profits (except as expressly provided otherwise herein), lost business or any incidental, special, consequential or punitive damages (whether arising out of circumstances known or foreseeable by the other Party) suffered by such Party, their customers or any third party in connection with the Services. However, nothing in the foregoing sentence is in any way intended, and shall not be construed, to limit (i) Sub- Merchant'sobligation to pay any fees, assessments or penalties due under this Agreement, including but not limited to those imposed by telecommunications services providers, VISA, MasterCard and/or other Association(s); or (ii) any damages due from Sub-Merchant related to the failure by Sub-Merchant to exclusively receive the Services from Stax; or (iii) Sub-Merchant's obligation to indemnify Stax pursuant to this Agreement. In no event will Stax be liable for any damages or losses (i) that are wholly or partially caused by Sub-Merchant, or its employees, agents, or TPSPs. Further, Stax shall not be liable to Sub-Merchant or Sub-Merchant's patients/customers or any other person for any of the following:

i.   Any loss caused by a Transaction downgrade resulting from defective or faulty software or equipment; or

ii.   Any loss or liability resulting from the product or service of a thirdparty.

Limitation of Damages. STAX SHALL NOT BE LIABLE FOR ANY PUNITIVE, INDIRECT, SPECIAL, OR CONSEQUENTIAL LOSSES OR DAMAGES TO SUB-MERCHANT OR TO ANY THIRD PARTY IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE SERVICES TO BE PERFORMED BY STAX PURSUANT TO THIS AGREEMENT. IN NO CASE SHALL SUB-MERCHANT BE ENTITLED TO RECOVER DAMAGES FROM STAX BANK THAT EXCEED THE FEES RETAINED BY STAX FROM THIS AGREEMENT DURING THE ONE (1) MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO THE CLAIM FOR DAMAGES.

C. Warranty Disclaimer. SUB-MERCHANT ACKNOWLEDGES THAT STAX HAS NOT PROVIDED ANY WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PURPOSE WITH RESPECT TO THE SERVICES PROVIDED HEREIN. SHOULD THERE

BE ERRORS, OMISSIONS, INTERRUPTIONS, OR DELAYS RESULTING FROM STAX'S PERFORMANCE OR FAILURE TO PERFORM OF ANY KIND, STAX'S LIABILITY SHALL BE LIMITED TO CORRECTING SUCH ERRORS, IF COMMERCIALLY REASONABLE. SUB-MERCHANT HEREBY ACKNOWLEDGES THAT THERE ARE RISKS ASSOCIATED WITH THE ACCEPTANCE OF CARDS AND SUB-MERCHANT HEREBY ASSUMES ALL SUCH RISKS EXCEPT AS MAY BE EXPRESSLY SET FORTH HEREIN.

9. **NOTICE**. Except for notices provided by Stax to Sub-Merchant on the Sub-Merchant Statement, all notices, requests, demands or other instruments, which may be or are required to be given by any Party herein, shall be in writing and each shall be deemed to have been properly given (i) three Business Days after being sent by certified mail, return receipt requested; or (ii) upon delivery by a nationally recognized overnight delivery service to the addresses listed herein for the respective Parties; or (iii) sent through electronic mail with proof of delivery. Notices shall be addressed as follows:

If to Stax:

Fattmerchant, Inc.

d/b/a Stax

618 E South Street, #510

Orlando, Florida 32801

Attn: Legal

legal@staxpayments.com

If to Sub-Merchant:

The address a provided for in the Stax Application

Any Party may change the address to which subsequent notices are to be sent by notice to the other Parties given as set forth above in this Section.

10. **EXCLUSIVITY.** Stax reserves the right to enter into other agreements pertaining to the Services with others including without limitation other merchants, payment processors, or banks.

11. **AMENDMENTS**.

A. Fees and Charges. Pass-through charges from third parties, including, but not limited to, Payment Card Processing assessments and interchange or ACH related fees may be changed by such third parties from time to time. Stax will provide Sub-Merchant with as much notice as is reasonably possible in the event of any such changes in pass-through charges. From time to time and at its sole discretion, Stax may change all non-pass through rates, fees and charges set forth in the Agreement. Stax will provide a minimum of 30 days written notice to Sub-Merchant of all amendments to non-pass through rates, fees, and charges.   Stax may provide notice of any fee change pursuant to this section on the Sub-Merchant Statement.

B. Amendment by Stax. Stax may amend or modify this Agreement and any such amendment or modification will be effective and binding on Sub-Merchant upon notice. For the avoidance of doubt, such notice may be provided on the Sub-Merchant Statement. Sub-Merchant's continued use of Services after the effective date of any such amendment or modification shall signify Sub-Merchant's acceptance of, and agreement to, abide by the terms and conditions contained in any such amendment or modification.

12. **MISCELLANEOUS**.

A. Rights to Dispute Charges; Reports; Invoices. You expressly agree that your failure to notify us that you have not received any settlement funds within three (3) business days from the date that settlement was due to occur, or fail to reject any report, notice, or invoice within thirty (30) business days from the date the report or invoice is made available to you, shall constitute your acceptance of the same. In the event you believe that Stax has failed in any way to provide the Services, you agree to provide Stax with written notice, specifically detailing any alleged failure, within sixty (60) days of the date on which the alleged failure first occurred.

B. Investigations. Sub-Merchant shall assist Stax in any and all investigations of Transactions in a timely manner and will provide written reports of investigated transactions to Stax upon Stax's request.

C.   Confidentiality. Neither Party shall disclose to any third Party the Confidential Information disclosed by the other Party and shall not use any such Confidential Information for any purpose other than the purpose for which it was originally disclosed to the receiving Party. Each Party agrees to treat Confidential Information with the same degree of care and security as it treats its most confidential information, but in no circumstance less than a reasonable degree of care. Each Party may disclose such Confidential Information to employees and agents who require such knowledge to perform services under this Agreement, provided that such employees and agents are subject to obligations of confidentiality in regard to the protection of the Confidential Information no less binding than those set forth herein. Confidential Information shall not include information that (i) is known to the receiving Party at the time it receives Confidential Information; (ii) has become publicly known through no wrongful act of the receiving Party; (iii) has been rightfully received by the receiving Party from a third Party authorized to make such communication without restriction; (iv) has been approved for release by written authorization of the disclosing Party; or (v) is required by law to be disclosed. In the event either Party receives a subpoena or other validly issued administrative or judicial process requesting Confidential Information, the recipient shall promptly notify each other Party of such receipt and may, thereafter, comply with such subpoena or process to the extent permitted by law. The terms and conditions and commissions associated with this Agreement are specifically included in the definition of Confidential Information. The obligations of the Parties under this Section will survive termination of this Agreement for whatever reason, and will bind the Parties, their successors and assigns.

D.   Independent Contractor. In the performance of its duties herein, each Party shall be an independent contractor, not an employee or agent of the other Party.

E.   Cooperation. In their dealings with one another, each Party agrees to act reasonably and in good faith and to fully cooperate with each other in order to facilitate and accomplish the matters contemplated by this Agreement.

F.   Entire Agreement. This Agreement supersedes any other agreement, whether written or oral, that may have been made or entered into by any Party (or by any officer or officers of any Party) relating to the matters covered herein and constitutes the entire agreement of the Parties hereto. In the event that there is a conflicting term between the Merchant Application and the General Terms, the General Terms supersede the Stax Application.

G.   Assignment. This Agreement may not be assigned by Sub-Merchant without the prior written consent of Stax. A change in control of Sub-Merchant as a result of a sale,

reorganization, merger or otherwise, shall be deemed an assignment and shall require the written consent of Stax.

H.   Captions. Captions in this Agreement are for convenience of reference only and are not to be considered as defining or limiting in any way the scope or intent of the

provisions of this Agreement.

I. Governing Law, Arbitration. This Agreement shall be governed and construed in accordance with the laws of the State of Florida without regard to its principles of conflict of laws. Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules. The number of arbitrators shall be one. The place of arbitration shall be in Florida. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdictionthereof.

J. Power of Attorney. Sub-Merchant appoints Stax as its attorney-in-fact to execute such documents as necessary or desirable to accomplish perfection of any security interests. The appointment is coupled with an interest and shall be irrevocable as long as Sub-Merchant owes any amount to Stax.

K.   Attorneys' Fees. If Stax takes legal action against Sub-Merchant for any amounts due to Stax or if Sub-Merchant is required to indemnify Stax pursuant to this Agreement, Sub-Merchant shall pay reasonable costs and attorneys' fees incurred by Stax whether suit is commenced or not. Attorneys' fees are due whether or not an attorney is an employee of Stax, or itsaffiliates.

L.   Setoff. In addition to any other legal or equitable remedy available to it in accordance with this Agreement or by law, Stax may set off any amounts due to Stax under this Agreement against (i) any amounts which Stax would otherwise deposit to the Operating Account, (ii) any other amounts Stax may owe Sub-Merchant under this Agreement, or (iii) against any property of Sub-Merchant in the possession or control of Stax.

M. No Waiver. Any delay, waiver, or omission by a Party to exercise any right or power arising from any breach or default of the other Party in any of the terms, provisions or covenants of this

Agreement shall not be construed to be a waiver of any subsequent breach or default of the same or any other terms, provisions or covenants on the part of the Party. Any waiver shall not be deemed to modify any of the terms of the Agreement. All remedies afforded by this Agreement for a breach hereof shall be cumulative.

N.   Bankruptcy. Sub-Merchant shall notify Stax within five days upon filing of voluntary or involuntary bankruptcy proceedings by or against Sub-Merchant. The Parties acknowledge that this Agreement constitutes an extension of financial accommodations by Stax to Sub-Merchant within the meaning of Section 365 of the Bankruptcy Code. The right of Sub-Merchant to receive any amounts due from Stax hereunder is expressly subject and subordinate to Chargebacks, Return Entries, recoupment, lien, set-off and security interest rights of Stax regardless of whether such Chargebacks, Return Entries, recoupment, lien, set-off and security interest rights are claims that are liquidated, unliquidated, fixed, contingent, matured, or un-matured.

O.   Compliance with Laws. Sub-Merchant represents and warrants that it has obtained all necessary regulatory approvals, certificates and licenses to provide any services it intends to offer and that it is in compliance with the regulations of the Federal Trade Commission and the Federal Communications Commission and shall comply with all present and future federal, state and local laws and regulations of the United States pertaining to Transactions, including, without limitation, the Federal Fair Credit Reporting Act, the Federal Truth-in-Lending Act, the Electronic Fund Transfers Act, the Federal Equal Credit Opportunity Act, as amended, and the Telephone Disclosure and Dispute Resolution Act, the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**"), the Standards for Privacy of Individually Identifiable Health Information (the "**Privacy Rule**") and the Standards for Security of Electronic Protected Health Information (the "**Security Rule**") promulgated thereunder, the Health Information Technology for Economic and Clinical Health Act (Division A, Title XIII and Division B, Title IV, of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) (the "**HITECH Act**") and the regulations implementing the HITECH Act, as applicable. Notwithstanding anything to the contrary and for the avoidance of doubt, the services provided by Stax may not be used as an electronic medical records system and shall be used only for financial transactions.

P.   Survival. In the event of termination, all obligations of Sub-Merchant incurred or existing under this Agreement prior to termination shall survive the termination.

Q.   Force Majeure. Stax shall be excused from performing any of its obligations under this Agreement that are prevented or delayed by any occurrence not within Stax's control including, but not limited to, strikes or other labor matters, destruction of or damage to any building, natural disasters, accidents, war, riots, emergency conditions, interruption of transmission or

communications facilities, equipment failure, or any regulation, rule, law, ordinance or order of any federal, state or local government authority.

R.   Severability. If any provisions of this Agreement shall be held, or deemed to be, or shall, in fact, be, inoperative or unenforceable as applied in any particular situation, such circumstance shall not have the effect of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatsoever. The invalidity of any one or morephrases, sentences, clauses or sections herein contained shall not affect the remaining portions of this Agreement or any part hereof. It is the Parties' desire that if any provision of this Agreement is determined to be ambiguous, then the rule of construction that such provision is to be construed against its drafter shall not apply to the interpretation of the provision.

S.   Personal Guaranty. In exchange for Stax's acceptance of this Merchant Agreement, the Guarantor hereby agrees to personally guarantee (the "Guaranty") all Obligations (defined within this Agreement) when due, on a joint and several basis. The term "Obligation" is used in its most comprehensive sense and shall mean to include all indebtedness, debts and liabilities (including principal, interest, late charges, collection costs, attorneys' fees and the like) incurred by Sub- Merchant under this Agreement, whether Sub-Merchant created the obligation alone or with others, and whether Sub-Merchant is primarily or secondarily responsible. It includes all payment obligations, indemnification obligations, and indebtedness Sub-Merchant incurs arising from or related to the Transactions or the Services under this Agreement. Each Guarantor individually authorizes Stax, and/or its representatives, to conduct an initial and ongoing comprehensive credit investigation of him or her by utilizing a third-party credit reporting agency and/or to obtain a criminal background check. Guarantor acknowledges receipt of the Merchant Agreement, which is incorporated herein by reference as if fully set forth herein and has reviewed the provision therein. If you are using Services as a sole proprietor, the terms of this Agreement consider you and your business to be legally the same. You risk personal financial loss if you fail to pay any amounts owed. This is a guaranty of payment and not of collection. Stax has no obligation to demand or pursue any rights against Sub- Merchant, anyone else (including another Guarantor), or to exhaust any rights or remedies related to any collateral, security, or other guaranties before demanding payment from Guarantor. Guarantor waives notice of any acceptances of this Guaranty. This Guaranty shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, successors, transferees and assignees.

T.   **Privacy**. The Parties agree to comply with the Data Processing Agreement attached hereto as **Exhibit "A,"** which is incorporated herein by this reference.

EXHIBIT A

DATA PROCESSING AGREEMENT

This DATA PROCESSING AGREEMENT ("DPA") is entered into between Stax and "Sub-Merchant" for the purpose of ensuring any Personal Information (as defined below) collected or utilized by Stax is handled in a manner that is secure and otherwise in accordance with terms of the Sub-Merchant Agreement, this DPA, and applicable laws and regulations.

1.   DEFINITIONS

In this DPA, the following terms shall have the following definitions:

a.   "**Affiliate**" means any entity that directly or indirectly controls, is controlled by or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

b.   "**Authorized Persons**" means Stax's employees, officers, partners, principals, contractors, sub-contractors, Sub-Processors, or other agents who Process Personal Information.

c.   "**CCPA"** means the California Consumer Privacy Act, Cal. Civ. Code §§ 1798.100 et seq., and its implementing regulations.

d.   "**Stax System**" means all hardware, software, networks, platforms, databases, computers, and other information technology systems and processes that are owned, controlled or operated by or on behalf of Stax.

e.   "**Controller**" means the entity that determines the purposes and means of the Processing of Personal Information, and includes a "business" as defined in the CCPA.

f.   "**Data Protection Laws**" means all laws, regulations or guidance applicable to the Processing of Personal Information pursuant to the Agreement.

g.   "**Destroy**" means to burn, pulverize, or shred papers, or to destroy or erase electronic files or media, so that all such information cannot be read or reconstructed;

h.   "**Sub-Merchant Data**" means any Personal Information that is disclosed to and Processed by Stax or its Sub-Processors in providing the Services to Sub-Merchant.

i.   "**Personal Information**" means information in any medium or form of any kind pertaining to an identified or identifiable natural person or household; an identifiable natural person is one

who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, address, Social Security number or other identification number, e-mail address, telephone number, financial profile, credit card information, driver's license number, or other information that can be reasonably linked to a particular person, computer, or device (e.g., information collected via tracking technologies, such as IP address), or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person.

j. "**Regulator**" means any entity which has jurisdiction to enforce the parties' compliance with the Data Protection Laws.

k. "**Security Incident**" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Sub-Merchant Data transmitted, stored or otherwise Processed pursuant to the Agreement.

l. "**Services**" means the services and other activities to be supplied to or carried out by or on behalf of Stax for Sub-Merchant pursuant to the Agreement.

m. "**Sub-Processor**" means any person or entity appointed by or on behalf of the Processor to Process Sub-Merchant Data.

n. Terms such as "**Data Subject**", "**Data Breach**", "**Processing**" (and its derivatives), and "**Processor**" shall have the meaning ascribed to them in the Data Protection Laws.

2.   ROLES OF THE PARTIES

The parties acknowledge that for the purposes of applicable Data Protection Laws and this DPA, Sub-Merchant is the Controller and Stax is the Processor in respect of Sub-Merchant Data. When Sub-Merchant is acting as a Processor of Sub-Merchant Data, Stax is a sub-Processor. All of the obligations contained in this DPA shall apply to any Stax Affiliate who Processes Sub-Merchant Data under the Agreement. For purposes of the CCPA, if and to the extent applicable, Stax will act as a "service provider" in its performance of its obligations under the Agreement.

3.   PROCESSING ACTIVITIES

a. The parties agree that this DPA and the Agreement constitute Sub-Merchant's documented instructions regarding Stax's Processing of Sub-Merchant Data. Stax will not retain, use, or disclose any "Personal Information" included in the Sub-Merchant Data for any purpose other than providing the Services under the Agreement, or as otherwise permitted by the applicable Data Protection Laws. In no event shall Stax Process Sub-Merchant Data for its own purposes or those of any third parties.

b. Stax shall not share, sell, rent, release, disclose, disseminate, make available, transfer, or otherwise communicate orally, in writing, or by electronic or other means, Sub-Merchant Data to another person or entity: (i) for monetary or other valuable consideration; or (ii) cross-context

behavioral advertising for the benefit of a business in which no money is exchanged; or (iii) combine Sub-Merchant Data with Personal Information that Stax receives from or on behalf of another person or entity or collects from its own interactions with a Data Subject.

c.   Stax represents and warrants that nothing in the Data Protection Laws prevents it from performing its obligations as described in the DPA. Sub-Merchant shall immediately inform Stax if, in its opinion, the execution of an instruction could violate any Data Protection Laws. Notwithstanding the foregoing, Stax may Process Sub-Merchant Data where required by Data Protection Laws. Sub-Merchant shall immediately notify Stax if Sub-Merchant is subject to a formal inquiry or investigation by a Regulator.

4.   STAX'S OBLIGATIONS

a.   **Confidentiality**. Stax shall ensure that all Authorized Persons shall be subject to a strict duty of confidentiality (whether a contractual duty or a statutory duty), and shall not permit any person to access, use or process Sub-Merchant Data who is not under such a duty of confidentiality. Stax shall ensure that only Authorized Persons have access to and Process Sub-Merchant Data, and that such access and Processing shall be limited to the extent strictly necessary to provide Services under the Agreement.

b.   **Cooperation**. Sub-Merchant, at its own cost and expense, shall cooperate with and provide all reasonable and timely assistance to Stax to enable Stax to (i) fulfill its legal obligations; (ii) formulate a correct response to Data Subject and Regulator requests involving Sub-Merchant Data; and (c) take suitable further steps in respect to any Security Incident, Data Subject request to exercise their rights (each, a "Data Subject Request"), or any other correspondence, inquiry or complaint received from an individual, Regulator, court or other third party in connection with the Processing of Sub-Merchant Data. If Stax, directly or indirectly, receives a Data Subject Request, Regulator inquiry or any correspondence, enquiry or complaint relating to Sub-Merchant Data, Stax will inform Sub-Merchant, to the extent permitted by applicable law, providing full details of the same. Sub-Merchant shall not respond to any Data Subject Request or Regulator inquiry or request without Stax's written permission. Sub-Merchant will provide assistance to Stax, at Sub-Merchant's own cost and expense, to enable Stax in responding to Data Subject Requests in the timeframe required under the Data Protection Laws. Sub-Merchant will assist Stax in addressing any communications and abiding by any advice or orders from a Regulator within the timeframe specified by the Regulator. Sub-Merchant shall be responsible for any costs arising from Stax's provision of assistance hereunder.

c.   **Sub-Processors.** Stax may subcontract any Processing of Sub-Merchant Data to a Sub-Company without the prior written consent of Sub-Merchant. Sub-Merchant consents to Stax engaging Sub-Processors to Process Sub-Merchant Data provided that: (i) Stax will provide to Sub-Merchant an up-to-date list of its then-current Sub-Processors upon request; and (ii) Stax imposes the same data protection terms as set forth in this DPA on any Sub-Company it appoints. If Sub-Merchant objects to Stax's appointment of a Sub-Processor on reasonable

grounds relating to the protection of Sub-Merchant Data, then either Stax will not appoint the Sub-Processor or Stax may elect to suspend or terminate this DPA and the Agreement(s).

d.   Disclosure to Third Parties. Stax shall not disclose, release, transfer, make available or otherwise communicate any Sub-Merchant Data to any third party except as permitted by this DPA or the Agreement, unless Stax is required to disclose the Sub-Merchant Data by applicable laws, in which case Stax shall (to the extent permitted by law) notify Sub-Merchant in writing and liaise with Sub-Merchant before complying with such disclosure request.

e.   Security. Stax shall implement and maintain reasonable organizational, physical, technical, and administrative safeguards for Sub-Merchant Data, and shall ensure Stax Systems are designed to ensure the integrity and reliability of such Sub-Merchant Data and Stax Systems and to prevent Security Incidents in relation to the foregoing (the "Safeguards"). Such Safeguards shall be commensurate with the type and amount of Sub-Merchant Data Processed by Stax and the nature of the Services, having regard to the state of the art and industry standards, and shall protect Sub-Merchant Data from reasonably anticipated hazards and ensure compliance with Data Protection Laws. Stax represents that it has implemented and covenants that it shall maintain such Safeguards and a written information security program documenting such Safeguards. Stax represents and warrants that:

i.   If the Services involve the transmission of Sub-Merchant Data over a network, Stax will implement appropriate measures to protect the Sub-Merchant Data against the specific risks presented by the Processing (i.e. data encryption for "data in motion").

ii.   If the Services involve the storage of Sub-Merchant Data, Stax will implement appropriate measures to protect the Sub-Merchant Data against the specific risks presented by the storage of such data (i.e. data encryption for stored data, or "data at rest"), and Stax must adhere to a prevailing National Institute of Standards and Technology (NIST) standard, or at a minimum, the Advanced Encryption Standard (AES) with 256-bit key length, with proper encryption key management procedures. This requirement applies to Stax's internal systems, and any third-party providers utilized by Stax.

iii.   Stax Safeguards include protections for physical plants and facilities, including contingency planning and redundancy.

iv.   Stax shall implement a procedure in line with industry standards for the regular testing, inspection, assessment and evaluation of the effectiveness of its technical and organizational measures to ensure the security of the processing.

v.   If Stax Processes any Sub-Merchant Data subject to the PCI Data Security Standard, Stax will maintain PCI Data Security Standard v. 2.0 or better compliance continuously during the term of the Agreement, as required by applicable rules of credit card associations.

f.   Security Incidents. Upon becoming aware, or if there is a reasonable belief, of a Security Incident, Stax shall promptly inform Sub-Merchant and shall provide all such timely information

and cooperation in order for Sub-Merchant to fulfill its data breach reporting obligations under (and in accordance with the timescales required by) the Data Protection Laws.

g.   **Deletion.** Within twenty-eight (28) days of the termination of this DPA, or after receipt of Sub-Merchant's written request, Stax will destroy or return all Sub-Merchant Data, including all back-up copies in its possession or control (including any Sub-Merchant Data subcontracted to Sub-Processors for Processing), unless an exception under applicable law exists permitting Stax to retain Sub-Merchant Data.

i.   **Liability and Indemnity.** Each party's (including their respective affiliates') total liability, arising out of or related to this DPA, under any theory of liability, is subject to and shall be controlled by the Agreement.

j.   **Changes to Terms.** Stax may change the terms in this DPA if the change is required to comply with applicable law or regulation, a court order or guidance issued by a Regulator. If Stax intends to change the terms in this DPA, Stax will use commercially reasonable efforts to inform Sub-Merchant at least thirty (30) days (or such shorter period as may be required to comply with applicable law, applicable regulation, a court order or guidance issued by a Regulator) before the change will take effect. Notice of an amendment may be provided on the Sub-Merchant Statement.

k. **Governing Law.** This DPA shall be governed by and construed in accordance with the governing law and jurisdiction provisions in the Agreement.

l. **Term**. Termination or expiration of this DPA shall not discharge Sub-Merchant and Stax from its obligations meant to survive the termination or expiration of this DPA.

m. **Severability**. If any individual provisions of this DPA are determined to be invalid or unenforceable, the validity and enforceability of the other provisions shall not be affected.

APPENDIX I TO TERMS OF SERVICE DEFINITIONS

"**File**" means a group of ACH entries stored for delivery to an ACH receiving poin

"**ACH**" means the Automated Clearing House.

"**ACH Network**" means the funds transfer system (network) governed by the Operating Rules providing for the inter-financial institution clearing of electronic entries for participating financial institutions.

"**ACH Transaction**" means the acceptance of a check, whether in electronic or paper form, or routing and account information associated with Payor's bank account for payment for goods sold and/or leased or services provided to Payor by Merchant and receipt of payment by Merchant via the ACH Network.

"**Account**" means a demand deposit account or other deposit account Stax or Sub-Merchant has with a financial institution that is permitted to be linked to a Service.

"**Acquirer**" shall mean Vantiv, LLC, which is the entity contracted by Stax to submit sales drafts and transaction information to the Associations on behalf of Stax and to receive and pay to Stax settlement funding for such sales transactions.

"**Address Verification**" means a service that allows Sub-Merchant to verify Cardholder's billing address with Issuer.

"**Agreement**" consists of the Stax Application, General Terms, and/or Transaction Services Agreement including all appendices, schedules, exhibits and attachments.

"**Authorization**" means an affirmative response by or on behalf of an Issuer, to Sub- Merchant's request to affect a Payment Card Processing Transaction, that a Payment Card Processing Transaction is within the Cardholder's available credit limit and that the Cardholder has not reported the Card lost or stolen. All Payment Card Processing Transactions require Authorization.

"**Bank**" shall mean Fifth Third Bank, which is the financial institution contracted by Stax that is a member of the Associations and provides Association sponsorship for card transactions submitted by Stax for processing. "**Business Day**" means any day other than: Saturday or Sunday; or a day on which banking institutions in Arizona are authorized by law or executive order to be closed; or a day on which the Federal Reserve Bank isclosed.

"**Card(s)**" means a Visa, MasterCard, American Express or Discover Network credit card or debit card.

"**Card-Not-Present**" means mail order, telephone order, e-commerce (Internet) order, or other transactions that are not Card-Present Transactions.

"**Card-Present Transaction**" means a Payment Card Processing Transaction in which the Card is swiped through a terminal, register or other device, capturing the Card information encoded on the magnetic strip or Chip.

"**Cardholder**" means a person authorized to use a Card.

"**Chargeback**" means a Payment Card Processing Transaction that Stax returns to Sub-Merchant pursuant to this Agreement.

"**Stax Application**" or "**Application**" means the document by which Sub- Merchant applies to participate in Transactions using our products and services as provided by Stax and/or designated third-party registration and/or application.

"**Confidential Information**" means any information of a Party (including, without limitation, information received from third parties) disclosed to another Party, which is identified as, or should be reasonably understood to be, confidential to the disclosing Party or a third party, including, but not limited to non-public financial information that is personally identifiable to a customer, know-how, trade secrets, technical processes and formulas, software, merchant lists, unpublished financial information, business plans, projections, marketing data and the terms and conditions of this Agreement.

"**CVV/CID**" means a service that allows Sub-Merchant to verify Cardholder's possession of Card through the identification of unique digits on Card. "**eCheck Processing**" means the acceptance of an ACH or EFT transaction for

payment of goods sold or servicesprovided to bank account holders by Sub-Merchant and receipt of payment by Sub-Merchant via the ACH Network, whether the transaction is approved, declined, or processed as a NOC or other exception. "**Effective Entry Date**" means the date placed on an ACH Transaction by the Originator of the transaction or the ODFI. The Effective Entry Date is normally the date the transfer is intended to take place; it must be a future date and must be a Business Day. The Effective Entry Date may be, but is not necessarily always, the same date as the settlement of funds.

"**Electronic Funds Transfer Act**" means the law passed by the US congress in 1978, which set out the rights and obligations of consumers and their financial institutions regarding the use of electronic systems to transfer funds. This act is implemented in the Federal Reserve Bank's Regulation E.

"**Entries**" means credit Entries, debit Entries, on-us Entries consistent with the NACHA Operating Rules, and any data for entries or any pre-notification entries. "**Entry Settlement Limit**" means the maximum aggregate amount of In-Process Entries permitted to be outstanding at any time, which amount shall be separately communicated to Sub-Merchant by Stax in writing from time to time.

"**Forced Sale**" means a Payment Card Processing Transaction processed without an approved electronic authorization number being obtained for the full amount of the sales Transaction at the time the Transaction is processed.

"**In-Process Entries**" means the aggregate dollar amount of all credit or debit Entries initiated by Stax and in process on any date for which settlement has not occurred with respect to credit Entries, or the applicable period for the return of items has not expired with respect to debit Entries. "Issuer" means an Association member that issued a Card to a Cardholder.

"**IVR**" means interactive voice response unit used for an Authorization. "**Member Bank**" shall collectively refer to Acquirer and Bank.

"**NACHA**" means the National Automated Clearing House Association, which governs ACH Transactions.

"**ODFI or Originating Depository Bank**" means financial institutions that originate ACH Transactions on behalf of its customers. ODFIs must abide by NACHA Rules. "**Operating Account**" means a demand deposit account at a financial institution through which fees, charges and credits due in accordance with this Agreement may be processed. Operating Account shall be used to describe all accounts established by the Sub-Merchant for the purposes described herein.

"**Originator**" means a company, individual, or entity that initiates entries into the ACH Network.

"**Overlimit Entry**" means an Entry the amount of which would cause the aggregate amount of In-Process Entries to exceed the Entry Settlement Limit.

"**Password**" means confidential, unique personal numbers, codes, marks, signs, public keys, or other information composed of a string of characters used as a means of authenticating and accessing a Service.

"**Payment Card Processing**" means the acceptance of a Card or information embossed on the Card for payment for goods sold and/or leased or services provided to Cardholders by Sub-Merchant and receipt of payment from Stax, whether the transaction is approved, declined, or processed as a Forced Sale.

"**Payor**" means a person authorized to use a Card or pay with a check.

"**Pre-Authorized Recurring Order Transactions**" means Transactions which have been pre-authorized by the Cardholder and for which the goods or services are to be delivered or performed in the future by Sub-Merchant without having to obtain approval from the Cardholder each time.

"**Pre-notification Entry**" means a non-dollar Entry entered prior to a dollar Entry to verify the accuracy of the routing and account numbers.

"**Processing Services**" means the Services.

"**RDFI**" or "**Receiving Depository Bank**" means a financial institution qualified by NACHA to receive ACH Transactions.

"**Regulation E**" means the regulation published by the "Federal Reserve." "**Return Entry**" or "**Return Entries**" means any item, which cannot be processed and is being returned by the RDFI to the ODFI for correction or re-initiation. "**Rules**" means the by-laws, operating regulations and/or all other rules, guidelines, policies and procedures of VISA, MasterCard, Discover, American Express and/or other networks, and all other applicable rules, regulations and requirements of Member Bank, Stax, providers, banks, institutions, organizations, associations, or networks which govern or affect any services provided under this Agreement,

and all state and federal laws, rules and regulations which govern or otherwise affect the activities of Sub-Merchant, including, but not limited to, those

of the National Automated Clearing House Association ("NACHA") and the Federal Trade Commission ("FTC"), as any or all of the foregoing may be amended and in effect from time to time, and the regulations and requirements of Member Bank or Stax.

"**SEC Codes**" or "**Standard Entry Class Codes**" means the three-character code within an ACH company/batch header, which identifies the type of transactions. "**Security Procedures**" means, unless Stax and Sub-Merchant agree otherwise, the security requirements and procedure necessary to verify the authenticity of Entries.

"**Services**" means the Transaction processing services provided by Stax under this Agreement and features of those services that Stax may provide from time to time. Transaction processing services shall include Payment Card Processing Services, eCheck Processing Services, or both, depending upon whether Sub-Merchant applies for the Services set forth in Appendix II or Appendix III, or both.

"**Settlement Date**" means the date, on which settlement occurs, i.e., funds actually change hands as a result of an ACH entry.

"**Sub-Merchant Statement**" means a statement of all charges and credits to the Operating Account.

"**Transaction**" means an eCheck Processing Transaction or a Payment Card Processing Transaction, as applicable. "Transaction" also includes credits and voids.

APPENDIX II TO TERMS OF SERVICE PAYMENT CARD PROCESSING

Stax shall provide, and Sub-Merchant shall receive, the services described below (the "**Payment Card Processing Services**"). Sub-Merchant agrees that pursuant to any such Payment Card Processing Services it will be receiving under the terms of the Agreement it will also be bound by the terms and conditions of this Appendix

II. Sub-Merchant acknowledges that no other agreements or understandings pursuant to such Payment Card Processing Services, unless otherwise stated by Stax, shall be applicable to the Payment Card Processing Services.

1. **PAYMENT CARD PROCESSING**. Sub-Merchant is in the business of selling and/or leasing goods or providing services to its patients/customers as described in the Stax Application. Sub-Merchant has requested and Stax has agreed to permit Sub-Merchant's participation in the Processing Services. Sub-Merchant agrees that it will not materially change its business or the method in which it markets or sells its goods and services without notifying Stax. Without the prior written consent of Stax, Sub-Merchant is not authorized to process Payment Card Processing Transactions for payment for any other type of goods or services other than as set forth in the Stax Application. Stax reserves the right to establish certain limits on volume of daily, weekly, and monthly transactions and dollar limits per Payment Card Processing Transaction that Sub-Merchant may process.

2. **STAX OBLIGATIONS AND REQUIREMENTS**.

A.   Stax will provide Payment Card Processing Services to Sub- Merchant. Stax agrees to sponsor Sub-Merchant's acceptance of cards for Payment Card Processing Transactions. Stax agrees to provide Sub-Merchant with the Payment Card Processing Services indicated on the Stax Application, as amended from time to time by Stax, during the term of the Agreement, subject to the terms and conditions of the Agreement.

B.   Electronically Transmitted Transactions. Stax shall deliver payment to Sub-Merchant by a credit to the Operating Account equal to the reconciled summary of Sub-Merchant's total summary Payment Card Processing Transactions since the previous credit. This credit will be net of following charges:

i.   The sum of all Cardholder charges denied, refused or charged back;

ii.   All refunds processed on account of Cardholders during said time period;

iii.   All taxes, penalties, charges and other items incurred by Stax that are reimbursable pursuant to this Agreement; and

iv.   Fees, including but not limited to an amount equal to a specified percentage of the total cash price of each draft ("Merchant Discount Rate"), a specified amount per Payment Card Processing Transaction ("Transaction Fee"), any processing fees collected from cardholder (convenience fee and or payment plan setup fees) and additional fees such as a monthly terminal fee, monthly statement fee, installation fees and any other fees identified on the Stax Application.

v.   Provisional Credit. Any credits to the Operating Account are provisional only and subject to revocation by Stax until such time that the Payment Card Processing Transaction is final and no longer subject to chargeback by the Issuer, Cardholder, or Associations.

C.   Sub-Merchant Statement. Stax shall make available a Sub- Merchant Statement or similar information on no less than a monthly basis. All information appearing on the Sub-Merchant

Statement shall be deemed accurate and affirmed by Sub-Merchant unless Sub-Merchant objects by written notice specifying the particular item in dispute within twenty (20) days after the date of the Sub-Merchant Statement became available to Sub- Merchant. Delivery of the Merchant Statement may be in written or electronic form as determined by Stax in its solediscretion

D.   Chargebacks. Sub-Merchant understands and agrees that Stax is not in any way financially responsible for Chargebacks. Stax shall be authorized to chargeback to Sub-Merchant any Payment Card Processing Transactions as specified throughout this Agreement and for reasons including, but not limited to, the following:

i.   No specific prior authorization for the Payment Card Processing Transaction was obtained;

ii.   The Payment Card Processing Transaction was made at or by a Merchant or Sub-Merchant other than the Sub-Merchant named in this Agreement;

iii.   The Payment Card Processing Transaction otherwise violates the terms of this Agreement or any other Association or Issuer bylaw, rule, regulation, policy or guideline;

iv.   Any representation or warranty made by Sub-Merchant in connection with the Payment Card Processing Transaction is false or inaccurate in any respect;

v.   The Payment Card Processing Transaction was based on a pre- authorization form and the Card on which the Authorization was based has been cancelled;

vi.   The Card giving rise to the Payment Card Processing Transaction was cancelled prior to, or at the time of, the Payment Card Processing Transaction;

vii.   The Card expired prior to the date of the Payment Card Processing Transaction or the date of Payment Card Processing Transaction was prior to the validation date, if any, indicated on the Card;

viii.   The information required for Documenting Payment Card Processing Transactions Card-Not-Present Transactions was not submitted to Stax;

ix.   Stax or Issuer has received a complaint from or on behalf of a Cardholder stating that there is an unresolved dispute or defense to a charge (whether or not valid) between Sub-Merchant and Cardholder;

x.   The Cardholder makes a written complaint to Stax or Issuer that the Cardholder did not make or authorize the Payment Card Processing Transaction;

xi.   A setoff or counterclaim of any kind exists in favor of any Cardholder against Sub-Merchant that may be asserted in defense of an action to enforce payment against the Cardholder in a Payment Card Processing Transaction; or

xii.   A Payment Card Processing Transaction is charged back by an Issuer.

In any case, including those defined above, Stax shall not be obligated to accept a Payment Card Processing Transaction for credit to the Operating Account. If Stax has credited the Operating Account or Reserve Account for such Payment Card Processing Transaction, Stax may return the Payment Card Processing Transaction to the Sub-Merchant, and Stax shall recover the amount of the Transaction from the aforementioned account. Sub-Merchant agrees that Stax, without prior notice to Sub-Merchant, may:

i.   Charge the amount of the Payment Card Processing Transaction to the Operating Account or Reserve Account;

ii.   Recoup the amount of the Payment Card Processing Transaction by adjustment of the credits due to Sub-Merchant; or

iii.   Set off the amount of the Payment Card Processing Transaction against any account or property Stax holds for or on behalf of Sub-Merchant.

3. **SUB-MERCHANT OBLIGATIONS AND REQUIREMENTS.**

A.   Adjustments and Returns. Sub-Merchant will maintain a fair exchange and return policy and make adjustments with respect to goods and services sold or leased to its customers whenever appropriate. In the event that goods are returned, or any services are discounted, written off, or cancelled, or any price is adjusted on a Payment Card Processing Transaction, Sub-Merchant will prepare and transmit a credit or return Payment Card Processing Transaction, either electronically or by paper, for the amount of the adjustment as a deduction from the total amount of sales drafts transmitted that day. In the event the amount of credit or return transactions exceeded the amount of sales draft transactions, Stax shall charge the Operating Account for the excess. Sub-Merchant shall make no cash refunds on Payment Card Processing Transactions and shall handle all credit adjustments as provided in this Section. Sales drafts for any Payment Card Processing Transaction for which no refund or return will be given must be conspicuously marked as a "final sale" and "no returns" on the customer's copy of the sales draft at the time of the Payment Card Processing Transaction. All Sub-Merchants must follow Visa, MasterCard, American Express, and Discover Network reservation/no-show policy. All Sub- Merchants must notify Cardholders in writing of this policy on all advance reservations. The Cardholder must be notified of the exact number of days required for reservation deposit refunds. A Sub-Merchant not following Visa, MasterCard, and Discover Network reservation/no-show policy may receive a Chargeback to the Operating Account for lodging regulation violations.

B.   Customer Complaints. Sub-Merchant shall respond promptly to inquiries from Cardholders and shall resolve any disputes amicably. Stax reserve the right to charge Sub-Merchant reasonable fees and

reimbursement, in addition to any applicable Association fees or charges, on account of excessive Cardholder inquiries, refunds, or Chargebacks. Sub- Merchant agrees to maintain the following information in writing with respect to each claim or defense asserted by a Cardholder for which Sub- Merchant has received notice:

i.   The Cardholder's name;

ii.   A unique confirmation number, transaction sequence number, or other identifier that the Sub-Merchant can use to reference the transaction in subsequent communications with Stax;

iii.   The date and time the Cardholder asserted the claim or defense;

iv.   The nature of the claim or defense; and

v.   The action that Sub-Merchant took in an attempt to resolve the dispute.

Upon request, Sub-Merchant shall furnish Stax with this information in writing within ten (10) days.

4. **COMPLIANCE**.

A.   Associations' and Issuers' Requirements. Stax and Sub-Merchant shall comply with all bylaws, rules, regulations, policies and guidelines of the Associations and any Issuer whose Cards are used to process Transactions in accordance with this Agreement (collectively the "Association Rules"). Summaries of the Association Rules are available for sub-merchants at www.visa.com, www.mastercard.com or www.discovernetwork.com. The Parties agree that this Appendix II, as well as the Agreement where applicable, shall be governed by the Association Rules and that any portion of this Appendix II which conflicts with the Association Rules (as they may be amended from time to time) shall be superseded thereby.

B.   Use of Marks. Merchant will display prominently at its place of business, where payments are accepted for card present transactions, Card emblems and other promotional material and literature provided by Stax. Subject to the prior written consent of Stax and upon such conditions as authorized by Stax, Sub-Merchant may use Card service marks or design marks in its own advertisement and promotional materials.

C. Payment Card Industry Security Requirements. Sub-Merchant agrees to be compliant with the standards set forth by the Payment Card Industry ("PCI") Security Standards Council, as amended by the PCI from time to time.

D. Visa, MasterCard, Discover Network and other card issuers have implemented a program to ensure the protection of cardholder data, whether processed or stored, through a program of validation and compliance. As of the Effective Date of this Agreement, information about the program, known as PCI, and specific requirements can be obtained at www.visa.com/cisp and www.pcisecuritystandards.org. The program is comprised of 12 major requirements:

Requirement 1: Install and maintain a firewall configuration to protect cardholder data

Requirement 2: Do not use vendor-supplied defaults for system passwords and other security parameters

Requirement 3: Protect stored cardholder data

Requirement 4: Encrypt transmission of cardholder data across open, public networks

Requirement 5: Protect all systems against malware and regularly update anti-virus software or programs

Requirement 6: Develop and maintain secure systems and applications

Requirement 7: Restrict access to cardholder data by business need to know

Requirement 8: Identify and authenticate access to system components

Requirement 9: Restrict physical access to cardholder data

Requirement 10: Track and monitor all access to network resources and cardholder data

Requirement 11: Regularly test security systems and processes Requirement 12: Maintain a policy that addresses information security for all personnel

E. You will immediately notify us of any suspected, alleged, or confirmed compromised data ("Compromised Data Event"), regardless of the source, including any from any of your third-party service providers. We or servicers may engage a forensic vendor approved by an Association. You must cooperate with the forensic vendor so that it may immediately conduct an examination of your equipment, systems, and your third-party service

providers' procedures and records and issue a written report of its findings. You agree that upon your suspected or actual discovery of a Compromised Data Event, you will not alter or destroy any related records. You agree to maintain complete and accurate documentation regarding any modifications made to the records. You will share with us and our servicers information related to your or any Associations' investigation related to any actual or suspected Compromised Data Event (including, but not limited to, forensic reports and systems audits), and we and our servicers may share that information with Associations. Upon notice to you, we or our servicers, or the respective representatives of each may conduct remote electronic scans of your systems

to confirm compliance with the requirements of the Associations and Applicable Laws. You must promptly cooperate with any such parties to facilitate the scans.

F.   Sub-Merchant is responsible for the security of Cardholder data.

G. Stax, Sub-Merchant and each payment card brand have ownership of Cardholder data and may use such data ONLY for assisting these parties in the completion of Payment Card Processing Transactions, supporting a loyalty program, providing fraud control services, or for other uses specifically required by law.

H.   In the event this Agreement is terminated by either of the Parties, each Party agrees to continue to treat account holder data as confidential.

I.   Sub-Merchant must immediately notify Visa USA Risk Management, through its acquirer, of the use of a Sub-Merchant Servicer, and ensure the Sub-Merchant Servicer implements and maintains all of the security requirements, as specified in the PCI program.

J.   Web Site Requirements for E-Commerce Sub-Merchants. A web site operated by the Sub-Merchant that accepts Card Transactions must contain all of the following information:

i.   Complete description of the services offered;

ii.   Return merchandise and refund policy, which includes the communication of the return policy during the order process and the requirement that the cardholder must be allowed to select a "click to accept" option or other affirmative button to acknowledge the policy;

iii.   Terms and conditions must be displayed on the same screen view as the Stax screen used to present the total purchase amount or within the sequence of web pages the cardholder accesses during the Stax process;

iv.   Customer service contact including e-mail address or telephone number;

v.   Transaction currency;

vi.   Export or legal restrictions;

vii.   Delivery policy;

viii.   Consumer data privacy policy;

ix.   The security method offered for transmission of payment data such as Secure Sockets Layer or 3-D Secure; and

x.   Address of the Sub-Merchant outlet's permanent establishment, including the Sub-Merchant outlet country.

The above information must be provided either (i) on the same screen view as the Stax screen used to present the total purchase amount or (ii) within the sequence of web pages the Cardholder accesses during the Stax process.

5. **TERMINATION**.

In order to protect Stax and the Associations, Stax may, in addition to the rights granted in the General Terms, terminate this Agreement, or any or all of the Services provided hereunder, immediately in any of the following circumstances:

A. Chargebacks in excess of Association monitoring guidelines;

B. Sub-Merchant's percentage of error Payment Card Processing Transactions or retrieval requests is excessive in the opinion of Stax; or

C. Sub-Merchant appears on the Association Terminated Merchant File.

6. **INDEMNIFICATION AND LIABILITY**.

A. Indemnification. In addition to the indemnification circumstances as laid out in the General Terms, Merchant agrees to indemnify and hold Stax and Member Bank harmless from any and all losses, claims, damages, liabilities and expenses, including reasonable attorneys' fees and costs arising out of any of the following:

i. Card-Not-Present Transactions;

ii. Unauthorized Payment Card Processing Transactions; or

iii. Prohibited Payment Card Processing Transactions.

B. Limitation of Liability. In addition to the limitations as provided in the General Terms, Stax and Member Bank shall not be liable to Merchant or Merchant's customers or any other person for any loss or liability resulting from the denial of credit to any person or Merchant's

retention of any Card or any attempt to do so.

7. **AUDITS**. At any reasonable time (during normal business hours) upon reasonable notice to you, you shall allow auditors, including the auditors of any Association or any third party designated by Stax, Member Bank, or the applicable Association, to review the files held and the procedures followed by you at any or all of your offices or places of business. You agree that the cost of such audit shall be borne by you. You shall assist such auditors as may be necessary for them to complete their audit. In the event that a third-party audit is required by an

Association, Member Bank or regulatory agency, and/or required by the Operating Rules or applicable law, Stax may, at its option, and at Sub-Merchant's sole expense, either retain a third party to perform the audit, or require that Sub-Merchant directly retain a specific third-party auditor. If Stax requires that Sub-Merchant directly retain the auditor, Sub-Merchant shall promptly arrange for such audit to be performed, and will provide Stax, Member Bank, and the Associations with a copy of any final audit report.

8. **COLLECTION AND USE OF PAYMENT CARD PROCESSING TRANSACTION INFORMATION.**

A.   Documenting Payment Card Processing Transactions. Merchant shall submit the following information to Stax in connection with Transaction processing:

i.   The DBA name of Merchant, name of Merchant and Merchant's address;

ii.   Merchant customer service telephone number;

iii.   Merchant Internet address;

iv.   Merchant Number assigned by Member Bank;

v.   The Card account number, validation date and/or expiration date of the Card, if one appears on the Card;

vi.   Name, address and telephone number of Cardholder; and

vii.   Such additional information as may be required by Stax or Member Bank and/or the Associations, from time to time.

Merchant shall not submit a Payment Card Processing Transaction (electronically or otherwise) until Merchant has performed its obligations to the Cardholder in connection with the Payment Card Processing Transaction or obtained Cardholder's consent for a Pre-Authorized Recurring Order Transaction. Merchant must not transmit a Payment Card Processing Transaction that Merchant knows or should have known to be fraudulent or not authorized by the Cardholder. Merchant is responsible for its employees' actions. Merchant may transmit a Payment Card Processing Transaction which effects a prepayment of services or full prepayment of custom-ordered merchandise, manufactured to a Cardholder's specifications, if Merchant advises Cardholder of the immediate billing at the time of the Payment Card Processing Transaction and within time limits established by the Associations.

B.   Authorization for Payment Card Processing Transactions. Merchant shall obtain Authorization for Payment Card Processing Transactions as follows:

i.   Electronically Transmitted Transaction. Sub-Merchant shall submit each Payment Card Processing Transaction for Authorization to Stax's designated authorization center. Stax's designated authorization center shall respond with the Issuer's authorization or rejection to a

Payment Card Processing Transaction transmitted for Authorization and shall capture and process for Sub- Merchant the information relating to the Payment Card Processing Transaction.

ii.   Card-Present Transactions. The following additional requirement applies to Card-Present Transactions: If a terminal or software application is inoperable at the time of an Authorization request, the Payment Card Processing Transaction may be manually authorized. In that case, the Payment Card Processing Transaction shall be entered as a Forced Sale, provided the approval number is also entered, and Sub-Merchant shall be subject to an additional IVR authorization fee as outlined in the Application.

iii.   Card-Not-Present Transactions. The following additional requirements apply to Card-Not-Present Transactions:

a.   All Card-Not-Present Transactions are at Sub-Merchant's risk. As to each Card-Not-Present Transactions, Sub- Merchant warrants to Stax that the person whose name is submitted as Cardholder either made or authorized another to make the purchase. Upon breach of this warranty, Stax may chargeback the Payment Card Processing Transaction to Sub-Merchant. If Stax charges back the Payment Card Processing Transaction to Sub-Merchant, Sub-Merchant shall pay Stax the amount of the Payment Card Processing Transaction, a

Chargeback fee, plus any Association fine or assessment. Stax may charge the Payment Card Processing Transaction to the Operating Account or Reserve Account without prior notice to Merchant;

b.   All Card-Not-Present Transactions must be electronically authorized and, in addition to the information required for Documenting Payment Card Processing Transactions, also shall indicate an authorization code, if required; customer address and address verification; CVV (card verification value), CID (card identification data); and in lieu of Cardholder's signature, a notation of (a) mail order, (b) telephone order, (c) e-commerce order, or (d) pre- authorized order, on the signature line;

c.   If Sub-Merchant accepts a Recurring Order Transaction, the Cardholder shall execute and deliver to Sub-Merchant a written request for this pre-authorization. This written request shall be maintained by Sub-Merchant and made available upon request to Stax. All annual billings must be reaffirmed at least once a year. Sub-Merchant shall not deliver goods or perform services covered by a Pre- Authorized Recurring Order Transaction after receiving notification from the Cardholder that the pre-authorization is cancelled or from Stax that the Card covering the Pre-Authorized Recurring Order Transaction is not to be honored; and

d.   Sub-Merchant shall verify Cardholder's address through the Association network. For telephone or mail order sales, Sub-Merchant shall transmit a ticket/invoice number and shall perform Address Verification, CVV, and CID and only accept as approved those Payment Card Processing Transactions receiving at least a partial match or system unavailable response.

C. Prohibited Payment Card Processing Transactions. Sub-Merchant shall not do any of the following with respect to any Payment Card Processing Transaction:

i.   Charge a Cardholder more than the amount the Cardholder would pay if payment were made by cash or check;

ii.   Establish a minimum below the amount allowed by the Associations; provided, however, you may establish a minimum sale amount as a condition for honoring Cards, provided that the minimum transaction amount does not differentiate between Associations and/or issuers and the minimum transaction amount does not exceed $10.00 (or any higher amount established by applicable law or the Rules).

iii.   Establish a maximum sale amount as a condition for honoring Cards; provided, however, you may establish a maximum sale amount as a condition for honoring Cards if you are a department, agency or instrumentality of the U.S. Government, you are a corporation owned or controlled by the U.S. Government, or your primary business is reflected by one of the following MCCs: 8220 (Colleges, Universities, Professional Schools and Junior Colleges), 8244 (Schools, Business and Secretarial), or 8249 (Schools, Trade and Vocational), provided that the maximum transaction amount does not differentiate between Associations and/or issuers.

iv.   Obtain multiple authorizations for amounts less than the total credit sale amount;

v.   Obtain authorization for purposes of setting aside Cardholder's credit line for use in future sales;

vi.   Make any special charge to or extract any special agreement or security from any Cardholder in connection with any Payment Card Processing Transaction;

vii.   Transmit or accept for payment any Payment Card Processing Transaction which was not originated directly between Merchant and a Cardholder for the sale or lease of goods or the performance of services of the type indicated in Merchant's application for card processing services initially submitted to and approved by Stax or Member Bank;

viii.   Honor or accept a Card as payment for any legal services or expenses arising out of or related to (1) the defense of any crime other than a traffic violation; (2) any domestic relations matter where such services or expenses are furnished to a person whose name is not embossed on a Card; or (3) any bankruptcy, insolvency, compromise, composition or other process affecting Cardholder's creditors;

ix.   Usjuste Merchant's own Card, or one to which Merchant has access, to process a Payment Card Processing Transaction for the purpose of obtaining credit for Merchant's own benefit;

x.	Redeposit a previously charged Payment Card Processing Transaction, regardless of whether Cardholder consents;

xi.	Initiate a Payment Card Processing Transaction credit without a balance in the Operating Account equal to the credit;

xii.	Use a Merchant Servicer's payment processing platform and any data received thereon for any other purpose except for determining whether or not Merchant should accept Cards in connection with a current sale or lease of goods or services;

xiii.	Use a Merchant Servicer's payment processing platform and data received thereon for credit inquiry purposes or any other purpose not authorized by this Agreement;

xiv.	Draw or convey any inference concerning a person's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living when any Card is processed as non-accepted;

xv.	Disclose any information obtained through the Merchant Servicer's payment processing platform to any person except for necessary disclosures to affected Cardholders, Stax, Member Bank and/or the Issuer;

xvi.	Add any tax to Transactions unless applicable law expressly requires that Merchant collect such a tax. Any tax, if allowed, must be included in the Transaction amount and not collected separately;

xvii.	Disburse funds in the form of traveler's checks, if the sole purpose is to allow the Cardholder to make a cash purchase of goods or services from Merchant;

xviii.	Disburse funds in the form of cash, except:

a.	If Merchant is approved by Member Bank for cashback Transactions and in such Transaction the cashback portion of the Transaction is the only portion disbursed as cash; or

b.	Merchant is dispensing funds in the form of traveler's checks, Visa TravelMoney Cards or foreign currency. In this case, the Transaction amount is limited to the value of said form of dispensation plus any fee or commission charged to the Merchant.

xix.	Accept a Card to collect or refinance an existing debt;

xx.	Issue a Payment Card Processing Transaction credit for return goods or services acquired in a cash transaction;

xxi.	Make any cash refund to a Cardholder who has made a purchase with a Card. All Payment Card Processing Transaction credits will be issued to the same Card account number as the sale;

xxii.   Require a Cardholder to complete a postcard or similar device that includes the Card's account number, Card expiration date, signature or any other Card account data in plain view when mailed; or

xxiii.   Accept Visa Card or Visa Electron Card for the purchase ofscrip.

D. Disclosure and Storage of Payment Card Processing Transaction Information.

i.   A Merchant must not disclose a Card account number, personal information, or other Payment Card Processing Transaction information to third Parties other than to Stax or Merchant Servicers or Member Bank for the sole purpose of:

a.   Assisting the Merchant in completing the transaction; or

b.   As specifically required by law.

ii.   Merchant may only disclose Payment Card Processing Transaction information to approved third Parties for the sole purpose of:

a.   Supporting a loyalty program; or

b.   Providing fraud controlservices.

iii.   A Merchant must store all material containing Card account numbers or imprints (such as transaction receipts, car rental agreements and carbons) in an area limited to selected personnel and render all data unreadable prior to discarding. A Merchant must not do any of the following:

a.   Retain or store full contents of any track on the magnetic stripe subsequent to a Payment Card Processing Transaction;

b.   Retain or store CVV/CID data subsequent to Authorization of a Payment Card Processing Transaction; and

c.   Request the CVV/CID data on any paper form.

d.   The sale or disclosure of databases containing cardholder account numbers, personal information, or other Card Transaction information to third Parties isprohibited.

E. Use and Disclosure of BIN Information. A Merchant that receives BIN information from Stax or Member Bank must not use such information for any reason other than to identify Visa debit category products at the point of sale, unless authorized by Visa.

9. **LIMITED ACCEPTANCE**. If so indicated below, Merchant acknowledges and agrees that it wishes to be a Limited Acceptance Merchant, which means that Merchant has elected to accept

only certain VISA/MasterCard card types as indicated below, or via later notification. Merchant further acknowledges and agrees that Acquirer has no obligation other than those expressly provided under the Operating Regulations and applicable law as they may relate to limited acceptance and that Acquirer's obligations do not include policing card types at the point of sale. As a Limited Acceptance Merchant, Merchant will be solely responsible for the implementation of its decision for Limited Acceptance. Merchant will be solely responsible for policing, at the point of sale, the card type(s) of transactions it submits for processing by Acquirer. Should Merchant submit a transaction for processing for a card type it has indicated it does not wish to accept, Acquirer may process that transaction and Merchant will pay the applicable fees, charges, and assessments associated with that transaction. For Merchant's convenience, a general description of VISA/MasterCard card types are:

i.   Consumer Credit - a consumer credit card issued by a U.S. Issuer or a commercial credit card issued by a non-U.S. Issuer; this category does not include VISA or MasterCard branded signature-based debit cards.

ii.   Consumer Debit - a VISA or MasterCard branded signature- based debit card (including certain stored-value and prepaid cards).

iii.   Commercial - a VISA or MasterCard branded credit card issued by a U.S. Issuer that bears the descriptive term "Business Card", "Corporate Card", "Purchasing Card", "Fleet Card", or similar descriptive term indicated pursuant to the Operating Regulations.

Only if checked below, Merchant wishes to be a Limited Acceptance Merchant, which means that Merchant will accept only the VISA/MASTERCARD card types indicated below:

□ VISA Credit Cards

□ VISA Debit Cards (signature based)

□ MasterCard Credit

□ MasterCard Debit Cards (signature based)

10. **AMENDMENTS TO CARDS AND/OR PAYMENT CARD PROCESSING SERVICES.**

Amendments to Cards and/or Payment Card Processing Services. Stax or Member Bank may amend or delete Cards or Payment Card Processing Services listed in the Merchant Application by notifying Merchant in writing. All provisions of this Agreement shall apply to Cards or Payment Card Processing Services added to this Agreement. Stax shall notify Merchant of the fees to be charged for processing the additional Cards and Payment Card Processing Services.

Acceptance by Merchant of a new approved Card as payment for a Payment Card Processing Transaction or continued use of Payment Card Processing Service after Stax or Member Bank has sent Merchant notice of an amendment shall constitute Merchant's agreement to the amendment and the fees or charges related to these additions.

APPENDIX III TO TERMS OF SERVICE eCHECK/ACH PROCESSING

Stax shall provide, and Sub-Merchant shall receive (if indicated in the Application), ACH ("**eCheck Processing Services**"). The eCheck Processing Services shall include Entries to Accounts maintained by Stax or at a financial institution ("**Financial Institution**") initiated by Stax on behalf of Sub-Merchant by means of the ACH Network where standards, rules, and procedures are established by NACHA. Sub-Merchant agrees that pursuant to any such eCheck Processing Services it will be receiving under the terms of the Agreement, it will also be bound by the terms and conditions of this Appendix III. Sub-Merchant acknowledges that no other agreements or understandings pursuant to such eCheck Processing Services, unless otherwise stated by Stax, shall be applicable to the eCheck Processing Services. Stax shall, where necessary to provide an eCheck Processing Service, utilize the services of its chosen Financial Institution.

returned to Sub-Merchant or that pursuant to the applicable Rules or

1. **TYPES OF ENTRIES**.

Financial Institution will transmit debit and/or credit Entries initiated by Stax on behalf of Sub-Merchants to the ACH Network as provided in the Rules and this Agreement. As used in this Agreement, the following are SEC Codes:

A. Corporate Credit or Debit ("CCD"). Either a credit or debit where funds are either distributed or consolidated between corporate entities.

B. Prearranged Payment and Deposit ("PPD").

C. Telephone-Initiated Entry ("TEL"). This is used for the origination of a single Entry debit transaction to a consumer's account pursuant to an oral authorization obtained from the consumer via the telephone.

D. Internet-Initiated Entry ("WEB"). A debit Entry or enrollment in recurring debit to a consumer account initiated by an Originator pursuant to an authorization that is obtained from the receiver via the Internet.

The above SEC Codes are the most commonly used.

2. **TERMINATION**.

Stax may, in addition to the termination rights granted in the General Terms, terminate this Agreement immediately in the following circumstances:

A.   Sub-Merchant's total of unauthorized returns, summary of losses suffered or incurred by Merchant in connection with failed or reversed transactions are excessive in the opinion of Stax;

B.   Sub-Merchant is in violation of the Rules or applicable laws provided that such violation presents a reputational, financial or regulatory risk in the reasonable judgment of Stax;

C.   Sub-Merchant completed transactions in violation of the laws and regulations of the United States;

3. **WARRANTIES**.

Sub-Merchant certifies to Stax that it is in compliance with all warranties a Party is deemed by the Rules to make with respect to Entries originated by Sub-Merchant. These warranties include, but are not limited to, the following:

A.   Each Entry is accurate, is timely, has been authorized by the Party whose account will be credited or debited, and otherwise complies with the Rules;

B.   Each debit Entry is for the sum which, on the settlement date with respect to it will be owing to Sub-Merchant from the Payor, whose account will be debited, is for a sum specified by such Party to be paid to Sub-Merchant, or is a correction of a previously transmitted erroneous credit Entry;

C.   Sub-Merchant will comply with the terms of the Electronic Funds Transfer Act of Regulation E, if applicable, or UCC4A, if applicable and Merchant shall otherwise perform its obligations under this Agreement in accordance with all applicable laws and regulations; and

D.   For any RCK, ARC, BOC, WEB, or TEL Entries originated, Merchant certifies its compliance with all warranties made by a Party pertaining to such Entries exchanged through the ACH Network.

5. **INDEMNIFICATION AND LIABILITY**.

A. Indemnification. In addition to the indemnification circumstances as laid out in the General Terms, Merchant agrees to indemnify and hold Stax and Financial Institution harmless from any and all losses, claims, damages, liabilities and expenses, including reasonable attorneys' fees and costs arising out of any of the following:

i.   Reversed Entry or File of Entries for erroneous or duplicate transactions where Sub-Merchant has failed to perform its obligations herein;

ii.   Any information provided by Sub-Merchant on which Stax relied in determining to grant, extend or continue services was inaccurate, misrepresented or fraudulent;

iii.   Any completed, failed or misdirected Entry;

iv.   Use or alleged misuse of the ACH system and/or fines assessed against Stax or Financial Institution in connection therewith;

v.   Sub-Merchant's failure to pay any reversed or failed Entries that are

Federal Reserve requirements, should have been returned to Sub-

Merchant; and

vi.   Any error or mistake by Sub-Merchant or any third-party service provider included by Sub-Merchant in processing Entries.

B.   Limitation of Liability. In addition to the limitations on liability as provided in the General Terms, Stax and Financial Institution shall not be liable to Sub-Merchant or Sub-Merchant's customers or any other person for any delay by an ACH Operator or Receiving Depository Bank in processing any credit or debit Entry, nor shall neither Stax nor Financial Institution be held liable for the failure of a third Party to process, credit, or debit any such Entry or for other acts of omission.

6. **AUTHORIZATIONS**.

A. Authorization Agreement. All debits to Payor accounts must be authorized by the Payor in writing and must be signed or similarly authenticated in a manner that is compliant with the Rules. Sub-Merchant agrees that it will obtain proper authorization in accordance with the Rules and U.S. laws for each initiation debit or credit Entry to a Payor's account. An authorization agreement must be readily identifiable as either an ACH credit or ACH debit authorization and must clearly and conspicuously state the terms of the authorization in order that the Parties to the ACH Transaction understand the authorization.

B.   Retention of Authorizations. Sub-Merchant must retain the signed or authenticated authorization for a period of two (2) calendar years following the termination or revocation of the authorization. Sub-Merchant must promptly present a copy of the Payor's authorization to Stax upon Stax's request.

C.   Termination of Authorization. Sub-Merchant agrees that it will not initiate an Entry after the termination or revocation of a consumer's authorization.

7. **NAME AND ACCOUNT NUMBER INCONSISTENCY**. Sub-Merchant acknowledges that if an Entry describes the receiver inconsistently by name and account number, payment of the Entry may be made as provided in the Rules on the basis of the account number even if it identifies a Party different from the named receiver.

8. **PRE-NOTIFICATION ENTRIES**. In the event that Sub-Merchant chooses to originate a non-dollar Prenotification Entry to verify the accuracy of routing and account numbers, Sub-Merchant agrees not to initiate live dollar Entries until at least six (6) banking days following the settlement date of the Prenotification Entry. If Stax provides notice that a Prenotification Entry was rejected or returned, Sub-Merchant shall research the problem and make any necessary corrections before transmitting another Entry.

9. **PROVISIONAL CREDIT**. Sub-Merchant acknowledges that the Rules make provisional any credit given for an Entry until Stax crediting the account specified in the Entry receives final settlement. If Stax does not receive final settlement, it is entitled to a refund from the credited Party and the originator of the Entry shall not be deemed to have paid the Party.

10. **TRANSMISSION OF ENTRIES**.

A.   Transmission of Entries. Sub-Merchant shall comply with any and all of Stax's procedures for conforming all Entries to the format, content, data encryption, and other specifications contained in the Rules. Sub- Merchant authorizes Stax and Financial Institution to transmit all Entries received in accordance with the terms of this Agreement and to credit or debit such Entries to the specified accounts.

B.   Form and Format of Entries. Stax shall notify Sub-Merchant whether Entries shall be in the form of balanced or unbalanced files. If Stax requires a balanced file, then Stax shall control when and where offset Entries occur. If Stax requires that Entries shall be in the form of an unbalanced file, then this means an Entry contains only the originating items for that Entry without any corresponding offset or settlement transaction.

i.   Credit Entries. Stax reserve the right to require that Merchant pay Stax in immediately available funds, at the

time of transmittal or at any time prior to settlement, the amount of each credit Entry submitted by Sub-Merchant.

ii.   Debit Entries. Stax shall on the applicable Settlement Date credit the account with the amount of each debit Entry transmitted to Stax. In the event any Entry is returned in accordance with the Rules by a Receiving Depository Bank after Stax has provided credit, Merchant shall, upon demand, repay Stax the amount of the Return Entry.

iii.   Entry Settlement. Sub-Merchant shall provide Stax or Financial Institution, if so directed by Stax, with immediately available funds not later than 8:00 a.m. local time on each Settlement Date sufficient to pay all Entries initiated by Sub- Merchant hereby authorizes and instructs Stax to make deposits, withdrawals and transfers to and from the Operating Account as appropriate or necessary in connection with any of the eCheck Processing Services provided by Stax under this Agreement. Notwithstanding anything in this Agreement to the contrary, Stax reserves the right to require that sufficient collected funds be in the Operating Account prior to the time any Entry is processed by Stax under this Agreement.

C.   Security of Transmission. Stax is responsible for establishing and maintaining the procedures to safeguard against unauthorized transmissions. Sub-Merchant agrees to comply with any procedures or safeguards required by Stax in carrying out its security obligations. Sub-Merchant warrants that no individual will be allowed to initiate transfers in the absence of proper supervision and safeguards, and agrees to take reasonable steps to maintain confidentiality of the Security Procedures and any Passwords, codes, security devices and related instructions provided by Stax in connection with the eCheck Processing Services.

11. **EXPOSURE LIMITS**.

Sub-Merchant shall comply with the monetary file limits established by Stax based on regulatory file limit guidelines as notified by Stax. Sub-Merchant agrees that Stax will not process an Overlimit Entry. Stax will suspend any Overlimit Entry submitted by Sub-Merchant and may, following its receipt of an Overlimit Entry, suspend all In-Process Entries. Sub-Merchant acknowledges that any Overlimit Entry or other In-Process Entries suspended by Stax will not settle on their scheduled Settlement Date. If Sub-Merchant wishes to initiate an Entry through Stax that would cause the amount of In-Process Entries to exceed the Entry Settlement Limit, Sub-Merchant may submit to Stax its request to initiate an Entry that otherwise would be an Overlimit Entry. Sub-Merchant must submit its request at least two (2) banking days prior to the date on which Sub-Merchant wishes to initiate the Entry that otherwise would be an Overlimit Entry. Stax may require from Sub-Merchant financial or other information in connection with Stax's consideration of the request. Stax may grant or deny the request at its sole discretion. In addition to the foregoing, Stax generally reserves the right to limit the nature and amount of the preauthorized debit/credit Entries processed under this Agreement or to refuse to process any

debit/credit Entries under this Agreement if, in Stax's sole judgment (i) there is reasonable cause to believe that any Entry will be returned or will not settle in the ordinary course of the transaction for any reason, (ii) to do otherwise would violate any limit set by the applicable clearing house association or any governmental authority or agency to control payment system risk, or (iii) a preauthorized credit Entry or the return of a preauthorized debit Entry would create an overdraft of the Operating Account. If any of the foregoing actions are taken by Stax with respect to a particular preauthorized debit/credit Entry, Stax will notify Sub-Merchant as promptly as practicable, but in no event later than two

(2) banking days after the decision.

12. **CANCELLATION, REJECTION, RETURN OR CHANGE OF ENTRIES**.

A. Cancellation or Amendment of Entries. Sub-Merchant shall have no right to

cancel or amend any Entry/File after receipt of Entry/File by Stax. However, Stax shall use reasonable efforts to act on a request by Sub-Merchant to cancel an Entry/File before transmitting it to the ACH Network or processing it as an on-us Entry. Stax shall not have liability if it fails to affect the requested cancellation.

B. Rejection of Entries. Stax has the sole discretion to reject any Entry/File, including an on-us Entry, which does not comply with the Rules or U.S. laws and regulations pursuant to this Agreement, and may reject any Entry if Sub-Merchant is not otherwise in compliance with the terms of the Agreement. Stax shall notify Sub-Merchant of such rejection no later than the Business Day such Entry would otherwise have been transmitted by Stax to the ACH Network or, in the case of an on-us Entry, its Effective Entry Date. It shall be the responsibility of Merchant to remake any Entries or Files rejected by Stax or the ACHoperator.

C. Return Entries. To the extent Stax has allowed Sub-Merchant to withdraw funds related to a Return Entry and sufficient funds are not available in the Operating Account to reimburse Stax, Sub- Merchant shall provide the immediately available funds to Stax in the amount necessary to reimburse Stax or Stax shall be authorized to take the outstanding funds from the Reserve Account if one has been established.

D. Notification of Change. Stax will notify Sub-Merchant of Correction Entries ("COR"), which are commonly referred to as Notification of Change ("NOC") Entries, received no later than two (2) banking days after the settlement date of the NOC. Sub-Merchant shall make the submitted changes within six (6) days of receipt of the NOC information or before the next "live" Entry, whichever is later. If the NOC is incorrect, Sub-Merchant shall notify Stax, who shall direct Financial Institution to generate a Refused NOC and deliver it to Sub-Merchant within fifteen (15) calendar days.

13. **REVERSALS**. Sub-Merchant may initiate a reversing Entry or File of Entries for erroneous or duplicate transactions. In doing so, Sub-Merchant warrants that it has initiated the Entries or Files within five (5) banking days of the original Entry or Entries and within 24 hours of discovery of the error. Sub-Merchant also warrants that the account holder of a reversing Entry will be notified of the reversal, and the reason for the reversal, no later than the settlement day of the reversal. Notwithstanding the foregoing, reversals, whether for Entry or File of Entries for erroneous or duplicate transactions or otherwise, are not are not available and may not be initiated in connection with payments received through the Stax Bank Bill Payments solution.

14. **SETTLEMENT**. Pursuant to the General Terms, Merchant shall be required to maintain the Operating Account at all times during the term of this Agreement. Stax shall issue a periodic statement to Merchant that will reflect Entries credited and debited to the Operating Account. Merchant agrees to notify Stax within a reasonable time not to exceed thirty (30) calendar days (except where applicable law provides a sixty (60) calendar day review period) after Merchant receives a periodic statement of any discrepancy between Merchant's records and the information in the statement, after which time the statement will be considered accurate. Sub-Merchant agrees to cooperate with Stax and Financial Institution in performing loss recovery efforts in the event that any of the Parties may be liable to the others for damages.

15. **COMPLIANCE**. Sub-Merchant agrees to comply with and be bound by the current Rules in existence as they may be amended from time to time. The duties of Merchant set forth in this Appendix in no way limits the requirements of complying with the Rules. Any fines or liabilities imposed against Stax or Financial Institution for a violation of the Rules caused by an action and/or inaction of Merchant shall be assessed against Merchant. Costs associated with Rules publications and/or association membership will be the responsibility of Merchant.

**MERCHANT SERVICES
AGREEMENT FOR
SUB-MERCHANTS**

This MERCHANT SERVICES AGREEMENT FOR SUB-MERCHANTS ("**Sub-Merchant Agreement**") is made among VANTIV, LLC, having its principal office at 8500 Governors Hill Drive, Symmes Township, OH 45249-1384 and its designated Member Bank (collectively "Acquirer") and

("Sub-merchant") in connection with the Agreement between Sub-merchant and Stax Inc. ("Provider"). Acquirer will provide Sub-merchant with certain payment processing services ("Services") in accordance with the terms of this Sub-Merchant Agreement. In consideration of Sub-merchant's receipt of credit or debit card funded payments, and participation in programs affiliated with MasterCard International Inc. ("MasterCard"), VISA U.S.A. Inc. ("VISA"), Discover

("Discover"), and certain similar entities (collectively, "Associations), Sub-merchant is required to comply with the Operating Regulations (defined below) as they pertain to applicable credit and debit card payments. In addition, if Sub-merchant meets certain requirements under the Operating Regulations or an Association or the Operating Regulations otherwise require, Sub-merchant may be required to enter into a direct relationship with an entity that is a member of the Associations. By executing this Sub-Merchant Agreement, Sub-merchant has fulfilled such requirement. However, Acquirer understands that Sub-merchant may have contracted with Provider to obtain certain processing services and that Provider may have agreed to be responsible to Sub-merchant for all or part of Sub-merchant's obligations contained herein.

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises contained herein, the parties agree as follows:

1. **Certain Sub-Merchant Responsibilities.** Sub-merchant agrees to comply, and to cause third parties acting as Sub-merchant's agent ("Agents") to comply, with the Association's and other payment network's by-laws, operating regulations and/or all other rules, policies and procedures, including but not limited to the Payment Card Industry Data Security Standard, the VISA Cardholder Information Security Program, the MasterCard Site Data Protection Program, and any other program or requirement that may be published and/or mandated by the Associations or payment networks (collectively "Operating Regulations"). Sub-merchant may review the VISA, MasterCard, and Discover websites for a copy of the Visa, MasterCard and Discover regulations. The websites are: http://usa.visa.com/merchants/ and http://www.mastercard.com/us/merchant/ and http://www.discovernetwork.com/merchants/. Sub-merchant also agrees to comply with all applicable state, federal, and local laws, rules, and regulations ("Laws"). Without limiting the foregoing, S ub-merchant agrees that it will fully comply with any and all anti-money laundering laws and regulations, including but not limited to the Bank Secrecy Act, the US Treasury's Office of Foreign Assets Control (OFAC) and the Federal Trade Commission. For purposes of this section, Agents include, but are not limited to, Sub-merchant's software providers and/or equipment providers.

If appropriately indicated in Sub-merchant's Agreement with Provider, Sub-merchant may be a limited-acceptance merchant, which means that Sub-merchant has elected to accept only certain Visa and MasterCard card types (i.e., consumer credit, consumer debit, and commercial cards) and must display appropriate signage to indicate the same. Acquirer has no obligation other than those expressly provided under the Operating Regulations and applicable law as they may relate to limited acceptance. Sub-merchant, and not Acquirer, will be solely responsible for the implementation of its decision for limited acceptance, includi ng but not limited to policing the card type(s) accepted at the point of sale.

Sub-merchant shall only complete sales transactions produced as the direct result of bona fide sales made by Sub-merchant to cardholders, and is expressly prohibited from presenting sales transactions which are produced as a result of sales made by any person or entity other than Sub-merchant, or for any purposes related to any illegal or prohibited activity, including but not limited to money-laundering or financing of terrorist activities.

Sub-merchant may set a minimum transaction amount to accept a card that provides access to a credit account, under the following conditions: i) the minimum transaction amount does not differentiate between card issuers; ii) the minimum transaction amount does not differentiate between MasterCard, Visa, or any other acceptance brand; and iii) the minimum transaction amount does not exceed ten dollars (or any higher amount established by the Federal Reserve). Sub-merchant may set a maximum transaction amount to accept a card that provides access to a credit account, under the following condition s: Sub-merchant is a i) department, agency or instrumentality of the U.S. government; ii) corporation owned or controlled by the U.S. government; or iii) Sub-merchant whose primary business is reflected by one of the following MCCs: 8220, 8244, 8249 –Schools, Trade or Vocational; and the maximum transaction amount does not differentiate between MasterCard, Visa, or any other acceptance brand.

2. **Sub-Merchant Prohibitions.** Sub-merchant must not i) require a cardholder to complete a postcard or similar device that includes the cardholder'saccount number, card expiration date, signature, or any other card account data in plain view when mailed, ii) add any tax to transactions, unless applicable law expressly requires that a Sub-merchant impose a tax (any tax amount, if allowed, must be included in the transaction amount and not collected separately), iii) request or use an account number for any purpose other than as payment for its goods or services, iv) disburse funds in the form of travelers checks if the sole purpose is to allow the cardholder to make a cash purchase of goods or services from Sub-merchant, v) disburse funds in the form of cash unless Sub-merchant is dispensing funds in the form of travelers checks, TravelMoney cards, or foreign currency (in such case, the transaction amount is limited to the value of the travelers checks, TravelMoney cards, or foreign currency, plus any commission or fee charged by the Sub-merchant), or Sub-merchant is participating in a cash back service, vi) submit any transaction receipt for a transaction that was previously charged back to the Acquirer and subsequently returned to Sub-merchant, irrespective of cardholder approval, vii) accept a Visa consumer credit card or commercial Visa product issued by a U.S. issuer to collect or refinance an existing debt, viii) accept a card to collect or refinance an existing debt that has been deemed uncollectable, or ix) submit a transaction that represents collection of a dishonored check. Sub-merchant further agrees that, under no circumstance, will Sub-merchant store cardholder data in violation of the Laws or the Operating Regulations including but not limited to the storage of track-2 data. Neither Sub-merchant nor its Agent shall retain or store magnetic-stripe data subsequent to the authorization of a sales transaction.

3. **Settlement.** Upon receipt of Sub-merchant's sales data for card transactions, Acquirer will process Sub-merchant's sales data to facilitate the funds transfer between the various Associations and Sub-merchant. After Acquirer receives credit for such sales data, subject to the terms set forth herein, Acquirer will fund Sub-merchant, either directly to the Sub-merchant-Owned Designated Account or through Provider to an account designated by Provider ("Provider Designated Account"), at Acquirer's discretion, for such card transactions. Sub-merchant agrees that the deposit of funds to the Provider Designated Account shall discharge Acquirer of its settlement obligation to Sub-merchant, and that any dispute regarding the receipt or amount of settlement shall be between Provider and Sub-merchant. Acquirer will debit the Provider Designated Account for funds owed to Acquirer as a result of the Services provided hereunder, provided that Acquirer may also debit Sub- merchant's designated demand deposit account ("Sub-merchant-Owned Designated Account") upon receipt of such account information from Sub-merchant or Provider, or if Acquirer deposits settlement funds into the Sub-merchant-Owned Designated Account. Further, if a cardholder disputes a transaction, if a transaction is charged back for any reason, or if Acquirer reasonably believes a transaction is unauthorized or otherwise unacceptable, the amount of such transaction may be charged back and debited from Sub-merchant or Provider.

4. **Term and Termination.** This Sub-Merchant Agreement shall be binding upon Sub-merchant upon Sub-merchant's execution. The term of this Sub-Merchant Agreement shall begin, and the terms of the Sub-Merchant Agreement shall be deemed accepted and binding upon Acquirer, on the date Acquirer accepts this Sub- Merchant Agreement by issuing a merchant identification number, and shall be coterminous with Provider's Agreement with Sub-merchant.

Notwithstanding the foregoing, Acquirer may immediately cease providing Services and/or terminate this Sub-Merchant Agreement without notice if (i) Sub- merchant or Provider fails to pay any amount to Acquirer when due, (ii) in Acquirer's opinion, provision of a service to Sub-merchant or Provider may be a violation of the Operating Regulations or any Laws, (iii) Acquirer believes that Sub-merchant has violated or is likely to violate the Operating Regulations or the Laws, (iv) Acquire determines Sub-merchant poses a financial or regulatory risk to Acquirer or an Association, (v) Acquirer's Agreement with Provider terminates, (vi) any Association deregisters Provider, (vii) Acquirer ceases to be a member of the Associations or fails to have the required licenses, or (viii) Acquirer is required to do so by any of the Associations.

5. **Limits of Liability.** Sub-merchant agrees to provide Acquirer, via a communication with Provider, with written notice of any alleged breach by Acquirer of this Sub-Merchant Agreement, which notice will specifically detail such alleged breach, within thirty (30) days of the date on

which the alleged breach first occurred. Failure to so provide notice shall be deemed an acceptance by Sub-merchant and a waiver of any and all rights to dispute such breach.

EXCEPT FOR THOSE EXPRESS WARRANTIES MADE IN THIS SUB-MERCHANT AGREEMENT, ACQUIRER DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR

PURPOSE. Sub-merchant's sole and exclusive remedy for any and all claims against Acquirer arising out of or in any way related to the transactions contemplated herein shall be termination of this Sub-Merchant Agreement. In the event that Sub-merchant has any claim arising in connection with the Services, rights, and/or obligations defined in this Sub-Merchant Agreement, Sub-merchant shall proceed against Provider and not against Acquirer, unless otherwise specifically set forth in the Operating Regulations. In no event shall Acquirer have any liability to Sub-merchant with respect to this Sub-Merchant Agreement or the Services. Sub-merchant acknowledges Acquirer is only providing this Sub-Merchant Agreement to assist in Provider's processing relationship with Sub-merchant, that Acquirer is not liable for any action or failure to act by Provider, and that Acquirer shall have no liability whatsoever in connection with any products or services provided to Sub-merchant by Provider. If Provider is unable to provide its services to Sub-merchant in connection with this Sub-Merchant Agreement and Acquirer elects to provide those services directly, Sub-merchant acknowledges and agrees that the provisions of this Sub-Merchant Agreement will no longer apply and the terms of Acquirer's then current Bank Card Merchant Agreement, which would be provided to Sub-merchant, will govern Acquirer's relationship with Sub-merchant. If Provider subsequently provides its services to Sub-merchant in connection with this Sub-Merchant Agreement, Acquirer will cease to provide such services after receipt of notice from Provider and this Sub-Merchant Agreement will govern Acquirer's relationship with Sub-merchant.

6. **Miscellaneous**. This Sub-Merchant Agreement is entered into, governed by, and construed pursuant to the laws of the State of Ohio without regard to conflicts of law provisions. This Sub-Merchant Agreement may not be assigned by Sub-merchant without the prior written consent of Acquirer. This Sub-Merchant Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, transferees and assignees. This Sub-Merchant Agreement is for the benefit of, and may be enforced only by, Acquirer and Sub-merchant and is not for the benefit of, and may not be enforced by, any other party. Acquirer may amend this Sub-Merchant Agreement upon notice to Sub-merchant in accordance with Acquirer's standard operating procedure. If any provision of this Sub- Merchant Agreement is determined to be illegal or invalid, such illegality or invalidity of that provision will not affect any of the remaining provisions and this Sub- Merchant Agreement will be construed as if such provision is not contained in the Agreement "Member Bank" as used in this Sub-Merchant Agreement shall mean a member of VISA, MasterCard and/or Discover, as applicable, that

provides sponsorship services in connection with this Sub-Merchant Agreement. As of the commencement of this Sub-Merchant Agreement, Member Bank shall be Fifth Third Bank, an Ohio Banking Corporation, located in Cincinnati, OH 45263. The Member Bank is a party to this Sub-Merchant Agreement. The Member Bank may be changed, and its rights and obligations assigned to another party by Acquirer at any time without notice to Sub-merchant.

IN WITNESS WHEREOF, this Sub-Merchant Agreement has been accepted and executed by Sub-merchant's authorized officer as of the Effective Date.