



FUTURE MANAGEMENT GROUP INC.

Merchant Application and Agreement

Merchant Service Provider Merrick Bank



To apply for credit card processing through Future Management Group Inc.:

Print the application and complete in its entirety.

Sign where indicated

Fax to our office at 1-502-423-8809

A business development representative will contact you within one business day

Merchant Application and Agreement

Merchant #: _____ MCC: _____

MERCHANT NAME (DBA or Trade Name) _____ CORPORATE/LEGAL NAME (if Different) _____

LOCATION ADDRESS _____ CORPORATE ADDRESS (if Different) _____

CITY _____ STATE _____ ZIP _____ CITY _____ STATE _____ ZIP _____

CONTACT NAME _____ CONTACT EMAIL ADDRESS _____ CONTACT TELEPHONE _____ FAX NUMBER _____ FEDERAL TAX ID# _____

DOES THIS LOCATION CURRENTLY TAKE VISA/MASTERCARD? No Yes (if yes please provide) _____
 Reason for leaving current processor: _____

HAS MERCHANT OR OWNERS/PRINCIPALS EVER BEEN TERMINATED FROM ACCEPTING BANKCARDS FOR THIS BUSINESS OR ANY OTHER BUSINESSES? No Yes (if yes, please explain) _____
 Reason for Termination: _____

PRINCIPALS:
 Principal #1 Name: _____
 First: _____ Middle Init: _____ Last: _____ SSN: _____ % Ownership: _____ Title: _____
 Home Address: _____ City: _____ State: _____ Zip: _____ Date of Birth: _____
 Home Phone : _____ DL# / State: _____ Email Address: _____

Principal #2 Name: _____
 First: _____ Middle Init: _____ Last: _____ SSN: _____ % Ownership: _____ Title: _____
 Home Address: _____ City: _____ State: _____ Zip: _____ Date of Birth: _____
 Home Phone : _____ DL# / State: _____ Email Address: _____

TYPE OF BUSINESS: Individual/Sole Proprietor Partnership Corporation LLC State: _____
 Non-Profit (Must Provide 503-C) Private Publicly Traded Government

NATURE OF BUSINESS: Retail Retail w/tip Mail/Phone Order Internet Restaurant Fast Food
 Lodging QSR Convenience Public Sector Petroleum Utility
 Other: _____

Length of time in business: _____ Years _____ Months
 Seasonal Sales: Yes No If so, please circle high volume months : J F M A M J J A S O N D

Method of Acceptance: (Totals to equal 100%) * Merchants processing less than 75% swipe transactions must complete the MO/TO Questionnaire (over)

Credit Cards Swiped: _____ % MO/TO: _____ % Monthly V/MC Volume: \$ _____ Ave Ticket: \$ _____
 Key Entered: _____ % Internet: _____ % (URL: _____) High Ticket: \$ _____

Product or Service being offered: _____ Merchant Name to appear on consumer statement: DBA Name Legal Name
 Type of Equipment: _____ Other: _____

DOES MERCHANT USE AN INDEPENDENT SERVICER THAT STORES, MAINTAINS OR TRANSMITS CARDHOLDER INFORMATION: No Yes (if yes, please provide :)
 NAME: _____ PHONE NUMBER : _____

DOES MERCHANT USE A FULFILLMENT HOUSE TO FULFILL PRODUCT: No Yes (if yes, please provide :)
 NAME: _____ PHONE NUMBER : _____

HAVE MERCHANT OR OWNERS/PRINCIPALS EVER FILED BUSINESS BANKRUPTCY and/or PERSONAL BANKRUPTCY No Yes (if yes, please provide :)
 Explanation: _____

BANK ACCOUNT INFORMATION: Checking Account Savings Account Bank Name: _____ Attach voided check for the operating account where funds are to be deposited
 Transit # (ABA Routing): _____ Account # (DDA) : _____ Contact: _____ Phone #: _____

* By providing the above referenced information, you are authorizing Bank to initiate ACH debit and credit transactions to said account

TRADE REFERENCES:
 1) Name/Contact: _____ Phone#: _____ 2) Name/Contact: _____ Phone#: _____

SCHEDULE A: VISA/MASTERCARD DISCOUNT RATES & FEES:
 VISA/MASTERCARD INTERCHANGE AND ONLINE DEBIT NETWORK COST WILL BE CHARGED IN ADDITION TO:

CARD FEES:			OTHER FEES		
TIERED:	Credit:	Debit:	Chargeback Fee:		
Qualified Rate			Retrieval Request Fee:		
MID Qualified Rate			Voice Authorization Fee:		
NON Qualified Rate			Non-Bankcard Per Item Fee:		
Transaction Fee			Monthly Customer Service Fee:		
INTERCHANGE (COST) PLUS:					
Transaction Fee					

You have the option of accepting MasterCard credit cards, Visa credit cards, MasterCard signature debit cards (MasterMoney Cards) or Visa signature debit cards (Check Cards).
 You may elect to accept any or all of these card types for payment. If you do not specifically indicate otherwise, your application will be processed to accept ALL MasterCard and Visa card types.
 Elected Visa or MC card types NOT to accept:

SITE INSPECTION:
 Merchant: Owns Rents (Landlord: _____)
 Building Type: Shopping Center Office Building Industrial Building Residence
 Area Zoned: Commercial Industrial Residential
 Square Footage: 0-500 501-2500 2501-5000 5001-10000+

Based upon your review, does Merchant have the appropriate facilities, equipment, inventory, personnel and license or permit to operate their business? No Yes
 Comments: _____

* By signing below, inspector is certifying he/she has visited the location and information provided is true & correct

Inspector Name: _____ Inspection Date: _____ Signature: _____

MO/TO QUESTIONNAIRE: COMPLETE THIS SECTION IF PROCESSING LESS THAN 75% SWIPE:

What percentage of sales are to: Businesses Consumer _____% Individual Consumer _____%
Method of Marketing: Newspaper/Magazine Television/Radio Internet Direct Mail, Brochure and/or Catalog Outbound Telemarketing Sales Other: _____
Percentage of products sold via: Telephone Orders _____% Mail/Fax Orders _____% Internet orders _____% Other: _____%
Who processes the order? Merchant Fulfillment Center Other _____
Who enters credit card information into the processing system? Merchant Fulfillment Center Consumer Other _____
If credit card payment information taken over the Internet is payment channel encrypted by SSL or better? No Yes
If Merchant is an e-commerce Merchant, is a Merchant Certificate utilized? No Yes if yes, please provide the following:
Merchant Certificate Number _____ Certificate Issuer _____ Exp Date _____; Is Certificate Individual Shared
Do you own the product/inventory? Yes No; Is the product stored at your business location? Yes No If No, where is it stored? _____
After charge authorization, how long until product ships? _____ days Who ships the product? Merchant Fulfillment Center
Product shipped by: US Mail Other _____ Delivery receipt requested? Yes No

MERCHANT APPLICATION AND AGREEMENT ACCEPTANCE

"By executing this Merchant Application on behalf of the merchant described above ("Merchant"), the undersigned individual(s) represent(s), warrant(s), and acknowledges(s) that: (i) All information contained in this Merchant Application ("Application") is true, correct and complete as of the date of this Application; (ii) If the Merchant is a corporation, limited liability company, or partnership, the individual(s) executing this Application have the requisite legal power and authority to complete and submit this Application on behalf of the Merchant and to make and provide the acknowledgements, authorizations and agreements set forth herein on behalf of the Merchant and individually; (iii) The information contained in this Application is provided for the purpose of obtaining, or maintaining, a merchant account for the Merchant with the Sponsor Bank ("BANK") and BANK shall rely on the information provided herein in its approval process and in settling the applicable Discount Rate, Approved Average Ticket, and Approved Monthly Bankcard Volume; (iv) BANK is authorized to investigate, either through its own agents or through credit bureaus/agencies, the credit of the Merchant and each person listed on this Application; (v) BANK will determine all rates, fees and charges and notify Merchant of the approved fees and by Merchant's submission and acceptance of Merchant's first settled transaction. Merchant agrees to pay such approved fees; (vi) The Merchant Agreement shall not take effect until Merchant has been approved by BANK and a merchant number has been issued to merchant; and (vii) The undersigned has received, read, understood, the Merchant Agreement, which is incorporated herein by reference thereto, and agrees on behalf of the merchant to be bound by the terms of such Merchant Agreement. The merchant on whose behalf this Application is being submitted acknowledges that if this Application is being submitted to Merrick Bank as the Sponsor Bank, Future Management Group Inc. shall may also be a party to this Merchant Agreement. In such case, Merchant acknowledges that Future Management Group Inc shall rely on the representations and warranties set forth in this Application for Merchant Agreement and unless otherwise specified or prohibited by Association or applicable law, Future Management Group Inc. shall have all the rights of BANK under this Application and Agreement

MERCHANT: Principal #1: _____ Date: _____ Name and Title _____
Print Name: _____ Date: _____ Name and Title _____
BANK: By: _____ Date: _____
Name and Title _____
Future Management Group Inc.
Principal #2: _____ Date: _____
Print Name: _____ Date: _____ Name and Title _____

CONTINUING PERSONAL GUARANTY PROVISION - PERSONAL GUARANTOR

By signing below, each individual or entity ("Guarantor") jointly and severally (if there is more than one Guarantor) and unconditionally guarantees to Future Management Group Inc and BANK the prompt payment and full and complete performance of all obligations of the Merchant identified above under the Merchant Agreement, as amended from time to time, including, without limitation, all promises and covenants of the Merchant, and all amounts payable by the Merchant under the Merchant Agreement, including, without limitation, charges, interest, costs and other expenses, such as attorney's fees and court costs. This means, among other things, that Future Management Group Inc. or BANK can demand performance or payment from any Guarantor if the Merchant fails to perform any obligation or pay what the Merchant owes under the Agreement. Each Guarantor agrees that his or her liability under this guaranty will not be limited or canceled because: (1) the Merchant Agreement cannot be enforced against the Merchant for any reason, including, without limitation, bankruptcy proceedings; (2) either Future Management Group Inc or BANK agrees to changes or modifications to the Merchant Agreement, with or without notice to Guarantor; (3) Future Management Group Inc. or BANK releases any other Guarantor or the Merchant from any obligation under the Merchant Agreement; (4) any law, regulation, or order of any public authority affects the rights of either Future Management Group Inc., Merchant, or BANK under the Merchant Agreement; and/or (5) anything else happens that may affect the rights of either Future Management Group Inc or BANK against the Merchant or any other Guarantor. Each Guarantor further agrees that: (a) Future Management Group Inc and BANK each may delay enforcing any of its rights under this guaranty without losing such rights and hereby waives any applicable Statute of Limitations; (b) Future Management Group Inc and BANK each can demand payment from such Guarantor without first seeking payment from the Merchant or any other Guarantor or from any security held by the BANK; and (c) such Guarantor will pay all court costs, attorney's fees, and collection costs incurred by either Future Management Group Inc. or the BANK in connection with the enforcement of the Merchant Agreement or this Guaranty, whether or not there is a lawsuit, and such additional fees and costs as may be directed by a court. If the Merchant is a corporation or limited liability company, this Guaranty must be executed by a principal or affiliate of Merchant.

Principal #1: _____ Principal #2: _____
Print Name: _____ Date: _____ Print Name: _____ Date: _____

BANK DISCLOSURE

Member Bank Information: Merrick Bank, 101 Crossway Park West, Woodbury, NY 11797 • Phone (800) 328-9155

Important Bank Responsibilities:

- 1. Merrick Bank is the only entity approved to extend acceptance of Visa products directly to a Merchant.
2. Merrick Bank is responsible for educating Merchants on pertinent Visa Operating Regulations with which Merchants must comply.
3. Merrick Bank is responsible for all funds held in reserve that are derived from settlement.
4. Merrick Bank is responsible for and must provide settlement funds to the Merchant.
5. Merrick Bank must be a principal (signer) to the Merchant Agreement

Merchant Information: Refer to Merchant Application

Important Merchant Responsibilities:

- 1. Ensure compliance with cardholder data security and storage requirements.
2. Review and understand the terms of the Merchant Agreement.
3. Maintain fraud and chargebacks below thresholds.
4. Comply with Visa Operating Regulations.

The responsibilities listed above do not supersede terms of the Merchant Agreement and are provided to ensure the Merchant understands some important obligations of each party and that the Visa Member - Merrick Bank - is the ultimate authority should the Merchant have any problems.

Merchant's Signature: _____ Date: _____

CORPORATE RESOLUTION:

I, _____, the duly elected, qualified and acting _____ of _____, a _____ (the "Company"), do hereby certify as follows:
Corporate Secretary** Office Title Legal Corporate Name of Co. Incorporation Status

The following resolutions were duly adopted by the board of directors/managing member(s)/general partners (circle one) of the Company: WHEREAS, the Company desires to enter into a Merchant Agreement (the "Merchant Agreement") with Merrick Bank Corporation, a Utah industrial loan corporation ("Bank") and Future Management Group Inc., a Kentucky company ("ISO"), a copy of which Merchant Agreement is attached hereto as Exhibit "A"; WHEREAS, pursuant to the terms of the Merchant Agreement, Bank and ISO will provide certain credit card financing and processing for VISA and/or MASTERCARD credit card purchases made by the Company's customers; WHEREAS, pursuant to the terms of the Merchant Agreement, (a) the Company may be required to establish a Reserve Account (as defined in the Merchant Agreement) and (b) Bank may require the Company to direct certain funds relating to credit card purchases to such Reserve Account; WHEREAS, pursuant to the terms of the Merchant Agreement, Bank may require the Company to execute instruments evidencing Bank's security interest in the Operating Account (as defined in the Merchant Agreement) and Reserve Account; and WHEREAS, pursuant to the terms of the Merchant Agreement, the Company is required to comply with strict requirements concerning the processing of credit card transactions and the sale of the Company's products. NOW, THEREFORE, BE IT RESOLVED, that the Merchant Agreement by and among the Company, Bank and ISO, pursuant to which Bank and ISO shall act as the Company's exclusive provider of VISA and/or MASTERCARD credit card financing and processing services, is hereby approved and adopted in the form attached to these resolutions, together with such additions, changes or modifications as may be deemed necessary, advisable or appropriate by the officer(s) executing or causing the same to be completed; and RESOLVED FURTHER, that in connection with the Merchant Agreement, the appropriate officer(s) of the Company is/are hereby authorized to establish (a) an Operating Account into which funds from credit card sales by the Company will be directed, and (b) if necessary, a Reserve Account into which funds from credit card sales by the Company may be directed by Bank in accordance with the provisions of the Merchant Agreement; RESOLVED FURTHER, that the Company hereby grants Bank a security interest in the funds held by the Company in the Operating Account and Reserve Account, and the appropriate officer(s) of the Company is/are hereby authorized to execute all documents reasonably required by Bank to perfect such security interests; RESOLVED FURTHER, that the appropriate officer(s) of the Company is/are hereby authorized to enter into such additional agreements, and take such additional actions as may be reasonably required by Bank or ISO in connection with the Merchant Agreement; and RESOLVED FURTHER, that the Secretary/managing member/general partner (circle one) of the Company is hereby authorized to deliver to Bank and ISO a Certificate (i) identifying the officers of the Company, (ii) verifying the signatures of such officers, and (iii) certifying a copy of these resolutions, and Bank and ISO are hereby authorized to rely on such Certificate until formally advised by a like certificate of any changes therein, and is hereby authorized to rely on any such additional certificates.

2. Each person listed below (an "Officer") (i) holds the office in the Company indicated opposite his or her name on the date hereof, (ii) the signature appearing opposite his or her name is the genuine signature of each such officer, (iii) each such Officer, acting individually, is authorized to execute and deliver the Merchant Agreement and each of the agreements and documents contemplated by the Merchant Agreement (collectively, the "Transaction Documents") on behalf of the Company, and (iv) each such Officer, acting individually, is authorized to perform the Company's obligations under the Transaction Documents on behalf of the Company:

Table with 3 columns: NAME, OFFICER, SIGNATURE

IN WITNESS WHEREOF, I have executed this Certificate this _____ day of _____ 20____.
Sign: _____

Name: TITLE: Corporate Secretary** or Print Officer Title

TERMS AND CONDITIONS

In consideration of the mutual covenants herein, Bank, ISO and Merchant have agreed as follows

ARTICLE I - DEFINITIONS

- 1.01 "**Account**" means a commercial checking account maintained by Merchant as set forth in Section 5.16 for the crediting of collected funds and the debiting of fees and charges pursuant to the terms of this Agreement.
- 1.02 "**ACH**" means the Automated Clearing House paperless entry system controlled by the Federal Reserve.
- 1.03 "**Agreement**" means these terms and conditions and any supplementary documents indicated herein.
- 1.04 "**Authorization**" means a computerized function or a direct phone call to a designated number to examine individual Transactions to obtain approval from the Card Issuer to charge the Card for the amount of the sale.
- 1.05 "**Card**" means (i) a valid credit card in the form issued under license from Visa U.S.A., Inc. Visa International, Inc. or MasterCard International, Inc. ("Bank Card"); or (ii) any other valid credit card accepted by Merchant by agreement with Bank and ISO.
- 1.06 "**Card Association**" means Visa U.S.A., Inc., Visa International, Inc., MasterCard International, Inc. or any other Card Issuers that provide Cards that are accepted by Merchant by agreement with Bank and ISO.
- 1.07 "**Card Issuer**" means the financial institution or company which has provided a Card to a Cardholder.
- 1.08 "**Card Not Present (CNP)**" means that an Imprint of the Card is not obtained at the point-of-sale.
- 1.09 "**Cardholder**" means the person whose name is embossed upon the face of the Card.
- 1.10 "**Chargeback**" means the procedure by which a Sales Draft (or disputed portion thereof) is returned to Bank by a Card Issuer because such item does not comply with the applicable Card plan's operating regulations.
- 1.11 "**Credit Voucher**" means a document executed by a Merchant evidencing any refund or price adjustment relating to Cards to be credited to a Cardholder account.
- 1.12 "**Imprint**" means (i) an impression on a Sales Draft manually obtained from a Card through the use of an imprinter, or (ii) the electronic equivalent obtained by swiping a Card through a terminal and electronically capturing Card Data and printing a Sales Draft.
- 1.13 "**Mid or Non-Qualifying Transaction**" means any sale Transaction that fails to qualify for lowest interchange rate assigned by the applicable Card Association for the standard card industry code of Merchant and which may be charged fees as set forth in Schedule A.
- 1.14 "**Sales Draft**" means the paper form, whether electronically or manually imprinted, evidencing a sale Transaction.
- 1.15 "**Transaction**" means any sale of products or services, or credit for such, from a Merchant for which the customer makes payment through the use of any Card and which is presented to Bank for collection.
- 1.16 "**Voice Authorization**" means a direct phone call to a designated number to obtain credit approval on a Transaction from the Card Issuer, whether by voice or voice-activated systems.

ARTICLE II - CARD ACCEPTANCE

- 2.01 **Honoring Cards.**
(a) Merchant will accept all valid Cards when properly presented by Cardholders in payment for goods or services, subject to Visa rules requiring Merchant to elect whether it will accept credit only, debit only or both debit and credit Cards. Merchant's election is set forth in the Application. (b) Merchant shall not establish minimum or maximum amounts for Card sales as a condition for accepting any Card. (c) Merchant shall not require any Cardholder to pay as a surcharge any part of any discount or charge imposed upon Merchant by this Agreement, whether through any increase in price or otherwise require a customer presenting a Card to pay any charge or price as a condition of sale that is not also required from a customer paying cash. However, Merchant may not, by this term, be prevented from offering discounts to customers for cash purchases. (d) Merchant shall not engage in a Card Transaction (other than a mail order, telephone order, ecommerce or preauthorized sale to the extent permitted under this Agreement) if the person seeking to charge the purchase to his or her Card account does not present the Card to permit Merchant to compare the signature on the Card to the signature on the Sales Draft and obtain an Imprint or otherwise use the physical Card to complete the Transaction.
- 2.02 **Advertising.**
(a) Merchant agrees to prominently display the promotional materials provided by Bank and ISO in its place(s) of business. Use of promotional materials and use of any trade name, trademark, service mark or logo type ("Marks") associated with Card(s) shall be limited to informing the public that Card(s) will be accepted at Merchant's place(s) of business. Merchants' use of promotional materials and Marks is subject to the direction of Bank and ISO. (b) Merchant may use promotional materials and Marks during the term of this Agreement and shall immediately cease use and return any inventory to Bank or ISO upon any termination thereof. (c) Merchant shall not use any promotional materials or Marks associated with Visa or MasterCard in any way which suggests or implies that either endorses any goods or services other than Bank Card services.
- 2.03 **Card Acceptance.** When accepting a Card, Merchant will follow the steps provided by Bank and ISO for accepting Cards and will:
(a) Determine in good faith and to the best of its ability that the Card is valid on its face; (b) Obtain Authorization from the Card Issuer to charge the Cardholder's account; (c) Unless the Sales Draft is electronically generated or is the result of a mail, phone or preauthorized order, (i) obtain an Imprint of the Card including embossed data from the merchant imprinter plate; and (ii) obtain the Cardholder's signature on the Sales Draft and compare that signature to the signature on the Card; (d) Enter a description of the goods or services sold and the price thereof (including any applicable taxes); (e) Deliver a true and completed copy of the Sales Draft to the Cardholder at the time of delivery of the goods or performance of the services, or, if the Sales Draft is prepared by a point-of-sale terminal, at the time of the sale; (f) Offer the Sales Draft to Bank for purchase according to Bank's procedures and the terms of this Agreement; and (g) Make an Imprint of the Card, if the Transaction is not based upon a mail, phone or pre-authorized order.
- 2.04 **Authorization.**
(a) Merchant will obtain an Authorization for all Card sales. If Merchant cannot, for any reason, obtain an electronic Authorization through the use of a terminal, Merchant will request a Voice Authorization from Bank's designated authorization center and will legibly print the authorization number on the Sales Draft. (b) Merchant shall not obtain or attempt to obtain authorization from Bank's authorization center unless Merchant intends to submit to Bank a Transaction for the authorized amount if Authorization for the Transaction is given. (c) Merchant shall not divide a single Transaction between two or more Sales Drafts on a single Card to avoid Authorization limits that may be set by the Card Issuer. (d) Merchant acknowledges that an Authorization provides only that the Cardholder account has sufficient credit available to cover the amount of the current sale and that an Authorization (i) is not a guarantee that the Transaction will not be subject to dispute or Chargeback or (ii) does not warranty the identity of the Cardholder. (e) Merchant shall not attempt to obtain an authorization by successively decreasing the sale amount. (f) Bank or ISO reserves the right to refuse to purchase or process any Sales Draft presented by Merchant (i) unless a proper authorization or approval code has been recorded on the Sales Draft; (ii) if Bank or ISO determines that the Sales Draft is or is likely to become un-collectible from the Cardholder to which the transaction would otherwise be charged; or (iii) if Bank or ISO has reason to believe that the Sales Draft was prepared in violation of any provision of this Agreement.
- 2.05 **Retention and Retrieval of Cards.**
(a) Merchant shall use its best efforts, by reasonable and peaceful means, to retain or recover a Card (i) when receiving such instructions when making a request for Authorization or (ii) if Merchant has reasonable grounds to believe the Card is counterfeit, fraudulent or stolen. (b) The obligation of Merchant imposed by this section to retain or recover a Card does not authorize a breach of the peace or any injury to persons or property, and Merchant will hold Bank and ISO harmless from any claim arising from any injury to person or property or other breach of the peace in connection with the retention or recovery of a Card.
- 2.06 **Personal Information of Cardholder.** Merchant as a condition of sale may not impose a requirement on Cardholders to provide any personal information as a condition for honoring Cards unless such information is required to provide delivery of goods or services or Merchant has reason to believe the identity of the person presenting the Card may be different than that of the Cardholder.
- 2.07 **Multiple Transaction Records; Partial Consideration.** Merchant shall not prepare more than one Sales Draft for a single sale or for a single item but shall include all items of goods and services purchased in a single Transaction in the total amount on a single Sales Draft except under the following circumstances: (i) For purchases in separate departments of a multiple department store; (ii) For partial payment, installment payment, delayed delivery or an advance deposit; or (iii) For delayed or amended charges governed by rules for travel and entertainment merchants and Transactions.
- 2.08 **Telephone Orders, Mail Orders, eCommerce, Preauthorized Orders and Installment Orders.**
(a) Unless Merchant has been approved by Bank to accept mail, phone or ecommerce orders, Merchant warrants that it is a walk-in trade business, located in a retail business place where the public moves in and out freely in order to purchase merchandise or obtain services. If Merchant is found to be accepting Card Transactions without Bank's authorization, which are placed by telephone, generated through telephone solicitation, mail order or other means that does not create a Sales Draft that bears the Card imprint and Cardholder's signature, this Agreement will be immediately terminated and the value of all Sales Drafts collected from the first day of processing may be charged back to Merchant and all funds therefrom shall be held pursuant to Section 4. (b) Unless approved by Bank, this Agreement does not contemplate regular acceptance of Cards for sales accepted by telephone, mail or ecommerce nor through preauthorized orders. If an occasional Card Transaction is made by mail, phone or preauthorized order, the Sales Draft may be completed without the Cardholder's signature or an Imprint, but in such case Merchant shall create a Sales Slip containing Cardholder data, an Authorization number, the sale amount and the letters "MO", "TO" or "PO", as appropriate. Receiving an Authorization shall not relieve the Merchant of liability for Chargeback on any Transaction for which the Merchant did not obtain an Imprint or the Cardholder's signature.
- 2.09 **Lodging and Vehicle Rental Transactions.**
(a) Merchant must estimate and obtain Authorization for the amount of the Transaction based upon the Cardholder's intended length of stay or rental. Additional Authorization must be obtained and recorded for charges actually incurred in excess of the estimated amount. (b) Regardless of the terms and conditions of any written preauthorization form, the Sales Draft amount for any lodging or vehicle rental Transaction shall include only that portion of the sale, including any applicable taxes, evidencing a bona fide rental of real or personal property by Merchant to the Cardholder and shall not include any consequential charges. Nothing contained herein is intended to restrict Merchant from enforcing the terms and conditions of its preauthorization form through means other than a Card Transaction.
- 2.10 **Returns and Adjustments; Credit Vouchers.**
(a) Merchant's policy for the exchange or return of goods sold and the adjustment for services rendered shall be established and posted in accordance with operating regulations of the applicable Card Association's regulations. Merchant agrees to disclose, if applicable, to a Cardholder before a Card sale is made, that if merchandise is returned: (i) no refund, or less than a full refund, will be given; (ii) returned merchandise will only be exchanged for similar merchandise of comparable value; (iii) only a credit toward purchases will be given; or (iv) special conditions or circumstances apply to the sale (e.g., late delivery, delivery charges, or other non-credit terms). (b) If Merchant does not make these disclosures, a full refund in the form of a credit to the cardholder's Card account must be given. Disclosures must be made on all copies of Sales Drafts or invoices in letters approximately 1/4" high in close proximity to the space provided for the Cardholder's signature or on an invoice issued at the time of the sale or on an invoice being presented for the Cardholder's signature. (c) Any change in Merchant's return or

cancellation policy must be submitted in writing to Bank and ISO not less than fourteen (14) days prior to the change. Bank or ISO reserves the rights to refuse to process any Sales Draft made subject to a revised return or cancellation policy of which Bank and ISO have not been notified as required herein.

- 2.11 **Cash Payments.** Merchant shall not receive any payments from a Cardholder for charges included in any Transaction resulting from the use of any Card nor receive any payment from a Cardholder to prepare and present a Transaction for the purpose of affecting a deposit to the Cardholder's Card account.
- 2.12 **Cash Advances; Scrip Purchases.** Merchant shall not deposit any Transaction for the purpose of obtaining or providing a cash advance either on Merchant's Card or the Card of any other party and shall not accept any Card at a scrip terminal. Merchant agrees that either such action shall be grounds for immediate termination.
- 2.13 **Duplicate Transactions.** Merchant shall not deposit duplicate Transactions. Merchant shall be debited for any adjustments for duplicate Transactions and shall be liable for any Chargebacks which may result therefrom.
- 2.14 **Deposit of Fraudulent Transactions.** Merchant shall not accept or deposit any fraudulent Transaction and may not under any circumstances present for processing or credit, directly or indirectly, a Transaction which originated with any other merchant or any other source other than Transactions arising from bona fide purchases from Merchant for the goods and services for which Merchant has been approved under this Agreement. If Merchant deposits any prohibited Transaction, Merchant may be immediately terminated, and Bank may hold funds and/or demand an Escrow pursuant to Sections 4.02 and 5.06; further, Merchant may be subject to the Visa and MasterCard reporting requirements set forth in Section 4.02 (c). Merchant understands and agrees that it is responsible for its employees' action, whether negligent or fraudulent, while in its employ.
- 2.15 **Collection of Pre-existing Debt.** Merchant shall not prepare and present to Bank for purchase any Transaction representing the refinancing of an existing obligation of a Cardholder including, but not limited to, obligations (i) previously owed to Merchant, (ii) rising from the dishonor of a Cardholder's personal check, Chargeback, and/or (iii) representing the collection of any other pre-existing indebtedness, including collection of delinquent accounts on behalf of third parties.
- 2.16 **Release of Cardholder Account Information.** Merchant will not, under any circumstances, release, sell or otherwise disclose any Cardholder's account number or any information relating to any Cardholder's account number or any Sales Drafts or Credit Vouchers which may have been imprinted with any Card to any person other than Bank, ISO or the applicable Card Association and, except as expressly authorized in writing by the Cardholder, or as required by law. Further, Merchant agrees to store any material containing Cardholder account information in a secure manner or destroy such information at the proper time in a fashion which renders the data unreadable. Merchant agrees to also notify Bank and ISO of any existing third party involved in the payment process that may have access to cardholder data and obtain approval from the Bank and ISO prior to entering into any third party arrangement whereby such third party would have access to cardholder data.
- 2.17 **Compliance with Card Association Rules.** Merchant shall comply with and conduct its Card activities in accordance with all applicable Card Association rules and regulations. Failure to comply with such rules and regulations, may result in Merchant being terminated for cause and listed on the Terminated Merchant File. With respect to MasterCard or Visa USA, Merchant shall not (i) accept cardholder payments for previous Cards charges incurred at the Merchant location; (ii) establish a minimum or maximum transaction amount as a condition for honoring a Card; (iii) require a cardholder to complete a postcard or similar device that includes the cardholder's account number, card expiration date, signature, or any other card account data in plain view when mailed; (iv) add any surcharge to transactions; (v) add any tax to transactions, unless applicable law expressly requires that Merchant be permitted to impose a tax (any tax amount, if allowed, must be included in the transaction amount and not collected separately); (vi) enter into interchange any transaction receipt for a transaction that was previously charged back to Bank and subsequently returned to Merchant, irrespective of cardholder approval (Merchant may pursue payment from the customer outside the Card Association system); (vii) request or use an account number of any purpose other than as payment for its goods or services; (viii) disburse funds in the form of travelers cheques, if the sole purpose is to allow the cardholder to make a cash purchase of goods or services from Merchant; (ix) disburse funds in the form of cash, unless: Merchant is a Lodging or Cruise Line Merchant disbursing cash to a Cardholder; Merchant is dispensing funds in the form of travelers cheques, Cards, or foreign currency; or Merchant is participating in the Card Association Cash Back Service; (x) accept a Card for the purchase or scrip; (xi) accept a Card for manual cash disbursement; (xii) accept a Card to collect or refinance existing debt that has been deemed uncollectible by the Merchant providing the associated goods or services; or (xiii) enter into Interchange a Transaction that represents collection of a dishonored check.
- 2.18 **Merchant's Business.** (a) Merchant shall provide Bank with immediate notice of its intent to (i) transfer or sell any substantial part of its total assets, or liquidate; (ii) change the basic nature of its business, including selling any products or services not related to its current business; (iii) change ownership or transfer control of its business; (iv) enter into any joint venture, partnership or similar business arrangement whereby any person or entity not a party to this Agreement assumes any interest in Merchant's business; (v) alter in any way Merchant's approved monthly volume and average ticket; or (vi) changes its return policies or to another fulfillment house different from those identified in Merchant Application. (b) Merchant shall provide Bank and ISO with prompt written notice if it becomes subject to any voluntary or involuntary bankruptcy or insolvency petition or proceeding. (c) Failure to provide notice as required above may be deemed a material breach and shall be sufficient grounds for termination of Merchant and for exercise by Bank and/or ISO of all their rights and remedies provided by this Agreement. In the event any of the changes listed above should occur, Bank and ISO shall have the option to re-negotiate the terms of this Agreement or provide immediate notice of termination. (d) With notice and during Merchant's normal business hours, Bank or ISO's duly authorized representatives may visit Merchant's business premises and may examine only that part of Merchant's books and records that pertain to the acceptance of Cards and transactions processed.
- 2.19 **Warranties of Merchant.** Merchant hereby provides the following warranties to Bank and ISO: (a) All information contained in Merchant's application for processing services or any other documents delivered to Bank and/or ISO in connection therewith is true and complete and properly reflects Merchant's business, financial condition and principal partners, owners or officers. (b) Merchant has the power to execute, deliver and perform this Agreement, and this Agreement is duly authorized, and will not violate any provisions of law, or conflict with any other agreement to which Merchant is subject. (c) Merchant has all licenses, if any, required to conduct its business and is qualified to do business in every jurisdiction where it is required to do so. (d) There is no action, suit or proceeding at law or in equity now pending or to Merchant's knowledge, threatened by or against or affecting Merchant which would substantially impair its right to carry on its business as now conducted or adversely affect its financial condition or operations. (e) Each Sales Draft presented to Bank for collection is genuine and is not the result of any fraudulent or prohibited Transaction or is not being deposited on behalf of any business other than Merchant as authorized by this Agreement. Further, Merchant warrants that each Sales Draft is the result of a bona fide Card Transaction for the purchase of goods or services from Merchant by the Cardholder in the total amount stated on the Sales Draft. (g) Merchant has performed or will perform all of its obligations to the Cardholder in connection with the Card Transaction evidenced thereby. (h) Merchant has complied with Bank's procedures for accepting Cards, and the Card Transaction itself shall not involve any element of credit for any other purposes other than that as set forth in this Agreement, and shall not be subject to any defense, dispute, offset or counterclaim which may be raised by any Cardholder under the Card Associations' rules, the Consumer Credit Protection Act (15 USC 1601) or other relevant state or federal statutes or regulations. (i) Merchant warrants that any Credit Voucher which it issues represents a bona fide refund or adjustment on a Card sale by Merchant with respect to which a Sales Draft has been accepted by Bank.

ARTICLE III - PRESENTMENT, PAYMENT, CHARGEBACK

- 3.01 **Acceptance.** Bank shall accept from Merchant all Sales Drafts deposited by Merchant under the terms of this Agreement and shall present the same to the appropriate Card Issuers for collection against Cardholder accounts. Merchant is required to transmit Sales Drafts and Credit Vouchers to Bank or its processing vendor on the same of next business immediately following the day that such Sales Drafts and Credit Vouchers have been originated. All presentment and assignment of Sales Drafts, collection therefore and re-assignment or rejection of such Sales Drafts are subject to the terms of this Agreement and regulations of the Card Associations. Bank shall only provisionally credit the value of collected Sales Drafts to Merchant's Account and reserves the right to adjust amounts collected to reflect the value of Chargebacks (actual and anticipated), fees, penalties, late submission charges, Reserve deposits, negative Sales Draft batch deposits and items for which Bank did not receive final payment.
- 3.02 **Endorsement.** The presentment of Sales Drafts to Bank for collection and payment is Merchant's agreement to sell and assign all its right, title and interest in each Sales Draft completed in conformity with Bank's acceptance procedures and shall constitute an endorsement by Merchant to Bank of such Sales Drafts. Merchant hereby authorizes Bank to supply such endorsement on Merchant's behalf.
- 3.03 **Prohibited Payments.** Bank shall have the sole right to receive payment of any Sales Draft presented by Merchant and paid by Bank unless and until there is a Chargeback. Unless specifically unauthorized in writing by Bank, Merchant shall not make or attempt to make any collections on any Sales Draft, including Chargebacks, and shall hold in trust for Bank and shall promptly deliver in kind to Bank any payment Merchant receives, in whole or in part, of the amount of any accepted Transaction, together with the Cardholder's name and account number and any correspondence accompanying the payment.
- 3.04 **Chargebacks.** (a) Merchant agrees to accept for chargeback any sale for which: (i) The Cardholder disputes the validity of the sale according to prevailing Card Association regulations. (ii) An Issuer or Bank determines that Merchant has any way failed to comply with Card Association regulations or Bank's procedures in accepting a Card and presenting the resulting Sales Draft to Bank for purchase. (b) Section 2.03 notwithstanding, Merchant acknowledges that Bank shall have full recourse to charge back the amount of a Card sale for which the Cardholder disputes that he/she authorized the charge if (i) the Imprint of the Card or (ii) the signature of the Cardholder was not obtained by Merchant. (c) Merchant shall not initiate a sale Transaction in an attempt to collect a Chargeback. (d) Merchant agrees to pay the current published fees for each Chargeback as listed on [Schedule A](#).

ARTICLE IV - TERMINATION AND EFFECT OF TERMINATION

- 4.01 **Term; Termination.** (a) This Agreement shall become effective upon acceptance by Bank and shall continue for a period of two (2) years with automatic two-year renewals thereafter until any party has provided written notice of non-renewal given no less than thirty (30) days from the end of the then-current term. Bank or ISO may terminate this Agreement immediately without prior notice if (i) either party has reason to believe that fraudulent Card Transactions or other activity prohibited by this Agreement is occurring at any Merchant location; (ii) such action is taken to prevent loss to Bank, ISO or Card Issuers; or (iii) Merchant appears on any Card Association's security reporting. All rights and obligations of the parties existing hereunder as of the effective time of termination shall survive the termination hereof. (b) If any case or proceeding is commenced by or against Merchant under any federal or state law dealing with insolvency, bankruptcy, receivership or other debt relief, this Agreement shall simultaneously therewith automatically terminate, and any amounts due to Bank or ISO shall accelerate and become immediately due and payable, without the necessity of any notice, declaration or other act whatsoever by either Bank or ISO. Notwithstanding such termination, Bank, at its sole discretion, may determine that Consent to Merchant's subsequent assumption of this Agreement is in Bank's and ISO's best interests. In such event, the assumption will be made under terms and conditions that are acceptable to Bank, including the provision for adequate security, and comply with the applicable federal or state laws governing such assumption.
- 4.02 **Effect of Termination.** (a) **Suspension of Payment.** In the event of termination regardless of cause, merchant expressly authorizes Bank to withhold and discontinue the disbursement for all Cards and other payment transactions of Merchant in the process of being collected and deposited. (b) **Reserve Account.** Collected funds will be placed in a non-interest bearing account at Bank (the "Reserve Account") until Merchant pays any equipment cancellation fees and any outstanding charges, losses or amounts and for chargebacks for which Merchant has provided indemnification under this Agreement. Further, Bank reserves the right to require Merchant to deposit additional amounts based upon Merchant's processing history and/or anticipated risk of loss to Bank into the Reserve Account. Bank and ISO shall be granted a continuing security interest in the Reserve Account. The Reserve Account shall be maintained a minimum of one hundred and eighty (180)

days after the termination date and for any reasonable period thereafter during which Cardholder disputes may remain valid under the Card Associations' regulations. The provisions of this Agreement relating to the debiting and crediting of the Account shall be applied to the Reserve Account and shall survive termination of this Agreement until Bank terminates the Reserve

Account. Any balance remaining after Chargeback rights have expired and all other expenses, losses and damages have been paid will be disbursed to Merchant (c) If Merchant is terminated for cause, Merchant acknowledges that Bank may be required to report Merchant's business name and the names and other identification of its principals to the Merchant Alert to Control High Risk Merchants (MATCH file) maintained by Visa and MasterCard. **Merchant expressly agrees and consents to such reporting in the event Merchant is terminated for any of the reasons requiring listing on the MATCH file.** Furthermore, Merchant waives and shall hold harmless Bank and ISO from any claims which Merchant may raise as a result of such reporting. (d) Upon termination for any reason, Merchant will immediately cease requesting Authorizations. In the event Merchant obtains any Authorization after termination, Merchant expressly acknowledges and agrees that the fact that any Authorization was requested or obtained shall not operate to reinstate this Agreement. (e) Following termination, Merchant shall upon request provide Bank with all original and electronic copies of Sales Drafts and Credit Vouchers that have been retained by Merchant as of the date of termination. (f) **De-conversion Fee.** If ISO or Bank terminates Merchant for cause or if Merchant terminates at any time during the initial term of this Agreement, Merchant shall pay to ISO a de-conversion fee of Two Hundred and Fifty Dollars (\$250).

ARTICLE V - MISCELLANEOUS

- 5.01 **Account Monitoring.** Merchant acknowledges that ISO and/or Bank will monitor Merchant's daily deposit activity. Merchant agrees that Bank may upon reasonable grounds suspend the disbursement of Merchant's funds for any reasonable period of time required to investigate suspicious or unusual deposit activity. ISO and/or Bank will make good faith efforts to notify Merchant promptly. ISO and/or Bank shall have no liability for any losses, either direct or indirect, which Merchant may attribute to any suspension of funds disbursement.
- 5.02 **Forms.** Merchant shall use only such forms or modes of transmission of Sales Drafts and Credit Vouchers as are provided or approved in advance by Bank or ISO, and Merchant shall not use such forms other than in connection with Card Transactions.
- 5.03 **Records.** In addition to any records routinely furnished to Bank or ISO pursuant to this Agreement, Merchant shall preserve a copy of the actual paper Sales Drafts and Credit Vouchers and any written authorization of the Cardholder for at least two (2) years after the date Merchant presents the Transaction to Bank.
- 5.04 **Requests for Copies.** Immediately upon receipt of any request by Bank or ISO, Merchant shall provide either the actual paper Sales Draft or a legible copy thereof (in size comparable to the actual Sales Draft) and any other documentary evidence available to Merchant and reasonably requested by Bank or ISO to meet Bank's obligations under law (including its obligations under the Fair Credit Billing Act) or otherwise to respond to questions concerning Cardholder accounts.
- 5.05 **Compliance with Law.** Merchant shall comply with all laws applicable to Merchant, Merchant's business and any Card Transaction, including without limitation all state and federal consumer credit and consumer protection statutes and regulations.
- 5.06 **Fees and Charges.** Merchant shall pay to Bank the fees and charges set forth on Schedule A including any additional charges applied to transactions that fail to meet Card Association requirements for the lowest interchange levels. Merchant's Account will be debited through ACH or withheld from daily payments to Merchant for such amounts and for any other fees, charges or adjustments incurred by Merchant and associated with processing services. Bank and ISO shall have the right to change fees, including adding fees for additional services utilized by Merchant, upon thirty (30) days written notice.
- 5.07 **Security.** Merchant agrees that all of its obligations under this Agreement shall be secured to Bank and ISO by all deposit accounts maintained by Merchant with Bank, including deposits made by Merchant as collateral or funds withheld by Bank or ISO as the result of routine security monitoring, and by all other personal property that serves as collateral for any other indebtedness arising out of Merchant's business and owed by Merchant to Bank or ISO. Merchant agrees that if Bank determines that the proceeds of Merchant's future Card sales are unlikely to cover anticipated Chargebacks, credits, fees and adjustments, as reasonably determined by Bank or ISO (whether because this Agreement has been terminated or for any other reason), Bank may fully or partially prohibit withdrawal by Merchant of funds from Merchant's deposit accounts maintained with financial institutions other than Bank, pending a determination from time to time by Bank and ISO to exercise their respective rights as a secured party against such accounts in partial or full payment of Merchant's obligations to Bank and ISO.
- 5.08 **Modifications to Agreement.** This Agreement is subject to amendment to conform with Card Association regulations, as amended from time to time. From time to time Bank and ISO may amend any provision or provisions of this Agreement, including, without limitation, those relating to the discount rate or to other fees and charges payable by Merchant by mailing written notice to Merchant of the amendment at least thirty (30) days prior to the effective date of the amendments, and the amendment shall become effective unless Bank or ISO receives Merchant's notice of termination of this Agreement before such effective date. Amendments required due to changes in either Card Association's rules and regulations or any law or judicial decision may become effective on such shorter period of time as Bank may specify if necessary to comply with the applicable rule, regulation, law or decision.
- 5.09 **ISO MAKES NO WARRANTIES REGARDING THE USE, OPERATION OR PERFORMANCE OR NON-PERFORMANCE OF SOFTWARE AND SYSTEMS UTILIZED FOR THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED, AND ISO EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE**
- 5.10 **Supplementary Documents.** Reference to "this Agreement" includes any valid schedules, appendices and amendments thereto.
- 5.11 **Limitation of Liability; Indemnity.**
(a) Bank's and ISO's liability, whether joint or several, with respect to any Card Transaction shall not exceed the amount of the Sales Draft in connection with that Transaction less any applicable fees and charges. **Bank and ISO shall in no event be liable for any incidental or consequential damages whatsoever.** (b) Neither ISO nor Bank shall be liable for any losses, claims, demands, penalties, actions, delays, costs or expense, including reasonable attorney's fees, of any kind unless Merchant provides written notice to ISO or Bank of the occurrence that gave rise to the alleged liability within thirty (30) days of the date Merchant knew or should have known of the occurrence. (c) Merchant hereby agrees to indemnify and hold Bank and ISO harmless from any claim relating to any Sales Draft paid for by Bank as may be made by anyone by way of defense, dispute, offset, counterclaim or affirmative action, or for any damages of or losses that either Bank or ISO may incur as a result of Merchant's breach of this Agreement. Further, Merchant shall reimburse Bank or ISO, as the case may be, for all expenses and costs, including attorney's fees, with regard thereto.
- 5.12 **Waiver.** Failure by Bank or ISO to enforce one or more of the provisions of this Agreement shall not constitute a waiver of the right to enforce the same or other provision in the future.
- 5.13 **Notices.** All notices and other communications required or permitted under this Agreement shall be deemed delivered when mailed first class mail, postage prepaid, addressed as follows:
a) Future Management Group Inc., 102 Davenport Lane #7, Louisville KY, 40223
b) Merrick Bank Corporation, 10705 South Jordan Gateway, Suite 200, South Jordan, UT 84095, Attn: Fred Horn
c) If to Merchant, at the address provided as the billing address and to the contact listed on the Merchant Application.
- 5.14 **Choice of Law; Jurisdiction.** Any claim or cause of action arising out of this Agreement against Bank alone shall be initiated and maintained in the state courts located in Salt Lake County, Utah, in which case this Agreement shall be governed and construed under the laws of that state. Any other claim or cause of action, regardless of which party shall be the complainant, shall be initiated and maintained in the state courts located in Louisville, Jefferson County, Kentucky, in which case this Agreement shall be governed and under the laws of the State of Kentucky
- 5.15 **Entire Agreement; Assign ability.** This Agreement expresses the entire understanding of the parties with respect to the subject matter hereof and except as provided herein, may be modified by only in writing executed by all parties hereto. This Agreement may not be assigned, directly or by operation of law, without the prior written consent of Bank and ISO. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, personal representatives, successors and assigns.
- 5.16 **Deposit Account.** Merchant shall at all times maintain an Account at a bank that is a member of the Federal Reserve ACH System and shall provide Bank and ISO with proper authorization for debiting of the Account. All credits for collected funds and debits for fees, payments and Chargebacks and other amounts for which Merchant is liable under the terms of this Agreement shall be made to the Account. Merchant may not close or change the Account without written notice to Bank or ISO. Merchant will be solely liable for all fees and costs associated with the Account and for all overdrafts. Merchant hereby grants to Bank and ISO a security interest in the Account to the extent of any and all fees, payments and Chargebacks and other amounts due which may arise under this Agreement, and Merchant shall execute any document and obtain any consents or Waivers from the bank at which the Account is maintained as requested by Bank or ISO to protect their security interests therein.
Credit and Financial Inquiries; Additional Locations; Inspections.
(a) Merchant authorizes Bank and ISO to make, at any time, any credit inquires which either may consider necessary to accept or review acceptance of this Agreement or investigate Merchant's deposit or Card acceptance activities subsequent to acceptance of this Agreement. Such inquiries shall include, but are not limited to, a credit and/or criminal check of the business including its proprietor, partners, principal owners or shareholders or officers. If requested to do so by Bank or ISO, Merchant shall provide the written consent of any person for which an inquiry has been or is to be made if such person has not executed this Agreement and will provide any financial statements, income tax and business tax returns and other financial information as Bank or ISO may consider necessary to perform initial or periodic reviews of Merchant's financial stability and business practices. (b) Merchant may accept Cards only at locations approved by Bank. Additional locations may be added, subject to Bank's and ISO's approval. Any party to this Agreement may delete any location by providing notice as provided herein. (c) Merchant agrees to permit Bank or ISO, at any time and from time to time, to inspect locations to confirm that Merchant has or is adhering to the terms of this Agreement and is maintaining the proper facilities, equipment, inventory, records and license or permit (where necessary) to conduct its business. However, nothing in this paragraph shall be deemed to waive Merchant's obligation to comply in all respects with the terms of this Agreement. (d) Representatives of Bank or ISO may, during normal business hours, inspect, audit and make copies of Merchant's books, accounts, records and files pertaining to any Card Transaction.
- 5.17 **Marketing of Non-Bankcard Services by ISO.** From time to time, ISO may offer to Merchant certain additional products and services which may or may not be related to the processing of credit card Transactions. In the event of such offers, Merchant shall indicate its desire to ISO to decline such offers or be deemed to have accepted the offers and be liable for payment therefore.