

Business Payments Network (BPN) Terms and Conditions

THESE BUSINESS PAYMENTS NETWORK (BPN) TERMS and CONDITIONS, together with the Application and all appendices hereto (collectively, this “**Agreement**”), shall, upon the Effective Date, constitute a binding agreement between **Factor Systems, LLC**, a Delaware limited liability company doing business as Billtrust, with a place of business at 11D South Gold Drive, Hamilton Township, New Jersey 08691 (“**Billtrust**”), and the customer identified on the Application (“**Customer**”). For purposes of this Agreement, the “**Effective Date**” means the date that Billtrust approves Customer for participation in the BPN Services.

WHEREAS, Billtrust is party to a bank card processing agreement with Worldpay, LLC, a Delaware limited liability company (“**Processor**”, and together with Member Bank, the “**Acquirer**”), pursuant to which Acquirer provides payment processing services to Billtrust’s customers as sub-merchants of Billtrust; and

WHEREAS, through the Business Payments Network (the “**BPN**”), Billtrust facilitates the receipt of payments by merchant suppliers for goods or services sold to their Buyers (the “**BPN Services**”), and this Agreement sets forth the entire terms and conditions under which Billtrust will provide the BPN Services to Customer; and

WHEREAS, any capitalized terms used but not otherwise defined in this Agreement shall have the meanings set forth in [Appendix A](#) hereto.

1. GENERAL BPN SERVICE TERMS.

1.1 Application. Customer represents and warrants that all of the information that Customer provided in the Application is true, complete and correct in all respects and that it will promptly notify Billtrust in writing of any change to any such information.

1.2 Authorized Use. Billtrust hereby grants to Customer a non-exclusive, non-transferable limited right to access the BPN during the Term via the internet through Authorized User IDs, solely: (a) for Customer’s business purposes, (b) to enter Customer Data, and (c) to operate the features of the BPN as prescribed by Billtrust. Customer is responsible for all activity occurring under its Authorized User IDs. Customer shall use the BPN Services only for the products or services set forth in the Application.

1.3 Billtrust as Agent. Customer expressly authorizes Billtrust and its Affiliates to act as the Customer’s limited payment collection agent for the limited purposes of transmitting payment files, and receiving, holding and/or disbursing payments on the Customer’s behalf. Customer agrees that it will treat any payments received by Billtrust or its Affiliate as Customer’s agent as being received by Customer. The applicable Buyer’s obligation to Customer will be satisfied upon the receipt of such payment from Buyer by Billtrust or its Affiliate, and Customer will thereafter have no claim for payment against such Buyer even if Billtrust or its Affiliate fails to remit the payment to Customer. In such event, any recourse of Customer shall be solely against Billtrust. Customer agrees that Billtrust or its Affiliates may describe or otherwise reflect the terms of this Section 1.3 and any related portions of this Agreement in any terms of use, receipts, disclosures, or notices, including but not limited to, receipts provided to Buyers that Billtrust or its Affiliates may deem necessary or prudent.

1.4 Operational and Marketing Communications. Billtrust will provide Customer with operational communications and updates that provide critical information about the BPN Services via email, phone, and mail and/or via the BPN. Billtrust may also provide promotional and marketing communications to Customer, such as offers, events, continuing education and incentives, via email, phone, or mail.

2. BILLTRUST OBLIGATIONS.

2.1 Warranty. Billtrust shall provide the BPN Services in a professional and workmanlike manner, substantially consistent with general industry standards and in accordance with all applicable Laws. Billtrust shall maintain and upgrade the BPN, and any related software, tools, materials, policies and procedures, as it deems necessary to deliver the BPN Services. Billtrust may use subcontractors and third party service providers with respect to all or any portion of the BPN Services provided hereunder; *provided, however*, that Billtrust shall remain responsible for any acts or omissions of any such subcontractors and service providers, subject to the terms and conditions of this Agreement.

2.2 Security Requirements. In providing the BPN Services, Billtrust shall comply with the Security Requirements set forth in [Appendix B](#) hereto.

2.3 Card Transactions. Billtrust or Acquirer will settle any Card Transaction proceeds to Customer by crediting the Operating Account using one or more settlement methods at Billtrust’s discretion, including, without limitation, 2 to 3 Business Day funding. Any such settlement payment will equal the sum of all Card Transactions processed since the previous credit. Any credit to the Operating Account is provisional only and subject to revocation and recovery by Billtrust until the applicable Card Transaction is final and no longer subject to Chargeback. Billtrust may at any time impose limits on the dollar volume of daily, weekly, or monthly Card Transactions and dollar limits per Card Transaction.

2.4 Chargebacks. Billtrust shall not in any way be responsible for any Chargebacks or any fines, fees or assessments related thereto. Billtrust shall be entitled to recoup and recover any amounts previously paid to Customer with respect to any Chargeback, as well as any amounts assessed by Acquirer or any Association related thereto.

2.5 Customer Statements. Billtrust shall make available to Customer, on not less than a monthly basis, a written statement setting forth all credits and debits to the Operating Account during the relevant period (each, a “**Customer Statement**”). Each Customer Statement shall be deemed accurate and affirmed by Customer in all respects except for any items that Customer specifically disputes by written notice provided to Billtrust within twenty (20) days after such Customer Statement first becomes available to Customer.

2.6 Information Filings and Backup Withholding. Billtrust or its designee will provide information reporting to the Internal Revenue Services and applicable state taxing authorities for all reportable payment transactions of Customer as defined in IRC § 6050W. If required by Law, Billtrust or its designee will conduct backup withholding on the revenue generated by such reportable payment transactions.

2.7 No Other Warranties. Except as expressly provided in this Section 2, Billtrust hereby disclaims all warranties, express or implied,

including without limitation any implied warranties of merchantability or fitness for a particular purpose, or of non-infringement, with respect to the BPN Services. Billtrust does not warrant that the operation of the BPN Services will be uninterrupted or error-free or virus free, or that all errors will be corrected. No oral or written information or advice given by Billtrust or its agents, representatives or employees shall create a warranty or in any way increase the scope of these warranties, and Customer may not rely on any such information or advice unless it is set forth in writing signed by an authorized officer of Billtrust.

3. CUSTOMER OBLIGATIONS.

3.1 Customer Equipment. Customer acknowledges and agrees that it is solely responsible for all hardware, software, Internet connectivity, networking capabilities, bandwidth, interfaces, compatibility of data sets, enterprise resource management, integration capabilities, or other specified requirements needed to access the BPN and use the BPN Services. Customer is solely responsible for preventing its systems from being infected by viruses, malware, ransomware or any other type of malicious code and, when applicable, is solely responsible for detecting and removing such viruses, malware, ransomware or any other type of malicious code from such systems. Customer shall undertake all necessary measures to comply with this Section 3.1.

3.2 Authorized Users. Customer shall ensure that access to the BPN shall be solely by Authorized Users, and shall be solely responsible for the use and confidentiality of all Authorized User IDs. Unless Customer or an Authorized User has provided Billtrust with prior written notice of unauthorized use or potential unauthorized use as required in this Agreement, Billtrust may (a) assume that a person entering an Authorized User ID and password is, in fact, that user; (b) rely on any Authorized User ID, instruction or information that meets the BPN Services' automated criteria or which is believed by Billtrust to be genuine; and (c) assume that the latest Customer email addresses and registration information on file with Billtrust are accurate and current.

3.3 BPN Service Limits. Customer shall not, and shall cause its Authorized Users not to: (a) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any software component of the BPN Services are compiled or interpreted, and Customer acknowledges that nothing in this Agreement shall be construed to grant Customer any right to obtain or use such code; (b) use its access to the BPN Services to develop a competing product or service; (c) allow any third party other than Authorized Users to gain access to the BPN Services; (d) use the BPN Services to provide timesharing, subscription service, hosting, or outsourcing services; (e) introduce into the BPN or the BPN Services any software, data or equipment having an adverse impact on the BPN or any BPN Services; or (f) extract content other than Customer Data from, or altering in any way the BPN or its components or features, or using or accessing the BPN Services except for the purposes specifically authorized in this Agreement (collectively, the "**BPN Service Limits**").

3.4 Legal Compliance. Customer shall comply with all applicable Laws during the Term of this Agreement, including but not limited to all applicable Laws related to export control, anti-money laundering, and collections. Customer represents and warrants that neither it nor any of its officers or beneficial owners are on the Office of Foreign Assets Control (OFAC) Sanctions List and agrees to provide to Billtrust information, if requested by Billtrust, to confirm such compliance.

3.5 Association Rules. In accessing the BPN Services hereunder, Customer shall comply with all applicable Association Rules. In the event of any conflict between this Agreement and any Association Rule, such Association Rule shall control and govern. In addition, Customer shall ensure that any information it provides to Billtrust or Acquirer shall be accurate and sufficiently complete for the purposes for which it is provided.

3.6 Operating Account. Customer shall, through the Term of this Agreement, establish and maintain a demand deposit account at a financial institution of Customer's choice (an "**Operating Account**") with funds sufficient to satisfy all of Customer's obligations hereunder. Billtrust may debit the Operating Account in any amounts owed hereunder by Customer for Fees or any other obligations owed to Billtrust pursuant to this Agreement. Any changes proposed to the Operating Account shall be submitted by Customer to Billtrust in writing not less than six (6) days prior to the next debit date and must be approved in writing by Billtrust.

3.7 Reserve Account. Billtrust may from time to time designate an amount of transaction proceeds otherwise due to Customer to be withheld and re-directed by Billtrust into a reserve account (a "**Reserve Account**") to secure the performance of Customer's obligations hereunder. Billtrust may require a Reserve Account to be maintained throughout the term of this Agreement and for a period of 180 days thereafter in an amount reasonably determined by Billtrust to cover any potential losses to Billtrust. Customer hereby authorizes Billtrust to make any debits from the Reserve Account, without prior notice to Customer, to collect any past due amounts owing by Customer to Billtrust.

3.8 Security Interest. Customer hereby grants to Billtrust a security interest and right of setoff and recoupment in and to all amounts held in the Operating Account or any Reserve Account now and in the future to secure all amounts due in accordance with this Agreement. Customer shall provide such documentation as reasonably required by Billtrust in connection with such security interest and cooperate with Billtrust in perfecting such security interest.

3.9 Audits.

(a) Billtrust Investigation and Audit Rights. Subject to the last sentence of this Section 3.9(a), Customer authorizes Billtrust or its agents from time to time to (i) investigate the background of any natural person who (A) owns, directly or indirectly, twenty-five percent (25%) or more of the equity or voting interest of Customer, or (B) if no natural person owns, directly or indirectly, twenty-five percent (25%) or more of the equity or voting interest of Customer, has significant responsibility to control, manage or direct Customer (such as an executive officer); and (ii) obtain a business report on Customer's business from Dunn & Bradstreet or any other company providing a similar service. Billtrust may terminate this Agreement if the information received in any such investigation is unsatisfactory as determined in Billtrust's sole reasonable discretion. Billtrust may also audit or review from time-to-time Customer's compliance with the terms of this Agreement, in which case Customer shall promptly provide all financial or other information reasonably requested by Billtrust in connection with such audit or review.

(b) Acquirer and Association Audits. Upon not less than ten (10) Business Days' prior written notice, Customer shall permit the auditors of Acquirer or of any Association to review the files held and the procedures followed by Customer, with the cost of any such audit borne by Customer. In the event that Billtrust is required to conduct a third-

party audit required by Acquirer, any Association or as required by the Association Rules or applicable Law, Billtrust may, at its option and at Customer's sole expense, either retain a third party to perform such audit, or require that Customer directly retain a specific third party auditor. If Billtrust requires that Customer directly retain the auditor, Customer shall promptly arrange for such audit to be performed and will provide Billtrust with a copy of any final audit report.

3.10 Documenting Card Transactions. Customer shall submit, or direct its customer to submit, the following information to Billtrust in connection with any Card Transaction: (a) DBA and legal names of Customer; (b) Customer's physical address; (c) Customer's Internet address; (d) Customer's customer service telephone number; (e) merchant identifying number (MID) assigned to Customer by Acquirer; (f) Card account number, validation date and/or expiration date of the Card, if one appears on the Card; (g) name, address and telephone number of Cardholder; and (h) any additional information as may be required by Billtrust, Acquirer or any Association from time to time.

3.11 Authorization for Card Transactions. Customer shall submit each Card Transaction for Authorization to Billtrust's designated authorization center, which shall respond with the Issuer's authorization or rejection of the Card Transaction and shall capture and process for Customer the information relating to the Card Transaction. The following additional requirements apply to Card-Not-Present Transactions: (a) all Card-Not-Present Transactions are at Customer's risk; (b) as to each Card-Not-Present Transaction, Customer warrants to Billtrust that the Person whose name is submitted as Cardholder either made or authorized another to make the purchase; (c) all Card-Not-Present Transactions must be electronically authorized; and (d) Customer shall verify Cardholder's address through the Association network and only accept as approved those Card Transactions receiving at least a partial match or system unavailable response. In addition, Customer may accept a Pre-Authorized Recurring Order Transaction only if the Cardholder executes and delivers to Customer a written request therefore, which shall be maintained by Customer and made available upon request to Billtrust. All annual billings must be reaffirmed at least once each twelve (12) month period. Customer shall not deliver products or perform services covered by a Pre-Authorized Recurring Order Transaction after receiving notification from the Cardholder that the pre-authorization is cancelled or from Billtrust that the Card covering the Pre-Authorized Recurring Order Transaction is not to be honored.

3.12 Disclosure and Storage of Card Transaction Information.

(a) Customer must not disclose a Card account number, personal information, or other Card Transaction information to any third party other than to Billtrust or its third-party service providers or to Acquirer for the sole purposes of (A) assisting Customer in completing the Card Transaction; or (B) as specifically required by applicable Law. Notwithstanding the foregoing, Customer shall promptly notify Billtrust of any third party that may have access to any Cardholder data.

(b) Customer must store all material containing Card account numbers or imprints (such as transaction receipts, car rental agreements, carbon copies, etc.) in an area limited to selected personnel and render all such data unreadable prior to discarding. In addition, Customer must not (i) retain or store full contents of any track on the magnetic stripe subsequent to a Card Transaction; (ii) retain or store CVV/CID data subsequent to Authorization of a Card Transaction; (iii) request CVV/CID data on any paper form; or (iv) sell or disclose

Cardholder account numbers, personal information, or other Card Transaction information.

3.13 Payment Card Industry Security Requirements. Customer shall comply with the standards set forth by the Payment Card Industry ("PCI") Security Standards Council, as amended by the PCI Security Standards Council from time to time. Customer shall provide to Billtrust proof of Customer's PCI compliance upon written request. If at any time Customer is not PCI compliant, the use of PCI Apply will be offered for Customer's use by Billtrust. Any use of PCI Apply by Customer shall be subject to Billtrust's Standard PCI Apply fees then in effect.

3.14 Data Breaches. Customer shall promptly notify Billtrust of any suspected, alleged or confirmed breach of any data stored, maintained or under Customer's control related to the BPN Services (a "**Compromised Data Event**"). In such event, Customer shall cooperate with any audit or investigation conducted by Billtrust, Acquirer, any Association, or any Governmental Entity related to any such Compromised Data Event.

3.15 Sub-Merchant Agreement. Customer hereby agrees that if Customer has Card Transactions, during any twelve (12) month period, equal to or greater than \$1 million with respect to any single Association or \$2 million in total, then (i) Customer shall, without any further action by either Party, immediately be bound by the terms and conditions set forth in the Worldpay Merchant Services Agreement for Sub-Merchants attached hereto as Appendix C (the "**Sub-Merchant Agreement**"); and (ii) the terms and provisions of the Sub-Merchant Agreement shall be incorporated by reference into and made a part of this Agreement as if fully set forth herein, and Customer shall owe the same obligations to Billtrust hereunder as Customer would owe to Acquirer pursuant to the Sub-Merchant Agreement. Any breach of the Sub-Merchant Agreement by Customer shall constitute Customer's breach of this Agreement.

4. FEES AND CHARGES

4.1 Flat Rate. Flat Rate charges are inclusive of interchange, Association assessments, and any Billtrust transactional fees. The Flat Rate will be calculated using Customer's gross Visa, MasterCard and Discover processing volume. Any additional charges from third parties, including but not limited to Association fees, fines and network fees, may also be assessed to Customer as pass through costs.

4.2 Interchange Plus. In addition to the "Fee per credit card processed" notated on the Application, Customer is responsible for all interchange (standard, network special programs, or non-published or proprietary rates) and assessments passed through from the Associations. Association related fees, as adjusted or allocated by Billtrust, may be added to a "Network Fees" billing bundle or be itemized on any applicable Customer Statements. Customer shall also be responsible for any pass-through charges from third parties, including but not limited to Association fees, fines and network fees relating to Customer's Card Transactions.

4.3 American Express. If applicable to the BPN Services, American Express basis points will be charged by Billtrust and such basis points will be calculated using Customer's gross American Express processing volume. Customer agrees that American Express will bill Customer directly for any costs related to Customer's acceptance of the American Express card brand.

4.4 **Returns Resulting From Debit Block.** Customer will ensure that debits from its Operating Account for fee collection are not blocked. If a return results from such a debit block, Customer will pay to Billtrust a debit block administration fee as provided in the Application.

4.5 **Early Termination Fee.** If, prior to the date on which the Term of this Agreement is scheduled to expire, Customer, for any reason (other than a termination by Customer pursuant to Section 8.2(c) below), terminates the BPN Services, then Billtrust will suffer a substantial and irreparable injury that is difficult or impossible to accurately estimate. In an effort to liquidate in advance the sum that approximately represents the damages that would actually be sustained by Billtrust as a result of such early termination, the Parties agree that Customer shall be liable to Billtrust for liquidated damages in an amount equal to the average monthly revenue payable to Billtrust pursuant to the Application for the last three (3) processing months multiplied by the number of months then remaining in the Term of this Agreement. All such amounts shall be due and payable by Customer upon thirty (30) days' written notice from Billtrust.

4.6 **Foreign Network Fee.** In the event that Customer discontinues using Billtrust's contracted Processor, Customer shall pay to Billtrust a monthly Foreign Network Fee for use of Customer's selected alternate payment processor.

5. INTELLECTUAL PROPERTY, CUSTOMER DATA AND CONFIDENTIAL INFORMATION.

5.1 **Billtrust Intellectual Property.** Customer acknowledges and agrees that all right, title and interest, including any copyright, trademark, patent, trade secret, other intellectual property right or similar right, in and to: (a) the BPN and the BPN Services, including the software applications, processes, infrastructure, designs, documentation, policies, procedures training materials, and other components used to deliver the BPN Services; (b) any developments created by Billtrust during the provision of the BPN Services; (c) any templates, maps, routines, system interaction output, operational efficiencies and the like related to the BPN Services developed by Billtrust with or without Customer input; and (d) any update, adaptation, translation, customization or derivative work of any or all of the above (collectively "**Billtrust Intellectual Property**"), shall be owned solely and exclusively by Billtrust and/or its Affiliates and/or their licensors and that Billtrust may use the Billtrust Intellectual Property in any lawful manner. Customer will only receive a limited right to access and use the Billtrust Intellectual Property on the terms expressly set forth herein. Billtrust expressly reserves all rights in the Billtrust Intellectual Property not specifically granted to Customer. Upon Billtrust's request, Customer shall execute all documents reasonably necessary to confirm or perfect the exclusive ownership of Billtrust in the Billtrust Intellectual Property.

5.2 **Customer Intellectual Property.** Billtrust acknowledges and agrees that, as between Billtrust and Customer, all right, title and interest, including any copyright, trademark, patent, trade secret, other intellectual property right or similar right, in and to: (a) Customer Data, and (b) any registered domain names, tradenames, trademarks, logotype and service marks of Customer (collectively "**Customer Intellectual Property**") shall be owned solely and exclusively by Customer. If Customer purchases any BPN Service that requires Billtrust to print Customer's name and/or brand on deliverables or host a website with Customer's name and/or brand, Customer grants to Billtrust, for the duration of such BPN Service, a limited, non-exclusive and non-transferrable license to use, print, display and publish the

Customer Intellectual Property in connection with the provision of such BPN Service to Customer.

5.3 Customer Data.

(a) Customer hereby grants to Billtrust, during the Term of this Agreement, a limited, non-exclusive, royalty-free, non-transferable license to collect and process Customer Data as necessary to provide the BPN Services. In addition, anonymous aggregated Customer Data may be used by Billtrust, subject to the requirements hereunder, to (i) generate anonymous learnings, logs, analyses and data regarding the use of Billtrust's products, services and technologies in order to improve such products, services and technologies, and to create and distribute reports and other materials that include or are based on anonymous aggregated Customer Data ("**Product Analyses**"); and (ii) analyze such anonymous aggregated data to provide insight to customers through Billtrust's services generally ("**Insights**"). Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability and appropriateness of all Customer Data, and any copyright permissions related thereto.

(b) Customer acknowledges and agrees that, during the Term of this Agreement, Customer may provide, and Billtrust may receive or otherwise have access to Customer Data that constitutes Personal Data. Each Party covenants and agrees that it will process any such Personal Data solely for the intended purposes of this Agreement and in compliance with all applicable Laws. For these purposes, the Parties agree to the terms of Billtrust's standard Data Processing Addendum (the "**DPA**", which is available at www.billtrust.com/DPA). Billtrust may at any time amend the provisions of the DPA as may be required to comply with applicable Data Privacy Laws, in which case Billtrust shall notify Customer of such changes using the RSS feed that is made available to Customer on the preceding web link. Customer further acknowledges and agrees to the Billtrust Privacy Policy available at (<https://www.billtrust.com/privacy-policy/>).

(c) Upon the termination or expiration of this Agreement, Billtrust will delete all Customer Data from its systems, subject to (i) applicable Laws; (ii) Billtrust's normal course data retention policies, which may include back-up and archival copies, including with respect to transaction records (all of which information shall be maintained by Billtrust as confidential in accordance with Section 5.4 below); and (iii) Billtrust's right to retain the results of Product Analyses and Insights as described in Section 5.3(a) above.

5.4 **Confidential Information.** Each Party (in such capacity, "**Recipient**") may receive or otherwise have access to certain information concerning the other Party or its Affiliates (in such capacity, "**Discloser**") which constitutes Discloser's confidential and/or proprietary information, including but not limited to information concerning Discloser's business, operations, standards, methods, prices, software code, contractual terms and conditions, strategies, procedures, personnel, and services including, without limitation, the terms of this Agreement (collectively, "**Confidential Information**"). Confidential Information includes all such information regarding Discloser which is disclosed, whether deliberately or inadvertently, to Recipient and/or its Representatives. Notwithstanding the above, Confidential Information shall not include any information which Recipient can demonstrate: (a) was independently developed by Recipient (or its Representatives) without use or reference to Discloser's Confidential Information; (b) becomes known to Recipient, without restriction, from a source other than Discloser that had no duty of confidentiality with respect to such

information; or (c) was publicly available at the time it was disclosed or becomes publicly available through no act or omission of Recipient. Recipient agrees that it shall not have any right to, and shall not use, disclose, sell, license, publish, reproduce or otherwise make available Confidential Information except to the extent necessary to effectuate the intended purposes of this Agreement. Recipient shall not share Confidential Information with any third party, except as otherwise contemplated herein, or as required by applicable Law, without the prior written consent of Discloser, in each instance. If Recipient breaches, or threatens to breach, any of the provisions of this Section 5.4, in addition to any other rights Discloser may have, including a claim for damages, Discloser shall have the right to have the provisions of this Section 5.4 specifically enforced by any court of competent jurisdiction, without presentment of a bond (such requirement being expressly waived by the Parties), it being agreed that any breach of this Section 5.4 would cause irreparable harm to Discloser in that money damages would not provide an adequate remedy. Upon termination or expiration of this Agreement or written request by Discloser, Recipient agrees that any Confidential Information of Discloser and all related information and materials, including any and all copies and duplications, shall be destroyed in accordance with Section 5.3(c) above. Upon written request of Discloser, an officer of Recipient shall, not later than ten (10) days following such written request, deliver an executed notice to Discloser certifying that Recipient has completed such destruction in accordance with this Section 5.4.

6. INDEMNIFICATION.

6.1 Each Party (in such capacity, the “**Indemnifying Party**”) agrees to defend, indemnify and hold harmless the other Party, and each of such other Party’s Affiliates, subsidiaries, shareholders, officers, directors, employees, agents and representatives (each, an “**Indemnified Party**”), from and against any liabilities or damages arising from any third party claims, including attorneys’ fees, costs and expenses (collectively, “**Losses**”), arising from or related to: (a) Indemnifying Party’s breach of this Agreement; or (b) the Indemnifying Party’s gross negligence or willful misconduct. Notwithstanding the foregoing, neither Party has a duty to indemnify any Indemnified Party under this Section 6.1 with respect to any Losses to the extent caused by the gross negligence or willful misconduct of such Indemnified Party or any of its officers, directors, Affiliates, subsidiaries, agents, and employees.

6.2 Indemnification under Section 6.1 above is conditioned upon the Indemnified Party providing the Indemnifying Party: (a) prompt written notice of the third-party claim; (b) sole control over the defense and settlement of such third-party claim, except (i) the Indemnified Party may elect to participate and assist in the defense using counsel of its own choosing and at its own sole expense; and (ii) the Indemnifying Party shall not enter into any settlement prejudicial to any Indemnified Party without such Indemnified Party’s prior written consent, such consent not to be unreasonably withheld or delayed; and (c) the Indemnified Party’s reasonable cooperation at the Indemnifying Party’s expense.

7. LIMITATION OF LIABILITIES.

7.1 Except for (a) a Party’s indemnity obligations under Section 6.1 above; and/or (b) either Party’s payment obligations under this Agreement, in no event shall either Party’s total aggregate liability under this Agreement, whether in contract, tort or otherwise, exceed a maximum amount that is equal to two (2) times the fees paid or payable by Customer to Billtrust under this Agreement (excluding postage fees if applicable) during the twelve (12) month period immediately prior to the

incident giving rise to the claim; *provided, however*, that with respect to any such claim arising from or caused by a Billtrust Data Breach, such maximum liability shall not exceed four (4) times the fees paid or payable by Customer to Billtrust under this Agreement (excluding postage fees if applicable) during the twelve (12) month period immediately prior to the incident giving rise to the claim.

7.2 Notwithstanding Section 7.1 above, with respect to a Party’s indemnity obligations under Section 6.1 above, either Party’s total aggregate liability shall not exceed a maximum amount that is equal to the lesser of: (x) ten (10) times the fees paid or payable by Customer to Billtrust under this Agreement (excluding postage fees if applicable) during the twelve (12) month period immediately prior to the incident giving rise to the claim; or (y) two million dollars (\$2,000,000).

7.3 Notwithstanding any other provision in this Agreement, in no event shall either Party be liable to the other Party for any indirect, incidental, consequential, punitive or special damages arising out of this Agreement, including without limitation loss of business, profits, revenue, lost data, business interruption, loss of business information, or the cost of substitute services, even if informed in advance of the possibility of such potential loss, claim or damage.

8. TERM AND TERMINATION.

8.1 **Term.** The initial term of this Agreement (the “**Initial Term**”) shall commence on the Effective Date and, unless terminated earlier in accordance with Sections 8.2(b) or 8.2(c) below, shall terminate on the last day of the calendar month during which the three (3) year anniversary of the Effective Date occurs; *provided, however*, that, following the Initial Term, this Agreement shall renew automatically for successive one (1) year terms (each a “**Renewal Term**”) unless either Party provides written notice of termination to the other Party not less than ninety (90) days prior to the expiration of the Initial Term or the then current Renewal Term, as applicable. The Initial Term and any Renewal Term(s) shall, collectively, constitute the “**Term**”.

8.2 Suspension; Early Termination.

(a) Billtrust may immediately suspend this Agreement, or any or all of the BPN Services provided hereunder, if: (i) Customer experiences Chargebacks in excess of Association monitoring guidelines; (ii) Customer’s percentage of error Card Transactions or retrieval requests are excessive in the reasonable opinion of Billtrust; (iii) Customer’s total unauthorized returns or losses incurred in connection with failed or reversed Card Transactions are excessive in the reasonable opinion of Billtrust; or (iv) Customer materially breaches this Agreement or the Sub-Merchant Agreement.

(b) Billtrust may immediately terminate this Agreement, and all of the BPN Services provided hereunder, if: (i) any of the events described in Section 8.2(a) above occur and are not cured within fifteen (15) days of Customer’s receipt of written notice from Billtrust; (ii) Customer is in material violation of any applicable Association Rules; (iii) Customer appears on any Association’s terminated merchant file (such as the Mastercard Alert to Control High-risk Merchants (MATCH) file); or (iv) Billtrust is requested to do so by Acquirer or any Association.

(c) Customer may immediately terminate this Agreement, and all of the BPN Services provided hereunder, if Billtrust materially breaches this Agreement and fails to cure such breach within thirty (30) days of its receipt of written notice from Customer.

8.3 Effect of Termination; Survival of Provisions. Upon the termination of this Agreement, (a) all existing obligations, warranties, indemnities and agreements with respect to any Card Transactions entered into before such termination shall remain in full force and effect; and (b) all other rights and responsibilities of the Parties under this Agreement shall terminate and be of no further force of effect, except those rights and responsibilities contained in Section 3.3 (BPN Service Limits), Section 4 (Fees and Charges), Section 5 (Intellectual Property, Customer Data and Confidential Information), Section 6 (Indemnification), Section 7 (Limitation of Liabilities), this Section 8.3 (Effect of Termination; Survival of Provisions), Section 9 (Miscellaneous), and Appendix A (Definitions), all of which terms shall survive termination.

9. MISCELLANEOUS.

9.1 Publicity. Neither Party may issue a press release or make any other public disclosure relating to this Agreement or the BPN Services without the prior express written consent of the other Party, which consent may be withheld in such other party's sole and absolute discretion.

9.2 Successor and Assigns. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by, each of the Parties and its successors and assigns; *provided, however, that:*

(a) except as otherwise specifically provided herein, neither this Agreement nor any rights granted hereunder may be sold, leased, assigned, or otherwise transferred, in whole or in part, by either Party, and any such attempted assignment shall be void and of no effect without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed; *provided, however, that such consent shall not be required if either Party assigns this entire Agreement in connection with a sale of all or substantially all of such Party's assets (whether by asset or stock sale, merger or otherwise), unless the surviving entity (the "Acquirer") is a direct competitor of the other Party; and*

(b) in the event that Acquirer is an existing customer or partner of Billtrust, then this Agreement shall nonetheless remain in full force and effect for the remainder of the Term of this Agreement. Similarly, if Customer acquires a business or entity that has an existing contract with Billtrust, such existing contract shall remain in full force and effect for the remainder of its term.

9.3 Notices. All notices sent to either Party under this Agreement shall be effective (a) on the date delivered in person or transmitted by email (with a confirmatory copy sent by overnight courier or first class or certified mail); or (b) one (1) Business Day after being sent by nationally recognized courier for overnight delivery with receipt acknowledgment requested; or (c) two (2) Business Days after being sent by first class mail postage prepaid, in any case to the address of the applicable Party provided in the first paragraph of this Agreement, or such other address as either Party may hereafter specify by written notice to the other Party; ***provided, however, that no notice to Billtrust shall be effective or valid unless a copy is sent to clientservices@billtrust.com.***

9.4 Disputes and Choice of Law; Waiver of Jury Trial. This Agreement shall be governed by the laws of the State of Delaware without regard to any jurisdiction's conflict of laws principles. Except with respect to any claim for equitable relief pursuant to Section 5.4 above

(which claim may be brought in any court of competent jurisdiction), each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts located in New Castle County, Delaware for the purpose of any suit, action or other proceeding arising out of or relating to this Agreement and each of the Parties hereby irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in any such court and irrevocably waives any objection it may now or hereafter have as to the venue of any such suit, action or proceeding brought in any such court or that such court is an inconvenient forum. Each Party hereby irrevocably waives its right to a trial by jury.

9.5 Independent Contractor Status. Each Party expressly acknowledges and agrees that each Party is an independent contractor in relation to the other Party with respect to all matters arising under this Agreement. Nothing herein shall be deemed to establish a partnership, joint venture, agency, association or employment relationship between the Parties.

9.6 Force Majeure. Each Party will be excused from performance for any period during which, and to the extent that, it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond its reasonable control and without its fault or negligence, including without limitation, acts of federal, state or local governments (including the U.S. Postal Service), terrorism, natural disaster, acts of God, strikes, lockouts, legal restrictions, telecommunications, riots, acts of war, epidemics, communication line failures, power failures and any third-party attack on the Billtrust network. In order for performance by the delayed Party to be considered excused pursuant to this Section 9.6, the delayed Party must notify the other Party promptly in writing upon the occurrence of any such event, and inform the other Party of its plans to resume performance.

9.7 Severability; Waiver. Any provision hereof found by any court or arbitrator of competent jurisdiction to be illegal or unenforceable shall be automatically conformed to the minimum requirements of law and all other provisions shall remain in full force and effect. Waiver of any provision hereof by either Party in one instance shall not preclude enforcement thereof on any future occasion.

9.8 Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes and/or replaces all other communications or agreements between the Parties, whether electronic, written or oral. Billtrust shall have the right to modify or amend the terms and conditions of this Agreement, including, without limitation, the right to modify, amend or supplement applicable fees, charges and/or discounts. Modifications and amendments related to changes to the Association Rules, changes to the fees charged by the Associations, Acquirer or other third parties, and/or in response to changes in requirements of applicable Law (collectively, a "**Third-Party Change**"), may be made effective immediately, with or without notice or consent. Modifications or amendments unrelated to a Third-Party Change shall be effective upon the date specified in a notice to Customer (the "**Change Notice**"), provided that such date shall not be fewer than fifteen (15) days after the date of such Change Notice. A Change Notice may be reflected as a message attached to Customer's monthly Customer Statement. Customer's continuing usage of the BPN Services for more than thirty (30) days after Customer's receipt of the Change Notice will represent Customer's acceptance of the modified or amended terms.

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Appendix A DEFINITIONS

“**Acquirer**” has the meaning set forth in the first Whereas clause of this Agreement.

“**Affiliate**” means, with respect to any Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with, such person. For purposes of this definition, “**control**” (including, with its correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as applied to any Person, means the possession, directly or indirectly, of the power to vote more than fifty percent (50%) of the securities having voting power for the election of directors of such Person or otherwise to direct or cause the direction of the management and policies of such Person, including by ownership or control of more than fifty percent (50%) of the capital or profits interest of such Person, whether through the ownership of voting securities, by contract or otherwise.

“**Application**” means the document completed and submitted by Customer to Billtrust to apply for BPN Services.

“**Association**” means any of VISA U.S.A. Inc., MasterCard International Inc., American Express, Discover, and certain other similar card brand entities.

“**Association Rules**” means any published rules, by-laws, operating regulations and/or other guidelines, policies and procedures of any Association (including those identified in Section 1 of the Sub-Merchant Agreement).

“**Authorization**” means an affirmative response by or on behalf of an Issuer, to Customer’s request to affect a Card Transaction, that a Card Transaction is within the Cardholder’s available credit limit, and that the Cardholder has not reported the Card lost or stolen.

“**Authorized User**” means an employee, representative, consultant, contractor or agent of Customer or any Buyer authorized by Customer to use the BPN Services in connection with Customer’s business affairs and who has been provided with his or her own unique Authorized User identification and password by Customer (or by Billtrust at Customer’s request).

“**Billtrust Data Breach**” means any unauthorized disclosure of Customer Data by means of a third-party attack, probe, theft, or other breach of network security caused by Billtrust’s failure to follow any Security Requirements or any applicable Data Privacy Laws.

“**BPN**” has the meaning set forth in the second Whereas clause of this Agreement.

“**BPN Service Limits**” has the meaning set forth in Section 3.3 of this Agreement.

“**BPN Services**” has the meaning set forth in the second Whereas clause of this Agreement.

“**Business Day**” means Monday through Friday, except for U.S. federal or state holidays.

“**Buyer**” means any customer of Customer.

“**Card**” means any credit card or debit card issued by an Association.

“**Cardholder**” means a Person authorized to use a Card for the purchase of products or services.

“**Card-Not-Present Transaction**” means any Card Transaction that is not a Card-Present Transaction.

“**Card-Present Transaction**” means a Card Transaction in which the Card is swiped through a terminal, register or other device, capturing the Card information encoded on the magnetic strip or chip.

“**Card Transaction**” means a transaction in which payment for products or services is made by a Cardholder via use of a Card.

“**Chargeback**” means any reversal of funds after a Cardholder has disputed a Card Transaction with their Issuer.

“**Confidential Information**” has the meaning set forth in Section 5.4 of this Agreement.

“**Customer Data**” means any data that any Authorized User loads or enters into the BPN, including any Personal Data.

“**Customer Statement**” has the meaning set forth in Section 2.5 of this Agreement.

“**CVV/CID**” means a security feature for Card Not Present Transactions in which a three- or four-digit code found on a Card is used by a merchant to validate the Cardholder’s possession of the Card and the Card’s authenticity.

“**Data Privacy Laws**” means any Laws that regulate, govern or are applicable to the processing of Personal Data under the Agreement, including without limitation the European Union’s General Data Protection Regulation (“**GDPR**”); the UK General Data Protection Regulation (“**UK GDPR**”); the Federal Personal Data Protection and Electronic Documents Act (“**PIPEDA**”); the California Consumer Privacy Act (“**CCPA**”) and Sections 1798.29 and 1798.82 of the California Civil Code; the Swiss Federal Act on Data Protection of 19 June 1992 (“**FADP**”) and the Ordinance to the FADP (“**OFADP**”) and any other privacy or data protection laws.

“**DPA**” has the meaning set forth in Section 5.3(b) of this Agreement.

“**Effective Date**” has the meaning set forth in the first paragraph of this Agreement.

“**Fees**” means any amounts to be paid by Customer in connection with any Card Transaction as set forth in the Application or otherwise in this Agreement.

“**Governmental Entity**” means any foreign or domestic, federal, state or local government, or any court, arbitrator, administrative or regulatory agency or commission or other governmental authority or agency.

“**Issuer**” means any acquiring bank or other financial institution that issues a Card to a Cardholder.

“**Laws**” means any domestic or foreign, federal, state or local statute, law, ordinance, rule, administrative interpretation, regulation, order, writ,

injunction, judgment, decree or other requirement which is legally binding of any Governmental Entity.

“**Losses**” has the meaning set forth in Section 6.1 of this Agreement.

“**Member Bank**” has the meaning set forth in Section 6 of the Sub-Merchant Agreement.

“**Person**” means any individual, corporation, general or limited partnership, limited liability company, limited liability partnership, joint venture, estate, trust, association, organization, governmental body or other entity or body.

“**Operating Account**” has the meaning set forth in Section 3.6 of this Agreement.

“**Personal Data**” means any information that identifies or can be used to identify an individual person.

“**Pre-Authorized Recurring Order Transaction**” means any recurring Card Transaction which has been pre-authorized by the Cardholder for which the products or services are to be periodically delivered or performed by Customer without having to obtain approval from the Cardholder in each instance.

“**Processor**” has the meaning set forth in the first Whereas clause of this Agreement.

“**Representatives**” means, with respect to a Party, such Party’s directors, officers, owners, employees, agents, Affiliates, consultants, contractors or other representatives.

“**Reserve Account**” has the meaning set forth in Section 3.7 of this Agreement.

“**Security Requirements**” means those security requirements set forth in [Appendix B](#) hereto.

“**Term**” has the meaning set forth in Section 6.1 of this Agreement.

Appendix B SECURITY REQUIREMENTS

1. SECURITY. Billtrust shall, during the Term of the Agreement, comply in all material respects with the following security requirements:

1.1 General: (a) All Billtrust applications shall comply with all applicable Laws; (b) all Billtrust applications that are accessible from the Internet or process restricted or personal data (“PII”) are approved prior to launch or implementation by Billtrust’s Information Security Department; (c) all Billtrust’s consumer facing web pages contain a link to a privacy statement. Questions regarding the content of the privacy statement should be directed to the Billtrust Compliance Department; and (d) all Billtrust employees are required to complete information security awareness training on a regular basis, with a focus on common security themes including, but not limited to, phishing, multi-factor authentication, PII, malicious threats, and ransomware.

1.2 Physical Security: (a) The equipment hosting the application for Customer is located in a physically secure facility, which requires badge access at a minimum. (b) physical access to infrastructure housing Customer’s content is restricted and access allowed based on a need-to-know basis; and (c) electronic media (online or offline) and confidential hard copy material is appropriately protected from theft or loss.

1.3 Authentication: (a) All access to Billtrust systems is controlled by an authentication method involving a minimum of a unique User ID/complex password combination; (b) privileged users and administrators use strong authentication.; (c) passwords are changed every ninety (90) days; (d) passwords are never to be stored in clear text; (e) passwords are subject to complexity requirements; (f) effectiveness of authentication is tested on a regular basis to verify that unauthorized authentication is not easily permitted; (g) remote network access is secured by strong authentication; (h) all activity performed under a User ID is the responsibility of the individual assigned to that User ID; (i) Users are not permitted to share their User ID/password with others or allow other employees to use their User ID/password to perform actions; and (j) use of generic user accounts are not permitted.

1.4 Authorization: (a) Logical or network access to infrastructure housing Customer Data is restricted and access is only allowed based on a need-to-know basis; (b) access requests are documented and approved based on a business need; (c) access rights are reviewed on a periodic basis; and (d) upon termination or resignation of personnel, access is revoked within a timely manner.

1.5 Change Management: System change requests are documented via a ticketing system. The process to review and approve change requests must be documented. Change requests contain, at a minimum, the following information: (a) business justification for the change; (b) nature of defect (if applicable)/enhancement; (c) testing required; (d) back-out procedures; (e) systems affected; (f) User contact; and (g) management approval.

1.6 Network Security: (a) Industry standard firewalls are implemented to protect the application environment and associated data from the Internet and untrusted networks.; (b) inbound and outbound connections are denied unless expressly allowed; (c) firewall events are monitored in order to detect potential security events; (d) Network Intrusion Detection or Prevention Systems (NIDS/NIPS) are implemented to monitor traffic for applications handling Confidential

Information; and (e) effectiveness of controls are tested on a periodic basis.

1.7 Logging and Monitoring: (a) Security relevant events, including, but not limited to, login failures, use of privileged accounts, changes to access models or file permissions, modification to installed software, or the operating system, changes to user permissions, or privileges or use of any privileged system function, are logged on all systems; (b) Billtrust maintains electronic logs of access to sensitive information that depict the details of the access; (c) Billtrust maintains a security logging and monitoring process which identifies potential security violations in near-real time; and (d) logs shall be regularly (with the period commensurate with risk) reviewed by Billtrust, either manually or using log parsing tools. Billtrust uses automated alerts to detect security events and security alerts are communicated to authorized personnel to appropriately handle alerts.

1.8 System and Data Security: (a) Systems are securely configured according to a security baseline. This baseline includes removing unnecessary services and changing default, vendor-supplied or otherwise weak user accounts and passwords.; (b) system components maintain current security patch levels; (c) web servers are hardened according to a secure baseline; (d) web servers are configured to accept requests for only authorized and published directories, and default sites, executable or directory listings are disabled; (e) an inventory of technology used to store or process Customer Data is maintained; (f) Billtrust implements industry standard anti-virus/malware software operating in real time on all servers, laptops and desktops; (g) Billtrust encrypts applicable Customer Data at rest to the extent required by PCI-DSS; (h) Billtrust encrypts Customer Data and sensitive information in transit through networks and/or connections outside of the direct control of Billtrust (including, but not limited to, via the internet, Wi-Fi and mobile phone networks), including support for TLS 1.2, SFTP and HTTPS; (i) Billtrust applies the “Principle of Least Privilege” (“PLP”) model, enabling access only to such sensitive non-public information and other rights and privileges relating to Customer as are necessary for Billtrust to perform a legitimate business function; (j) Billtrust utilizes the following application management controls: (k) Billtrust will conduct security testing consistent with industry standards for all software developed or customized for Customer and remediates any security flaws identified; (l) Billtrust develops web applications in compliance with Open Web Application Security Project (“OWASP”) application security verification standard. Web Applications are reviewed for the presence of the OWASP top ten; and (m) Billtrust will remediate security flaws and vulnerabilities identified in application security tests in accordance with Billtrust’s vulnerability management processes.

(i) Maintains a software development life cycle (“SDLC”) process that incorporates security vulnerability and malicious code assessments throughout each stage of the development process.

(ii) Billtrust provides regular training on coding and design in application security.

(iii) Within Billtrust’s SDLC, a security vulnerability and malicious code assessment is performed prior to initial application deployment.

(iv) Application development activities do not occur on Billtrust’s systems that also perform live production operations.

(v) Application source code is permanently stored on systems dedicated to the storage of source code (such as a source code repository) that includes logs of all updates to code maintained. Permanent storage of source code on laptops, desktops and other mobile computing devices is prohibited.

(vi) Access to the application source code is limited to Billtrust employees in accordance with PLP.

(vii) Application source code is maintained using version control.

(viii) Application documentation is kept up to date, held in accessible form, and protected from loss or damage.

(ix) Information security requirements are integrated with the design and specification documentation for Billtrust's systems.

(x) Billtrust subjects its operating system, software and firmware updates to a security review to screen for vulnerabilities and to verify the source of the items, prior to implementation, and is able to validate that the update is from an approved source.

(xi) Billtrust performs security testing of application open source code, and remediates security flaws prior to production implementation.

2. AUDITS AND SECURITY REVIEWS.

2.1. Payment Card Industry. Billtrust shall conduct at least once annually a Payment Card Industry – Data Security Standard (“PCI-DSS”) audit and will comply with VISA's, MasterCard's and any other payment card association's rules and regulations, to the extent such rules and regulations are applicable to Billtrust's business activities, including, but not limited to their respective data security program and disaster recovery requirements; Billtrust agrees to provide data security reports as required by the respective associations, pay to such association any fines and penalties in the event Billtrust fails to comply with such requirements, provide full cooperation and sufficient access to permit such credit card association to conduct a security review of Billtrust's policies and procedures. Upon written request, Billtrust shall promptly furnish to Customer an Attestation of Compliance (AOC).

2.2. Statement on Standards for Attestation Engagements (SSAE-18 or ISO 27001). Billtrust shall conduct at least once annually an (i) SSAE-18 SOC 1 Type II/ISAE 3402 Type II and SOC 2 Type II audit, and/or (ii) an ISO 27001 certification, as applicable to the Customer's Services. Upon written request, Billtrust shall promptly furnish to Customer the respective (i) SSAE-18 SOC reports and/or (ii) ISO Statement of Applicability (SoA) on the Customer's Services, in each case provided an applicable and binding Non-Disclosure Agreement has been executed.

2.3. National Automated Clearing House Association (NACHA). Billtrust shall conduct at least once annually a NACHA audit. Upon written request, Billtrust shall promptly furnish to Customer a NACHA certificate, if applicable.

3. PENETRATION TESTING. At least one time each year, during the Term of the Agreement, Billtrust will retain, at its sole cost and expense, an independent third party or qualified internal resource to conduct a penetration test of Billtrust's infrastructure designed to detect any material security weaknesses in such infrastructure. Billtrust will use a reputable third party or qualified internal resource to conduct such testing that is certified by recognized industry standards as being qualified to

perform such penetration testing. To the extent any such material weakness is found, Billtrust will take appropriate action, prompt under the circumstances, to remedy such weakness.

4. VIRUSES AND DISABLING CODE. Billtrust will use commercially available virus checking software to scan applicable software or for malicious components (e.g., computer virus, worm, time bomb, or otherwise) that could, in any material way, damage any software, firmware or hardware of Customer, and remove any such identified components. In the event a virus or similar item is found to have been introduced into Billtrust's System, Billtrust will: (a) use commercially reasonable efforts to reduce or eliminate the effects of the virus or similar item; and (b) if the virus or similar item causes a loss of operational efficiency or loss of data, mitigate and restore.

5. INCIDENT REPORTING/ACTION. Unless otherwise prohibited by law, Billtrust shall notify Customer of a confirmed security breach with respect to Customer Data as soon as reasonably practicable, but in no event later than seventy-two (72) hours after the breach has been confirmed to involve Customer Data (or within such applicable shorter time period if required by law). Billtrust shall provide Customer with daily updates with any new details regarding the security breach. A full detailed report about the breach will be provided to Customer as soon as reasonably practicable but in no event later than sixty (60) days after the confirmed breach. If a law enforcement agency determines that the notification required under this Section 5 could impede a criminal investigation or national security activity, then Billtrust may delay such notification.

6. ADDITIONAL MATTERS.

6.1. System Back-up; Data Storage and Disaster Recovery. Billtrust shall perform regular (daily and weekly incremental) backups of the system and Customer Data and provide data recovery and archiving in accordance with Billtrust's disaster recovery plan. Billtrust shall implement and manage the Disaster Recovery Plan.

6.2. Location of Services Delivery. Customer acknowledges that, subject to the provisions of the DPA and applicable law, all Services hereunder may be provided, at Billtrust's sole discretion, from the United States, Canada, the European Union, the United Kingdom, India, or any other country reasonably determined by Billtrust (regardless of Customer location).

6.3. Production Requests. If Billtrust receives any order, demand, warrant, or any other document requesting or purporting to compel the production of Customer's Personal Data under applicable law (including, for example, by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoenas, civil investigative demands or other similar processes), Billtrust shall notify Customer (except to the extent otherwise required by applicable law) and shall not disclose the Personal Data to the third party without providing Customer at least forty-eight (48) hours, following such notice, so that Customer may, at its own expense, exercise such rights as it may have under law to prevent or limit such disclosure. Notwithstanding the foregoing, Billtrust shall exercise commercially reasonable efforts to prevent and limit any such disclosure and to otherwise preserve the confidentiality of the Personal Data and shall cooperate with Customer with respect to any action taken with respect to such request, complaint, order or other document, including to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded to the Personal Data.

6.4. **Investigations.** Upon written notice to Billtrust, Billtrust shall assist and support Customer in the event of an investigation by any regulator, including a data protection regulator, or similar authority, if and to the extent that such investigation relates to information requests related to Personal Data handled by Billtrust on behalf of Customer, subject to Billtrust's reasonable security and confidentiality requirements. Such assistance shall be at Customer's sole expense, except where such investigation was required due to Billtrust's gross negligence.

Appendix C

Merchant Services Agreement for Customers

This MERCHANT SERVICES AGREEMENT FOR SUB-MERCHANTS (this “**Sub-Merchant Agreement**”) is made by and between WORLDPAY, LLC, having its principal office at 8500 Governors Hill Drive, Symmes Township, OH 45249-1384 and its designated Member Bank (collectively “**Acquirer**”), and the sub-merchant (“**Customer**”) who is party to, and in connection with the payments-related agreement between Customer and Factor Systems, LLC d/b/a Billtrust (“**Provider**”). Acquirer will provide Customer with certain payment processing services (“**Services**”) in accordance with the terms of this Sub-Merchant Agreement. In consideration of Customer’s receipt of credit or debit card funded payments, and participation in programs affiliated with Mastercard International Inc. (“**Mastercard**”), VISA U.S.A. Inc. (“**VISA**”), Discover (“**Discover**”), and certain similar entities (collectively, “**Associations**”), Customer is required to comply with the Operating Regulations (defined below) as they pertain to applicable credit and debit card payments. In addition, if Customer meets certain requirements under the Operating Regulations or an Association or the Operating Regulations otherwise require, Customer may be required to enter into a direct relationship with an entity that is a member of the Associations. By executing this Sub-Merchant Agreement, Customer has fulfilled such requirement. However, Acquirer understands that Customer may have contracted with Provider to obtain certain processing services and that Provider may have agreed to be responsible to Customer for all or part of Customer’s obligations contained herein.

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

1. Certain Customer Responsibilities.

Customer agrees to comply, and to cause third parties acting as Customer’s agent (“**Agents**”) to comply, with the Association’s and other payment networks’ by-laws, operating regulations and/or all other rules, policies and procedures, including but not limited to the Payment Card Industry Data Security Standard, the VISA Cardholder Information Security Program, the Mastercard Site Data Protection Program, and any other program or requirement that may be published and/or mandated by the Associations or payment networks (collectively “**Operating Regulations**”). Customer may visit the VISA (usa.visa.com/support/small-business/regulations-fees.html), Mastercard (mastercard.com/us/merchant/) and American Express (americanexpress.com/merchantopguide) websites to download a copy of the Visa, Mastercard and Discover regulations. Customer also agrees to comply with all applicable state, federal, and local laws, rules, and regulations (“**Laws**”). Without limiting the foregoing, Customer agrees that it will fully comply with any and all anti-money laundering laws and regulations, including but not limited to the USA PATRIOT Act, the Bank Secrecy Act, the Federal Trade Commission and obligations imposed by the US Treasury’s Office of Foreign Assets Control (OFAC). For purposes of this Section, Agents include, but are not limited to, Customer’s software providers and/or equipment providers.

If appropriately indicated in Customer’s agreement with Provider, Customer may be a limited-acceptance merchant, which means that

Customer has elected to accept only certain Visa and Mastercard card types (i.e., consumer credit, consumer debit, and commercial cards) and Customer must display appropriate signage to indicate the same. Acquirer has no obligation other than those expressly provided under the Operating Regulations and applicable law as they may relate to limited acceptance. Customer, and not Acquirer, will be solely responsible for the implementation of its decision for limited acceptance, including but not limited to policing the card type(s) accepted at the point of sale.

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

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

2. Customer Prohibitions.

Customer must not i) 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; ii) add any tax to transactions, unless applicable law expressly requires that a Customer impose a tax (Any tax amount, if allowed, must be included in the transaction amount and not collected separately); iii) request or use an account number for any purpose other than as payment for its goods or services; iv) disburse funds in the form of travelers checks if the sole purpose is to allow the cardholder to make a cash purchase of goods or services from Customer; v) disburse funds in the form of cash unless Customer is dispensing funds in the form of travelers checks, TravelMoney cards, or foreign currency (in such case, the transaction amount is limited to the value of the travelers checks, TravelMoney cards, or foreign currency, plus any commission or fee charged by the Customer), or Customer is participating in a cash back service; vi) submit any transaction receipt for a transaction that was previously charged back to the Acquirer and subsequently returned to Customer, irrespective of cardholder approval; vii) accept a Visa consumer credit card or commercial Visa product issued by a U.S. issuer to collect or refinance an existing debt; viii) accept a card to collect or refinance an existing debt that has been

deemed uncollectable; or ix) submit a transaction that represents collection of a dishonored check. Customer further agrees that, under no circumstance, will Customer store cardholder data in violation of the Laws or the Operating Regulations including but not limited to the storage of track-2 data. Neither Customer nor its Agent shall retain or store magnetic-stripe data subsequent to the authorization of a sales transaction.

3. Settlement.

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

4. Term and Termination.

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

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

5. Limits of Liability.

Customer agrees to provide Acquirer, via a communication with Provider, with written notice of any alleged breach by Acquirer of this Sub-Merchant Agreement, which notice will specifically detail such alleged breach, within thirty (30) days of the date on which the alleged breach first occurred. Failure to so provide notice shall be deemed an acceptance by Customer and a waiver of any and all rights to dispute such breach.

EXCEPT FOR THOSE EXPRESS WARRANTIES MADE IN THIS AGREEMENT, ACQUIRER DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Customer's sole and exclusive remedy for any and all claims against Acquirer arising out of or in any way related to the transactions contemplated herein shall be termination of this Sub-Merchant Agreement. In the event that Customer has any claim arising in connection with the Services, rights, or obligations defined in this Sub-Merchant Agreement, Customer shall proceed against Provider and not against Acquirer, unless otherwise specifically set forth in the Operating Regulations. In no event shall Acquirer have any liability to Customer with respect to this Sub-Merchant Agreement or the Services. Customer acknowledges Acquirer is only providing this Sub-Merchant Agreement to assist in Provider's processing relationship with Customer, that Acquirer is not liable for any action or failure to act by Provider, and that Acquirer shall have no liability whatsoever in connection with any products or services provided to Customer by Provider. If Provider is unable to provide its services to Customer in connection with this Sub-Merchant Agreement and Acquirer elects to provide those services directly, Customer acknowledges and agrees that the provisions of this Sub-Merchant Agreement will no longer apply and the terms of Acquirer's then-current Bank Card Merchant Agreement, which would be provided to Customer upon request, will govern Acquirer's relationship with Customer. If Provider subsequently provides its services to Customer in connection with this Sub-Merchant Agreement, Acquirer will cease to provide such services after receipt of notice from Provider and this Sub-Merchant Agreement will govern Acquirer's relationship with Customer.

6. Miscellaneous.

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

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