

Merchant Terms

THE SERVICES PROVIDED BY iMerchant Direct, Inc. (“iMerchant Direct”) ARE PROVIDED SUBJECT TO THE STANDARD TERMS AND CONDITIONS SET FORTH BELOW (THE “STANDARD TERMS”) AND THE ASSOCIATED MERCHANT APPLICATION AND PAYMENT TERMS (AS DEFINED IN SECTIONS 2 AND 3, RESPECTIVELY). THESE STANDARD TERMS AND ALL PAYMENT TERMS APPLICABLE TO CLIENT, AS WELL AS ALL TERMS AND POLICIES INCORPORATED INTO THESE STANDARD TERMS, TOGETHER, CONSTITUTE THE CONTRACT BETWEEN iMerchant Direct AND CLIENT (THE “CONTRACT”). THIS CONTRACT BECOMES BINDING WHEN CLIENT SIGNS UP FOR ANY iMerchant Direct SERVICES OR WHEN CLIENT USES iMerchant Direct SERVICES AFTER RECEIVING A COPY OF THIS CONTRACT.

THE TERM “CLIENT” REFERS TO YOU, REGARDLESS OF WHETHER YOU ARE ACTING ON YOUR OWN BEHALF, OR THE COMPANY YOU REPRESENT, INCLUDING ALL LOCATIONS SUCH COMPANY REGISTERS FOR iMerchant Direct SERVICES, WHETHER SUCH LOCATIONS ARE OWNED BY THAT COMPANY OR ARE FRANCHISEES (EACH, A “LOCATION”).

CLIENT’S ACCEPTANCE OF THIS CONTRACT ALSO INCLUDES ACCEPTANCE OF iMerchant Direct’S USER TERMS OF SERVICE (“USER TERMS”) AND PRIVACY POLICY, BOTH OF WHICH ARE AVAILABLE AT WWW.iMerchantDirect.COM AND ARE INCORPORATED HEREIN BY REFERENCE.

THIS CONTRACT CREATES BINDING LEGAL OBLIGATIONS. IF CLIENT DOES NOT AGREE TO BE BOUND BY THESE STANDARD TERMS AND/OR ANY PAYMENT TERMS, THE USER TERMS, AND THE PRIVACY POLICY, YOU SHOULD NOT SIGN UP FOR OR USE iMerchant Direct’S SERVICES. IF CLIENT DOES NOT ACCEPT THIS CONTRACT, CLIENT WILL NOT BE ABLE TO USE iMerchant Direct’S SERVICES.

iMerchant Direct RESERVES THE RIGHT, IN ITS SOLE DISCRETION, TO MODIFY OR REPLACE ANY PART OF THESE STANDARD TERMS, ITS PRIVACY POLICY OR THE USER TERMS AT ANY TIME, AND SUCH MODIFIED TERMS WILL BE EFFECTIVE UPON THE DATE OF SUCH CHANGE. iMerchant Direct WILL NOTIFY CLIENT OF SUCH CHANGES BY POSTING THEM ON ITS WEBSITE AND POSSIBLY BY OTHER MEANS. YOUR CONTINUED USE AND ACCESS TO THE SERVICES FOLLOWING ANY POSTING OF ANY CHANGES TO THESE STANDARD TERMS CONSTITUTES YOUR ACCEPTANCE OF THOSE CHANGES.

iMerchant Direct offers a variety of services and tools for merchants, service providers, and restaurants, including tools for electronic marketing, appointment management, loyalty programs, review tracking, payment processing, payroll management, ordering applications, self-service customer check-in services, website services, and integrated point of sale (“POS”) systems, and expects to offer additional services in the future. iMerchant Direct may also

provide services to Users who are customers of Client (e.g., subscribing to or checking balances in loyalty programs, using online ordering or reservation services through a iMerchant Direct website or mobile app). All services offered by iMerchant Direct, currently or in the future, whether offered to Client or to Users who are customers of Client, are referred to as the “Services,” and are subject to this Contract. Certain Services are described briefly below, and all Services are described on iMerchant Direct’s website, www.iMerchantDirect.com, and/or in other marketing or explanatory materials, the Merchant Application (as defined in Section 2), or other materials provided by iMerchant Direct (collectively, the “Service Descriptions”).

Client wishes to use some or all of the Services for Client’s business purposes, and iMerchant Direct agrees to provide Client with the Services for which Client subscribes, pursuant to this Contract.

1. Description of Services. Services generally include the following:

1.1 Marketing and Payment Services. The “Marketing and Payment Services,” which include options for a loyalty program, review tracking, and payment processing, allow Client to send a variety of messages, special offers, coupons, appointment reminders, and other information (collectively, “Notes”) to Users (as defined in Section 6.4) through various social media platforms, which may include email, mobile communications (e.g., SMS text messaging or other mobile notifications), Facebook, Twitter, and possibly other social media platforms. All of such communication platforms, together with any websites owned or controlled by Client, are referred to as “Program Sites.” Any third-party sites to which Client adds content via a iMerchant Direct proprietary dashboard (“Dashboard”) or via any other Service or tool made available by iMerchant Direct, are also included in the definition of Program Sites. “Marketing and Payment Services” may include Hardware (as defined in Section 1.5), software, and services that allow Client to register Users and process requests and payments for Users.

1.2. iMerchant Direct Website Services. “iMerchant Direct Website Services” allow Client to create, update, publish, and operate its own website.

1.3. POS Services. The “POS Services” include an integrated system that combines Hardware, software, and services that allow Client to process orders and payments from fixed or mobile devices and integrate the resulting data with certain of iMerchant Direct’s other Services. The POS Services for restaurants (“iMerchant Direct Restaurant POS”) include features designed specifically for restaurants and the sale of Hardware to the Client at a discount.

1.4. Outsourced Services. iMerchant Direct also provides certain Services, such as for payroll, through third parties.

1.5. Hardware. Client may purchase or rent devices, equipment, hardware, or other materials (collectively, “Hardware”) provided by iMerchant Direct for use with certain Services, as described in the applicable Service Descriptions. If such Hardware is rented from iMerchant

Direct, Client understands that iMerchant Direct will continue to be the owner of such Hardware, and that Client has the obligation to return the Hardware to iMerchant Direct within 15 days of the termination of this Contract. Client will not remove, alter, efface, cover, or otherwise modify any markings, stickers, or other indicia applied to any Hardware loaned or rented by iMerchant Direct. Client will use such Hardware exclusively in conjunction with the applicable Service(s) and for no other purpose. Client will use such Hardware in accordance with normal usage, and will not alter, or seek to alter, any such Hardware. Client will be responsible for the security of such Hardware and for maintaining such Hardware in good and operable condition, subject to ordinary wear and tear.

2. Merchant Application. In order to access iMerchant Direct's Services, Client shall execute and return to iMerchant Direct a merchant processing application or other merchant application and agreement provided by iMerchant Direct (hereinafter, each, a "Merchant Application"), which lists the particular Services Client desires to use and certain payment terms. The Merchant Application also incorporates the Terms and Conditions of iMerchant Direct's payment processor, which are available under the Payments tab at www.iMerchantDirect.com/privacy. The terms of the Merchant Application agreed to by Client are incorporated into these Standard Terms. In the event of any inconsistency between the terms of a Merchant Application and these Standard Terms, these Standard Terms shall apply unless the Merchant Application specifically states that they are being amended or superseded.

3. Payments. Upon acceptance of the Merchant Application by iMerchant Direct and/or its bank, iMerchant Direct will be authorized to charge Client's credit card or debit Client's bank account for all "Fees" (as described in this Section 3) payable under this Contract. The Fees for each Service are described in the applicable Service Description, a Merchant Application, or as otherwise agreed to by the parties (collectively, the "Payment Terms"). The following terms apply to all Services, and are in addition to the terms included in the applicable Merchant Application.

3.1. Subscriptions. All Services are provided on a subscription basis, in some cases after a free trial period, all as described in the applicable Service Descriptions, Merchant Application, or as otherwise agreed to by the parties. Subscriptions will be on a monthly basis or otherwise as agreed by the parties. All subscription Fees will be paid in advance of the subscription period, or as otherwise agreed to in writing by the parties, via the payment method authorized by Client.

3.2. Activity Fees. Activity Fees for any transactions (e.g., SMS text messaging or other processing fees) will be payable in arrears via the payment method authorized by Client.

3.3. Hardware Fees. If applicable, purchase or rental Fees for Hardware provided by iMerchant Direct will be payable as set forth in the applicable Service Descriptions, Merchant Application, or as otherwise agreed to by the parties. In the event Client does not return rented or loaned Hardware within 30 days of the termination of this Contract, iMerchant Direct may charge Client a replacement fee, the amount of which shall be as set forth in the applicable Merchant Application or otherwise included in the Service Descriptions, or, if not otherwise

specified, as determined by iMerchant Direct. In the event of an inconsistency between the replacement fee and the terms in the Merchant Application or those in other portions of the Service Descriptions, the terms of the Merchant Application will control. The replacement fee will be debited to Client according to the payment method authorized by Client. Upon receipt of such payment, title to such Hardware will vest in Client. Clients using iMerchant Direct Restaurant POS that terminate this Contract within one year of its Effective Date may be charged the difference between the list price for the Hardware purchased from SpoOn and the discounted price paid by the Client, and that price adjustment may be debited to Client according to the payment method authorized by Client.

3.4. **Fee Changes.** iMerchant Direct may change any Fees that it charges for any Services or Hardware provided by iMerchant Direct by giving Client notice of such change (the "Fee Change") at least 30 days before the change becomes effective. If Client does not agree to any such Fee Change, Client may terminate this Contract (and Client's use of the Services) by notifying iMerchant Direct of termination prior to the effective date of the Fee Change. This Contract and Client's use of the Services shall thereupon be terminated as of the effective date of the Fee Change. Client's failure to terminate this Contract prior to the effective date of the Fee Change shall constitute Client's acceptance of the Fee Change.

3.5. **Notices of Charges.** The amount to be debited to Client's account or charged to Client's credit card for the Services shall be adjusted pursuant to any Fee Change accepted (or deemed accepted) by Client, starting on the effective date of the Fee Change. Client may view its amounts payable and past charges by iMerchant Direct on the Dashboard.

3.6. **Obligation of Client for Fees.** Client agrees not to terminate its authorization for debits to Client's account or charges to Client's credit card until all Fees and charges payable under this Contract have been paid in full. All Fees and charges payable hereunder shall remain enforceable obligations of Client regardless of whether: (i) Client terminates its debit or charge card authorization prior to collection in full by iMerchant Direct, (ii) an authorized payment fails or is rejected, or (iii) Client challenges or seeks to reverse any charge authorized under this Contract.

3.7. **Debit Authorization.** By providing its credit card or checking account information to iMerchant Direct, Client agrees that iMerchant Direct is authorized to charge Client's credit card or checking account for all Fees payable under this Contract. Service(s) may be interrupted on accounts that reach 10 days past due. Accounts that are not collectable by iMerchant Direct may be turned over to an outside collection agency for collection.

3.8. **Taxes.** Client is responsible for paying all taxes applicable to or resulting from the Services and transactions contemplated by this Contract. If iMerchant Direct is required to collect or pay taxes on any Services or Hardware provided to Client by iMerchant Direct that were not billed to Client, iMerchant Direct may charge Client for such taxes via the credit card or checking account authorized by Client for other charges. Client is also responsible for

calculating and paying all taxes associated with its sale or delivery of products or services to its customers, as described in Section 6.14.

4. Proprietary Rights.

4.1. Client's Proprietary Rights. iMerchant Direct may use certain trademarks and copyrighted material of Client on iMerchant Direct apps or iMerchant Direct websites and on other sites and apps applicable to the type of Services selected by Client or to provide Services to Users who are customers of Client. Client consents to all such usage by iMerchant Direct. Client retains all rights in and to its trademarks and copyrights.

4.2. iMerchant Direct's Proprietary Rights. iMerchant Direct has developed or acquired proprietary software and systems through which it delivers the Services, including the Dashboard and iMerchant Direct's internal tools (collectively, the "iMerchant Direct Software"). iMerchant Direct grants Client a license to access the iMerchant Direct Software applicable to the Services selected by Client via the internet during the Term of this Contract, but only for the internal use of Client and subject to the other terms and conditions of this Contract. iMerchant Direct has developed trademarks, copyrighted material, and other intellectual property that it may use in conjunction with the Services, including on displays utilized by the Client and/or Users in conjunction with the Services, on websites, and apps related to the Services, and/or with Hardware; or that iMerchant Direct may otherwise use on behalf of Client or in conjunction with making the Services available for use by Client or Users. All (i) iMerchant Direct Software, (ii) any iMerchant Direct Dashboard, (iii) any iMerchant Direct website or mobile app, and (iv) all other software, dashboards, databases, tools, websites, mobile apps, portals, technology and systems used or offered by iMerchant Direct in conjunction with the Services are collectively referred to as "iMerchant Direct Technology." All iMerchant Direct Technology and all trademarks and other materials used by iMerchant Direct in the Services (other than those owned by Client or third parties), are owned by iMerchant Direct or its licensors.

4.3. Third Party Proprietary Rights: The Services may involve interaction with proprietary and/or branded websites, apps, or other technology of third parties, each of which retains all rights in and to its trademarks, tradenames, copyrights, and iMerchant Direct Technology (collectively, "Proprietary Materials"). Such third parties may include, for example, Facebook, Twitter, Google, Yelp, Foursquare, OpenTable, TripAdvisor, and other third parties now or in the future. Client has no right to use any Proprietary Materials of any third parties.

4.4. Feedback. Any information provided by Client to iMerchant Direct, including questions, comments, suggestions, ideas, feedback, or other material (collectively, "Feedback") is not confidential. Client hereby grants iMerchant Direct a worldwide, perpetual, irrevocable, royalty-free license to reproduce, display, perform, distribute, publish, modify, edit, incorporate into iMerchant Direct Technology, or otherwise use such Feedback as iMerchant Direct deems appropriate for any and all commercial and/or non-commercial purposes, in iMerchant Direct's sole discretion.

5. Representations, Warranties and Covenants of iMerchant Direct. iMerchant Direct represents and warrants to Client that iMerchant Direct will provide the Services in compliance with (i) applicable laws and regulations and (ii) consistent with iMerchant Direct's Services Descriptions.

6. Representations, Warranties and Covenants of Client. Client represents, warrants and covenants to iMerchant Direct as follows:

6.1. Noninfringement. Client has all rights to all materials delivered by Client for use (or approved by Client for use) in conjunction with the Services, including for use on Program Sites, iMerchant Direct apps, the Dashboard, and/or iMerchant Direct websites, and to all materials used by Client, or provided by Client for iMerchant Direct to use, in conjunction with the Services, without infringing the rights of iMerchant Direct or any third party.

6.2. Compliance with Law and Policy. Client will use the Services only for Client's business purposes and will comply with all applicable laws and regulations, the terms of the published policies and programs of both iMerchant Direct and Client. The foregoing includes all laws and regulations relating to privacy and security (including all laws and regulations relating to personal health information, financial information or other sensitive information), the CAN-SPAM Act of 2003, 15 U.S.C. § 103, et seq. (the "CAN-SPAM Act"), the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. ("TCPA") and all other laws and regulations relating to marketing to entities and / or individuals.

6.3. Privacy and User Terms. Client (including each Location) will comply with the Privacy Policy and User Terms, both of which are incorporated herein by reference, the Payment Terms applicable to the Services selected by Client, and to all other policies established by iMerchant Direct. Specifically, but without limiting the foregoing, Client will not use any data relating to Users or take any other action that the Privacy Policy or User Terms state may be done only with the permission of iMerchant Direct until and unless Client has received written permission from iMerchant Direct to do so, and Client will comply with any terms required by iMerchant Direct in conjunction with granting such permission. Client will not use any data relating to Users or take any other action that is inconsistent with the User Terms, the Privacy Policy, any other iMerchant Direct policy, or any applicable Service Description. In addition, Client understands that it is solely responsible for posting and disseminating to Users its own terms of use and a privacy policy on its websites or apps. Client hereby represents and warrants that its terms of use and privacy policy are consistent with this Contract and do not violate any applicable law, including CAN-SPAM and the TCPA.

6.4. User Interactions. Client shall be solely responsible for the creation and dissemination of all communications with its customers, prospective customers, and others with whom it communicates through the use of the Services and/or iMerchant Direct Technology (collectively, "Users"). iMerchant Direct does not create, send, disseminate, initiate, make, or take any of the steps necessary to send any communications to Users. iMerchant Direct shall not be directly liable for any communications sent to Users. Client will communicate with Users only in

compliance with all applicable laws, rules, and regulations, including CAN-SPAM and the TCPA, and all other applicable laws.

6.4.1. The TCPA, CAN-SPAM, and other laws may require Client to obtain consents from Users before Client sends any communications to Users. Client shall (i) bear the sole responsibility for obtaining any legally required consents from Users prior to sending any communications to Users, (ii) have the sole responsibility for storing and maintaining records of any legally required consents, (iii) maintain and implement a system that allows Users to opt-out of future communications from Client or to alter or revoke any consents related to communications from Client, and (iv) not send communications to Users beyond the frequency represented to such Users in any disclosures or terms provided by Client.

6.4.2. In addition to, and not in limitation of the foregoing, Client shall (i) comply with all laws and regulations, including CAN-SPAM and the TCPA, that require consent for communications to Users, (ii) be solely responsible for compliance with all applicable laws, regulations, and rules, including CAN-SPAM and the TCPA, and including all terms of this Contract, and (iii) have sole legal liability for any act, omission or violation of any of the foregoing by Client or any representative or contractor of Client that may occur in connection with Client's use of the Services and/or iMerchant Direct Technology.

6.4.3. Client agrees (i) that Client shall have sole responsibility for making and sending all messages to Users, and for the content and frequency of all such messages, and (ii) that iMerchant Direct merely provides Client with the related Services and/or iMerchant Direct Technology. Client is solely responsible for receiving consent from Users to submit to iMerchant Direct any information relating to the User as required in order to include such User in the applicable Services, and Client represents, warrants and covenants that providing such information about the User does not and will not violate any obligation Client has to such User, including pursuant to the Privacy Policy or the User Terms, Client's privacy policy, CAN-SPAM, the TCPA, or any other applicable law, regulation, or policy. Client is solely responsible for designing, describing, administering, and fulfilling the terms set forth in any descriptions of its products or services, or any promotions, deals, or programs offered by Client to Users, as communicated by Client using any of the Services. iMerchant Direct is not responsible for any complaints or actions by Users resulting from Client's failure to fulfill its obligations as described in the foregoing sentence.

6.5. User Communications. In addition to compliance with Section 6.4, Client will ensure that all interactions with Users are in compliance with (i) the terms of this Contract, and (ii) the terms of any offers, commitments, or representations Client has made to Users. In addition, Client represents, warrants and covenants that no communication with Users or published material made available to Users through the use of the Services (including Notes and Client websites) will contain: (a) any sexually explicit materials; (b) any viruses, Trojan horses, worms, or other harmful code; (c) disclosure of any personally identifiable information (without first obtaining the prior express written consent from the data subject); (d) any content commonly associated with unsolicited commercial messages (e.g., spam); (e) any libelous, scandalous, defamatory, disparaging, vulgar, profane, threatening, hateful, or harassing message, (f) any incitement to illegal activity, harassment, or violence; (g) any images, audio, video, or other content created by a third party, without obtaining the prior written consent from the content owner; or (h) any

other types of content that may be considered objectionable, illicit or illegal (all of the foregoing, collectively, "Offensive Content").

6.6. No Agency Relationship. No agency relationship between iMerchant Direct and Client is created by this Contract or by Client's use of the Services and/or iMerchant Direct Technology. Neither Client nor iMerchant Direct shall be an agent of the other party for any purpose. Specifically, and without limiting the foregoing, Client does not have (i) express actual authority to act on behalf of iMerchant Direct, (ii) implied actual authority to act on behalf of iMerchant Direct, or (iii) apparent authority to act on behalf of iMerchant Direct, and Client has no authority to create sub-agency relationships with any other individuals or entities. Client agrees that iMerchant Direct shall not be liable for Client's conduct under the doctrine of respondeat superior or any similar common law doctrine or statutory provision. Client's officers, directors, employees, staff, or agents are not de facto iMerchant Direct employees. iMerchant Direct does not ratify any conduct that violates the laws or regulations of any jurisdiction or this Contract.

6.7. Relationships with Third Parties. Client shall not retain any third parties for any purpose unless the third parties agree to comply with the terms of this Contract and with all prevailing laws and regulations, including CAN-SPAM and the TCPA and any associated regulations, and contractual terms regarding CAN-SPAM and TCPA compliance that are at least as stringent as the requirements set forth in this Contract. Client shall bear all legal responsibility if a third party it retains for any purpose engages in conduct that violates the laws or regulations of any jurisdiction, including CAN-SPAM and the TCPA. Client shall not allow any third parties to use the Software and / or iMerchant Direct Technology to create, send, disseminate, initiate, make or take any of the steps necessary to send any communications on its behalf. If Client purchases leads, phone numbers, or other contact information from a third party, Client shall bear all legal responsibility for ensuring that the third party obtained all consents required under the TCPA, CAN-SPAM, or other applicable laws or regulations.

6.8. Use of Program Site. Client will not (i) use any Program Site in a manner that is contrary to the terms governing such Program Site, including the privacy policy of such Program Site, or (ii) take any action that might interfere with or compromise iMerchant Direct's relationship with any Program Site. Client will not make any representations or warranties on its website, on any third-party website, in any Program Site or other social media, in Client's marketing materials or otherwise, regarding the Services that might harm iMerchant Direct's reputation or its relationship with any third parties, including any Program Site.

6.9. No Infringing or Inappropriate Content. Client will not disseminate, whether on its premises, on any Program Site, via any communication to Users (including via Notes), in the Chat Facilities (as defined in Section 12.8), through Client's website published through the iMerchant Direct Website Services or otherwise, any content that Client does not have the right to use ("Infringing Content"), or any content that in the sole judgment of iMerchant Direct may be Offensive Content (Infringing Content and Offensive Content, collectively, "Inappropriate Content").

6.10. No Interference. Client will not upload, post, e-mail or otherwise transmit any material that contains a virus or other mechanism designed to interrupt, destroy or limit the functionality of any iMerchant Direct Technology, any of the Services, or any software or system of a third party. Client will not interfere with the provision or use of the Services by iMerchant Direct, by any other client of iMerchant Direct, or by any User, nor will Client interfere with any other iMerchant Direct Technology or Services offered by iMerchant Direct. Except as authorized by iMerchant Direct, Client will not seek to download, obtain the code for or in any other way seek to access the iMerchant Direct Software or any other iMerchant Direct Technology.

6.11. Use of Data by Client. Client will use data relating to Users obtained through the use of the Services solely to market Client's goods and services to Users through the Services during the Term. Unless otherwise agreed to by the parties, Client will not download or make copies (whether in hard copy or electronic) of User information collected by iMerchant Direct or by Client through iMerchant Direct Technology or the Services except to the extent such downloading and/or use (i) is during the Term of this Contract, (ii) is solely for Client's internal business purposes, and (iii) is in accordance with iMerchant Direct's Privacy Policy and User Terms, and in accordance with applicable laws and regulations. If after the Term of this Contract Client contacts any person whose information was collected other than through iMerchant Direct or iMerchant Direct Technology, Sections 6.4 and 6.7 of this Contract shall continue to apply to all such contacts. Client will use information relating to Users only as permitted herein. Client will not provide any information obtained through the use of the Services, including any information that would personally identify, or facilitate personal contact with, any User (e.g., first and/or last names, email, telephone number, zip code, birthdate, gender, credit card or other financial information, or other identifying information) to any third party other than (a) to an acquirer in the event of a sale or merger of Client's business, provided that the acquirer agrees to maintain and use such data regarding Users in accordance with this Contract, including the Privacy Policy and User Terms, (b) as necessary to fulfill an order for a User, (c) to service providers of Client who need to know such information to provide services to Client consistent with this Contract and are obligated to keep such information confidential, (d) if required by law or subpoena, in response to an inquiry from law enforcement authorities or regulators, or (e) if Client believes the release of such information is necessary to address or prevent illegal or harmful activity. Client will not obtain or seek to obtain access to any nonpublic information of iMerchant Direct, any other iMerchant Direct client or other third party, or User information maintained on behalf of another iMerchant Direct client.

6.12. Multiple Locations. If Client registers more than one Location to use the Services, whether or not such Location is owned by Client, or is a franchisee or other licensee of Client, Client represents and warrants that it has the authority to commit such Location to the terms of this Contract. Client will be responsible for either fulfilling the responsibilities or for arranging such Location to fulfill the responsibilities set forth in this Contract, including the payment of Fees (as described in Section 3).

6.13. Accuracy, Currency, and Retention of Data. Client is responsible for the accuracy of the information Client (including each Location) provides iMerchant Direct relating to Users and for

updating such information as may be necessary to keep it current. Client will not rely on the information it transmits to iMerchant Direct as an archive or backup, and will be responsible for retaining copies of all information Client sends iMerchant Direct for which Client may have a need or wish to use. iMerchant Direct makes no representations or warranties about its ability to return information relating to Users or the accuracy or completeness of any such information if provided to Client, upon Client's reasonable request and iMerchant Direct's subsequent agreement to provide such data.

6.14. **Client Taxes and Other Payment Obligations.** Client will be responsible for recording, calculating, paying, and reporting (i) all federal, state and local taxes and fees due for Client's services and products provided to Users, (ii) all compensation and any other payments due to Client's employees and other personnel and providers, including hours worked or other services or materials provided, overtime, tips and any other payment obligations, (iii) all taxes and fees related to payroll or other payments paid or payable to employees or other third parties, and (iv) all taxes and fees resulting from Client's use of the Services (except for taxes on iMerchant Direct's income), whether levied initially on Client or on iMerchant Direct. To the extent iMerchant Direct or iMerchant Direct Technology provides information to Client with respect to any such calculation, tax, or other payment or reporting obligation, such information is provided merely as a convenience to Client, shall not be relied upon by Client, and does not relieve Client of its obligations described above.

6.15. **Payment Processing.** When Users use a credit or debit card or any other non-cash payment means through iMerchant Direct Technology (including a iMerchant Direct POS system, iMerchant Direct Website Services, or a iMerchant Direct website or mobile app), Client will not seek to discover or record the credit or debit card number or other payment details. When Users interact directly with Client without the use of any iMerchant Direct Technology, Client will record such payment details only with the express written consent of the User. Client will use a User's payment information only consistent with the scope of such User's authorization (e.g., to process payments) and will not disclose any payment information of Users to a third party without the User's written consent. Notwithstanding the foregoing, Client may disclose such payment information to (i) third parties necessary to effect a transaction, provided that such third parties have an obligation to use the payment information only for purposes of carrying out the transaction or for other activities that have been authorized by the applicable User, and (ii) when required under applicable law.

7. Disclaimers; Limitations of Liability; Release and Waiver

7.1. **Third Party Services.** Client understands and agrees that (i) certain Services offered by iMerchant Direct are delivered by third parties ("Third Party Providers") or through the technology of third parties ("Third Party Technology"), (ii) iMerchant Direct offers Services through the internet and through Third Party Providers and other third parties, including internet service providers, gateways, domain name registrars, Program Sites, and other social networking or third party sites or services (collectively, "Third Party Services"), and (iii) the Hardware provided hereunder that was sold, rented, or loaned to Client by iMerchant Direct that

is manufactured by a third party ("Third Party Devices"). Client agrees that iMerchant Direct is not responsible for the performance of the internet, any Third Party Providers, Third Party Technology, Third Party Services or Third Party Devices, or for the reliability, security, availability, compliance with law or any other aspect of the internet, or any Third Party Providers, Third Party Technology, Third Party Services or Third Party Devices. CLIENT HEREBY RELEASES iMerchant Direct FROM ANY DAMAGES CLIENT OR USERS MAY INCUR AS A RESULT OF USE OF (A) THE INTERNET; (B) ANY iMerchant Direct TECHNOLOGY, (C) ANY SERVICES PROVIDED BY iMerchant Direct; OR (D) ANY THIRD PARTY PROVIDERS, THIRD PARTY TECHNOLOGY, THIRD PARTY SERVICES, OR THIRD PARTY DEVICES. CLIENT AGREES NOT TO ASSERT ANY CLAIMS AGAINST iMerchant Direct, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR REPRESENTATIVES (COLLECTIVELY, "ASSOCIATED PERSONS") ARISING IN ANY WAY FROM USE OF THE INTERNET, ANY TECHNOLOGY, OR ANY THIRD PARTY PROVIDERS, THIRD PARTY TECHNOLOGY, THIRD PARTY SERVICES, OR THIRD PARTY DEVICES. In connection with the foregoing release, Client hereby waives California Civil Code Section 1542, and any similar provision in any other jurisdiction. California Civil Code Section 1542 provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which, if known by him must have materially affected his settlement with the debtor."

7.2. No Assurance of Availability of Services. Client understands and agrees that the Services, Third Party Services, Third Party Technology and Third Party Devices may be unavailable from time to time for maintenance or other reasons, and that iMerchant Direct is not responsible for any error, omission or interruption in the Services or in the performance of the Third Party Services, Third Party Technology or Third Party Devices, including any defect or delay in operation or transmission; communications failure; deletion, theft, destruction, or unauthorized access to or alteration of any content, (i) that iMerchant Direct sends through the Services, (ii) that Client collects, processes, stores, or sends through use of the Services, Third Party Services, Third Party Technology or Third Party Devices, or (iii) that Client attempts to so collect, process, store, or send; or for any technical malfunction or other difficulty Client may experience in the use of the Services, Third Party Services, Third Party Technology or Third Party Devices.

7.3. Disclaimer of Representations and Warranties. The representations, warranties, and covenants set forth in Section 5 are the only representations, warranties or covenants made by iMerchant Direct. iMerchant Direct HEREBY EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES AND COVENANTS, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. THE SERVICES, THIRD PARTY SERVICES, THIRD PARTY TECHNOLOGY, AND THIRD PARTY DEVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS. THE FOREGOING DISCLAIMER INCLUDES (i) A DISCLAIMER OF ANY REPRESENTATION, WARRANTY OR COVENANT THAT THE SERVICES, iMerchant Direct TECHNOLOGY, THIRD PARTY SERVICES, THIRD PARTY TECHNOLOGY, AND/OR THIRD PARTY DEVICES, WHETHER MADE AVAILABLE OR

RECOMMENDED BY iMerchant Direct WILL BE UNINTERRUPTED, RELIABLE, SECURE OR ERROR FREE; (ii) A DISCLAIMER THAT THE SERVICES, iMerchant Direct TECHNOLOGY, ANY THIRD PARTY PROVIDERS, THIRD PARTY SERVICES, THIRD PARTY TECHNOLOGY, OR THIRD PARTY DEVICES ARE FREE OF VIRUSES OR HARMFUL COMPONENTS; AND (iii) A DISCLAIMER THAT THE SERVICES, ANY iMerchant Direct TECHNOLOGY, ANY THIRD PARTY PROVIDERS, THIRD PARTY TECHNOLOGY, THIRD PARTY SERVICES, OR THIRD PARTY DEVICES WILL MEET CLIENT'S EXPECTATIONS. iMerchant Direct MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING WHETHER OR NOT THE SERVICES CONSTITUTE AN AUTOMATIC TELEPHONE DIALING SYSTEM, AS SUCH TERM IS USED IN THE TCPA. iMerchant Direct is not responsible for the provision and functioning of any connectivity, software, systems and/or other infrastructure necessary to work with the Services, the iMerchant Direct Technology, any iMerchant Direct Dashboard, any other technology and/or the Hardware provided by iMerchant Direct.

7.4. Limitation of Liability. UNDER NO CIRCUMSTANCES WILL iMerchant Direct OR ANY ASSOCIATED PERSON (AS DEFINED IN SECTION 7.1) BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY ARISING OUT OF OR IN CONNECTION WITH CLIENT'S USE OF, OR INABILITY TO USE, THE SERVICES, THE iMerchant Direct TECHNOLOGY, THIRD PARTY SERVICES, THIRD PARTY TECHNOLOGY, OR THIRD PARTY DEVICES, FROM iMerchant Direct'S SUSPENSION OF OR TERMINATION OF THE SERVICES, OR FROM CLIENT'S PARTICIPATION IN THE SERVICES, INCLUDING ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, USE, DATA, OR OTHER INTANGIBLES), EVEN IF iMerchant Direct OR ANY ASSOCIATED PERSON HAS BEEN ADVISED OF OR IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES. Some jurisdictions do not allow the limitation or exclusion of incidental, consequential or other types of damages, so some of the foregoing limitations may not apply to Client. Without limiting the terms of Section 7.3 and this Section 7.4 in any way, and except as otherwise specified in any applicable Service Descriptions, iMerchant Direct's liability for damages shall be limited to the return of the monthly subscription fees paid by Client for the month(s) in which the events giving rise to such damages occurred.

7.5. Basis of the Bargain. Client agrees that without the limitations of liability, exclusions of damages, releases, and waivers contained in this Contract it would not be feasible for iMerchant Direct to offer the Services, the iMerchant Direct Technology, the Hardware, the Third Party Providers, Third Party Technology, Third Party Services, or the Third Party Devices at the rates offered by iMerchant Direct, that such limitations of liability, exclusions of damages, releases, and waivers are fundamental elements of the basis of the bargain between Client and iMerchant Direct pursuant to which all of the foregoing is being offered. Client also agrees that the foregoing would not be made available to Client if Client did not agree to such limitations, exclusions, releases, and waivers.

8. Indemnification. Client hereby agrees to defend and indemnify iMerchant Direct and its Associated Persons, and to hold them harmless from and against, any and all losses, damages,

costs, or expenses, including reasonable attorneys' fees, arising out of any claim resulting from (i) the operation of Client's business (including goods and services sold or provided by Client), (ii) any violation of any applicable federal or state statute, rule or regulation governing the protection of consumers, including CAN-SPAM, the TCPA, and any rules or regulations promulgated under these or other applicable statutes, (iii) any website or mobile app owned or operated by Client, (iv) any communications from Client, including Notes, and (v) any actual or alleged breach of or failure to comply with any of Client's obligations, representations, warranties, or covenants (a) set forth in this Contract, including those in Section 6, or (b) with respect to particular Services, set forth in the Service Descriptions applicable to such Services.

9. Rejection or Suspension of Client's Participation; Consequences of Termination or Suspension

9.1. Rejection by iMerchant Direct. iMerchant Direct may refuse to enter into a contract to provide any Services, or particular Services, to Client for any reason, in iMerchant Direct's sole discretion, without providing any explanation for such refusal.

9.2. Suspension of Services. If iMerchant Direct accepts this Contract and thereby accepts you as a Client, in addition to its termination rights in Section 10, iMerchant Direct, in its sole discretion, may suspend Client's access to all or any of the Services if Client breaches any of the terms of this Contract or violates any policy or procedure applicable to the use of the Services that may be published by iMerchant Direct from time to time, or if iMerchant Direct suspects that such a breach or violation has occurred or will occur.

9.3. Consequences of Suspension or Termination. Upon suspension of Client's right to use some or all of the Services or expiration or termination of this Agreement, iMerchant Direct will remove Client's access privileges to the suspended or terminated Services and Client's access to iMerchant Direct Technology applicable to the suspended or terminated Services, and may remove and/or delete (i) all material relating to Client's use of the suspended or terminated Services uploaded by iMerchant Direct to Program Sites and (ii) all material relating to Client in Services offered directly to Users by iMerchant Direct. Client shall be responsible for the prompt return of, or purchase of, any Hardware loaned to Client by iMerchant Direct for use with such Services, and the payment of all other Hardware-related fees as described in Section 3.3. If Client terminates this Contract or any Services for which Client has subscribed for any reason other than pursuant to Section 3.4, or for cause by iMerchant Direct, Client shall owe and pay all Fees due for monthly subscription months for all unpaid months remaining during the Term.

9.4. Right to Review Communications to Users. iMerchant Direct reserves the right to review any communications to Users by Client through the use of Services, including any email, text, or other messages sent directly to Users, including Notes, any messages posted on any Program Site, and any material included on any website maintained through the Services. If iMerchant Direct believes, in its sole judgment, that any such communication, message or material contains any Inappropriate Content (as defined in Section 6.9) or was made in violation of this Contract or the applicable Service Descriptions, iMerchant Direct may refuse to post such

communication, message, or material, or may prevent its posting or delivery. Notwithstanding the foregoing, iMerchant Direct has no obligation to review any communications, messages, or materials provided or sent by Client, and Client shall remain wholly responsible for all of its communications, messages, and materials. Whether or not iMerchant Direct reviews any such communications, messages, or materials, or does or does not refuse to post any of the foregoing it may have reviewed, iMerchant Direct assumes no responsibility for any communication, message, or material provided by or sent by Client.

10. Term and Termination

10.1. Initial and Renewal Terms. This Contract commences on the Effective Date, as described in Section 13.2 and shall remain in effect so long as Client has contracted for or is receiving or using any Services (the "Term").

10.2. Early Termination by iMerchant Direct. This Contract and any Service Descriptions to which the parties have agreed may be terminated by iMerchant Direct at any time by iMerchant Direct in iMerchant Direct's sole discretion, without any liability or obligation to Client. Particular Services may also be terminated by iMerchant Direct or the Client as described in the applicable Service Descriptions and/or this Contract. In the event of a termination without cause by iMerchant Direct as described in this Section 10.2, iMerchant Direct will return any pre-paid subscription fees less any discounts provided by iMerchant Direct.

10.3. Termination by Client. This Contract may be terminated by Client (i) pursuant to Section 3.4 or (ii) upon delivery of thirty (30) days' written notice to iMerchant Direct if iMerchant Direct materially breaches this Contract and does not correct such breach within thirty (30) days after receipt of written notice of the breach from Client. Notwithstanding the foregoing, the provisions of Section 3 shall not terminate until Client has returned all rented or loaned Hardware to iMerchant Direct and has paid all Fees and charges due under this Contract, including any replacement fees due to iMerchant Direct and, if Client uses iMerchant Direct Restaurant POS, the difference between the list price of the Hardware sold to Client and the discounted price paid for such Hardware, as set forth in Section 3.3.

10.4. Survival. The provisions of Sections 2 through 8, this Section 10, and Sections 11 and 12, Client's payment obligations, and any other provisions that by their nature or terms should survive, shall survive termination of this Contract for any reason.

11. Disputes with iMerchant Direct.

11.1. Contact iMerchant Direct First. If a dispute arises between Client and iMerchant Direct, iMerchant Direct's goal is to learn about and address Client's concerns and, if iMerchant Direct is unable to do so to Client's satisfaction, to provide Client with a neutral and cost effective means of resolving the dispute quickly. Disputes between Client and iMerchant Direct may be reported to iMerchant Direct's customer service at Support@iMerchantDirect.com, or by calling

iMerchant Direct's customer service representative at 877-871-4641 between 9 a.m. - 5 p.m. Eastern time weekdays (other than holidays).

11.2. Arbitration. If any dispute is not resolved by negotiation as described in Section 11.1, such dispute (excluding claims for injunctive or other equitable relief) shall be resolved through binding arbitration. Either Client or iMerchant Direct may initiate such arbitration by notifying the other party and the alternative dispute resolution provider ("ADR Provider") that Client or iMerchant Direct wishes to initiate a binding arbitration proceeding. Such arbitration shall be handled by the American Arbitration Association or another established ADR Provider mutually agreed upon by the parties. The arbitrator shall apply Illinois law consistent with the Federal Arbitration Act and applicable statutes of limitations, and shall honor claims of privilege recognized at law. There shall be no authority for any claims to be arbitrated on a class or representative basis. Arbitration can decide only the individual claims of Client and/or iMerchant Direct. The arbitrator may not consolidate or join the claims of other persons or parties who may be similarly situated. The party initiating arbitration can elect non-appearance-based or appearance-based arbitration. For non-appearance-based arbitration: (i) the arbitration shall be conducted by telephone, online and/or be based solely on written submissions, the specific manner shall be chosen by the party initiating the arbitration; and (ii) the arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise mutually agreed by the parties. For appearance-based arbitration, the arbitration shall be held at a location in Chicago, Illinois determined by the ADR Provider, or at such other location as may be mutually agreed upon by Client and iMerchant Direct. Any judgment on an arbitration award rendered by the arbitrator (whether non-appearance-based or appearance-based) may be entered in any court of competent jurisdiction.

11.3. Law and Forum for Disputes. This Contract shall be governed in all respects, including validity, interpretation, and effect, by the internal laws of the State of Illinois, without regard to any conflicts of laws rules. Exclusive jurisdiction over any dispute arising out of this Contract or any action to enforce rights under this Contract, including any claim for injunctive or other equitable relief or to enforce a binding arbitration award, shall be in the state or federal courts located in Chicago, Illinois. Client hereby irrevocably submits to the personal jurisdiction of the courts located within Chicago, Illinois for the purpose of litigating all such claims or disputes, including for enforcing an arbitration award, agrees to venue in such courts and will not allege forum non-conveniens or otherwise seek to bring or move any such action in or to any other location.

11.4. Improperly Filed Litigation. All claims Client brings against iMerchant Direct must be resolved in accordance with this Section 11 of this Contract. All claims filed or brought by Client contrary to this Section 11 shall be considered improperly filed and a breach of this Contract. Should Client file a claim contrary to Section 11, iMerchant Direct may recover attorneys' fees and costs up to \$1,000, provided that iMerchant Direct has notified Client in writing of the improperly filed claim and Client has failed to promptly withdraw the claim.

12. General Provisions

12.1. Add-On Services. From time to time, iMerchant Direct may offer add-on services to clients, in some cases by routing clients to a separate website owned and operated by iMerchant Direct. Client understands that its use of these add-on services may be subject to additional terms, in addition to this Contract and the Service Descriptions applicable to the particular Services for which Client has subscribed.

12.2. Notices. All notices, demands, requests or other communications that may be or are required to be given, served or sent by any party to any other party pursuant to this Contract or any Payment Terms shall be in writing and shall be sent by courier service or mailed by registered or certified mail, return receipt requested, postage prepaid, or transmitted by facsimile or email, addressed to the other party as set forth in Section 14. Each party may designate by notice in writing a new address to which any notice, demand, request or communication may thereafter be so given, served or sent, or additional persons or addresses for notice

Each notice, demand, request or communication sent in the manner described above shall be deemed received at the time shown on the delivery receipt if delivered by courier service; three days after being mailed if sent by registered or certified mail, return receipt requested; at the time shown on the sender's confirmation of sending notice (if sent by facsimile); or at the time sent by email; provided that any notice of breach or termination, or any demand for indemnification, that is sent via facsimile or email must also be sent promptly by courier service or registered or certified mail, as described in this Section 12.2.

12.3. Effectiveness of Email Communications. Any notice or communication called for by this Contract to be in writing, other than notices of breach or termination, or demands for indemnification, shall be effective if sent by email from an address at the sending party's domain to an individual designated by the other party for receipt of such notices, at the email address provided by the other party, and need not be sent by any other method.

12.4. Severability. If any term, provision, covenant or restriction of this Contract or any of the Payment Terms is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable or against regulatory policy, the remainder of the terms, provisions, covenants and restrictions of this Contract and such Payment Terms shall remain in full force and effect to the maximum extent permitted by law and shall in no way be affected, impaired, or invalidated.

12.5. Relationship between the Parties. The parties agree that each of them is an independent contractor with respect to the other. Neither party is an express or implied agent of the other, has authority to assume or create any obligation, express or implied, on behalf of the other party, or has authority to represent the other party as an agent, employee, or in any other capacity; and neither party will make any representation to the contrary.

12.6. Use of Data by iMerchant Direct. iMerchant Direct reserves the right to access, retain, aggregate and process all data available to iMerchant Direct as a result of its performance of

the Services, including all usage and performance data, and all other data available to iMerchant Direct. Client acknowledges that iMerchant Direct has the exclusive right to use such data, that iMerchant Direct has no responsibility to share such data with Client, and that if Client has access to any such data Client has no right to use it for any purpose except as permitted in Section 6.11. iMerchant Direct may use any or all of such information to generate reports and analyses based on such data, including pattern recognition and benchmarking against data from other clients of iMerchant Direct and their Users and other information available from third parties, provided that, to the extent any such data includes any personally identifying data, such data shall be used by iMerchant Direct only in de-identified and aggregated form. Information about Users may also be used by iMerchant Direct for contacting, including marketing to, Users or allowing others to do so.

12.7. User IDs and Passwords. Client's use of iMerchant Direct's Services, including use of any iMerchant Direct Technology, will be controlled by user IDs and passwords, in accordance with iMerchant Direct's access policies in effect from time to time. Client understands and agrees that iMerchant Direct will provide access to Client's information, in accordance with access levels and controls offered by iMerchant Direct, to anyone using an active user ID and password combination selected by Client and associated with the appropriate level of access, and that iMerchant Direct will rely on all messages and may post all communications and materials sent using active user IDs and passwords assigned to Client with the appropriate level of access. Client will be responsible for selecting secure passwords and for safeguarding all user IDs and passwords. Client will promptly notify iMerchant Direct in writing of any user IDs and/or passwords that may have been compromised or that Client wishes to terminate or change for any reason.

12.8. Use of Chat Facilities. iMerchant Direct may provide, as part of the Services, discussion blogs, bulletin board services, chat rooms, and/or other means of communication for use by iMerchant Direct, Client, other customers of iMerchant Direct, and possibly by third parties such as operators of Program Sites (collectively, "Chat Facilities"), but iMerchant Direct is under no obligation to provide any Chat Facilities. If iMerchant Direct does provide Chat Facilities, Client acknowledges that such facilities are not for private communications, that all other persons with access to such Chat Facilities may read any of Client's communications posted there, that iMerchant Direct does not control or endorse the messages posted by users of the Chat Facilities, and that iMerchant Direct disclaims any responsibility or liability for any messages posted on the Chat Facilities or any action taken as a result of such messages. Client agrees that its use of, and any reliance on, the Chat Facilities or any messages posted on them is at Client's own risk. Any message posted to the Chat Facilities by Client will be treated by iMerchant Direct as non-confidential. Client hereby consents to iMerchant Direct's posting of all such messages, with or without attribution to Client, to any and/or all Chat Facilities and for any other lawful purposes, such as advertising, promoting or enhancing the Services. Such consent shall be irrevocable and shall apply to all forms of media and transmission, whether now existing or created in the future. All submissions by Client to Chat Facilities will be subject to Client's representations, warranties and covenants of noninfringement and no Inappropriate Content, as set forth in Section 6.9. iMerchant Direct may refuse to post any message or may

remove any message of Client or any third party at any time, at iMerchant Direct's sole determination, without any obligation or explanation.

12.9. **Marketing.** iMerchant Direct reserves the right to use Client's name in promotional, marketing, and presentation materials for the purpose of marketing iMerchant Direct's Services and promoting iMerchant Direct, and in communications with investors and prospective investors and with third parties with which iMerchant Direct does, or seeks to do, business. Client agrees that Hardware provided by iMerchant Direct, iMerchant Direct's websites, and all Program Sites (i) may bear a logo, tagline and/or other message attesting to iMerchant Direct's role in offering the Services (e.g., "Powered by iMerchant Direct"), (ii) may disclaim any responsibility of iMerchant Direct for Client's products, services, or communications, and (iii) may contain other information regarding the respective responsibilities of Client and iMerchant Direct.

12.10. **No Waiver; Amendment.** The failure of either party to exercise in any respect any right or remedy provided for herein or in any Service Descriptions shall not be deemed a continuing waiver or a waiver, partial or complete, of any future breach or any other right or remedy hereunder or thereunder. This Contract and any Service Descriptions accepted by Client may be amended only in a writing that is accepted by the party to be bound thereby.

12.11. **Force Majeure.** Except for each party's payment obligations, neither party shall be liable under, or in default of, this Contract for failure to perform its obligations under this Contract if such failure arises out of causes beyond such party's reasonable control and without its fault or negligence. Such causes or conditions shall include, but shall not be limited to, acts of God, terrorism, acts of a government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, shortages of labor or materials, freight embargoes, unusually severe weather, electrical power failures, telecommunications or internet outages, riots, or wars.

12.12. **Assignment.** Client may not assign this Contract to another party without the prior written consent of iMerchant Direct; however, iMerchant Direct may assign this contract without Client's consent. This Contract shall be binding upon the parties hereto, their successors and permitted assigns. Any assignment by Client without the prior written consent of iMerchant Direct shall be void.

12.13. **Entire Contract; Assignment.** This Contract (including the Merchant Application and any Payment Terms accepted by Client) constitutes the entire Contract between the parties with respect to the subject matter hereof, and supersedes all prior contracts, agreements, discussions, representations, and understandings, both written and oral, between the parties with respect to the Services, all of which, including any Service Descriptions (other than any Payment Terms that may be included therein), are expressly superseded hereby and shall have no force or effect. In the event of any conflict or inconsistency between the Payment Terms in any Service Description and those in an applicable Merchant Application, the Payment Terms in

the Merchant Application shall prevail. This Contract is binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

12.14. Usage. The words “includes,” “including,” or any variation thereof means “including, without limitation” and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

13. Acceptance and Effectiveness of this Contract.

13.1. By Client. By signing up for iMerchant Direct’s Services or by using iMerchant Direct’s Services after receiving a copy of this Contract, Client accepts and agrees to be bound by the terms of this Contract. The individual accepting this Contract (by signing up for iMerchant Direct’s Services or by using those services after receipt of this Contract) hereby represents and warrants that he or she has full power and authority to bind Client by such acceptance.

13.2. By iMerchant Direct. Notwithstanding the acceptance of this Contract by Client, iMerchant Direct has no obligation to deliver Services to Client until the latter of the date that iMerchant Direct (i) has accepted Client and has notified Client of such acceptance or (ii) has otherwise notified Client of the date on which such Services will commence (the “Effective Date”).

14. Addresses for Notice. Subject to Section 12.2, all notices to iMerchant Direct shall be sent as follows:

14.1. If to iMerchant Direct. Notices to iMerchant Direct shall be sent to:

iMerchant Direct, Inc.
5770 Hoffner Ave Suite 101
Orlando, FL 32822
877-871-4641
Facsimile: 888.727.6341
Support@iMerchantDirect.com

14.2. If to Client. Notices to Client shall be sent to the physical address, email address or facsimile number (i) provided by Client on the in the Merchant Application when Client signs up for iMerchant Direct’s Services or (ii) otherwise provided in writing to iMerchant Direct by Client.