

Recitals

Whereas, Merchant has signed the required agreement(s) with the Participating Program Provider(s) selected in this Agreement and Merchant is currently in good standing with such Participating Program(s) terms and conditions.

Whereas, Merchant understands and accepts that Dynamics Payments LLC (DP), a Puerto Rico limited liability company, is the company responsible for installing the required technology in Merchant's systems so that Merchant can accept the Participating Program cards and also conduct the Merchant funding activity for the Participating Program(s) to the Merchant's Designated Account.

Therefore, in consideration of the foregoing recitals, and of the mutual promises hereinafter set forth, DP and Merchant hereby agree as follows:

- 1. Program Transaction Activity Funding:** DP will deposit into the Merchant's Designated Account the funds corresponding to settled and valid authorizations received by DP from Merchant for accepting the Participating Program cards as a method of payment. Merchant understands that it must do a daily settlement of the valid authorizations received to be able to receive the funds in the Designated Account. The frequency of funding to the Merchant shall occur as per the instructions provided by the Participating Program Providers to DP which may vary from time to time, but in no event shall be less than two (2) times per calendar month. If Merchant needs to change the Designated Account, Merchant will notify DP in writing and complete any forms required by DP to conduct such change. A request by Merchant to change the Designated Account may take between forty-eight (48) to seventy-two (72) hours from the date of DP receiving the completed request for it to be effective. Merchant understands and recognizes that DP will only fund the Merchant Designated Account upon receiving the funds and an authorization from the Participating Program Providers to do so. Merchant understands that DP is not and will not be responsible for any delays in funding unless solely due to failures in the DP payment processing system. For any questions, inquiries or claims regarding the Participating Program Provider Agreement, Merchant must contact the provider directly. All other questions concerning funding activity, ACH authorization or payment processing, Merchant must contact DP at the contact information set forth in Section 5 below.
- 2. Program Technology (Application):** Merchant allows DP to install in the Merchant point of sale systems the appropriate software systems ("Application") so that Merchant can participate in the Program. Such Application is and will remain the intellectual property of Dynamics Payments. Merchant will not reverse engineer, circumvent and/or in any way interfere with the intellectual property right that DP has on the Application. Merchant is responsible for providing the required internet connectivity via an RJ45 port no more than five (5) feet from each of the POS system for the application to work properly. Merchant is also responsible for providing all hardware that may be required that may not be in place, as well as updating any hardware that does not comply with the minimum Program technical requirements as they may be updated from time to time by DP.
- 3. Marketing / Use of Marks:** You grant DP a non-exclusive, non-transferable, royalty-free right to use your name, address, telephone and other contact information, and relevant service marks, trademarks, trade names and logos of a party or its affiliates ("Marks") in marketing materials, at promotional events, in educational and training materials, and as otherwise necessary for DP to administer the Program. DP grants Merchant a non-exclusive, non-transferrable, royalty-free right to use its Marks in marketing materials displayed in Merchant's Stores. Merchant must submit all marketing materials that include DP's Marks to DP for prior written approval. Except for the limited grants of rights referenced above in this Section 3, nothing in this Agreement will be construed to convey any right, title or interest in either party's name, Marks or other intellectual property to the other party.
- 4. Confidential Information:** Except as expressly set forth in this Agreement, each party shall keep all information relating to the other party confidential, shall only use such confidential information for the purposes of performing its obligations under this Agreement or as otherwise authorized by this Agreement, and may only disclose such confidential information: a) with the prior written consent of the other party; or b) if required by applicable law. You acknowledge that DP may, without prior notice to you, disclose information to a government agency or third party empowered by such government agency to comply with (or evidence compliance with) applicable laws and regulations.
- 5. Technical Support:** In the event the Merchant is unable to process Program participating transactions Merchant will email DP technical support at dynapaysupport@dynamicspayments.com or call (787) 783-8689. For any financial inquiries regarding deposits of Program transaction activity the Merchant will send an email to financialsupport@dynamicspayments.com or call (787)-783-8689.
- 6. Indemnification:** DP and Merchant agree that they shall each indemnify and hold harmless the other party and its officers, directors and shareholders, from any and all loss, cost, expense, claim, damage and liability (including attorney's fees and courts costs) paid or incurred by any one or more of them, to the extent it arises from, is caused by, or is attributable to (i) the failure of such party or representatives to abide by the provisions of this agreement; (ii) the violation by such party or its representatives, of any applicable laws, regulation or court relating to this Agreement; or (iii) gross negligence, willful misconduct or any act or omission by such party or its representatives.
- 7. Limitation of Liability:** DP shall not be liable for personal injury or property damage to Merchant or others. Neither DP or Merchant's cumulative liability for all losses, claims, suits, breaches, or damages for any cause whatsoever and, regardless of the form of action or legal theory, shall exceed the average amount of the weekly deposits for the previous four (4) weeks made to Merchant by DP for its participation in the Program. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL OR PUNITIVE LOSS, DAMAGE, OR EXPENSE, INCLUDING ANY LOSS OF BUSINESS PROFITS, REVENUE, OR GOODWILL, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
- 8. Term and Termination:** This Agreement shall commence on the date set forth in this Agreement and remain in full force and effect until either Party notifies the other with a minimum of thirty (30) days' notice of its intention to cancel such Agreement or by termination for any reason of the Participating Program Agreement(s).
- 9. Amendments:** Except as otherwise provided herein, no amendment to this Agreement shall be effective or bind any party unless set forth in writing and signed by the duly authorized representatives of the parties.
- 10. Waivers:** No course of dealing and no failure by a party to enforce any provision of or exercise any right under this agreement shall be construed as a waiver of such provisions or right, affect the validity of this Agreement, or limit, prevent or impair the right of any party subsequently to enforce such provisions or exercise such right.
- 11. Severability:** If any provision of this Agreement or portion thereof is held to be unenforceable, such a determination will not affect the remainder of this Agreement. In the event that any portion of this Agreement is deemed unenforceable, said portion shall be stricken, and the remainder of the Agreement shall remain in full force and effect. Any provision hereof prohibited by law shall be ineffective to the extent of such prohibition, without invalidating the remaining provisions hereof.
- 12. Notices:** Except as otherwise provided herein, any notice required or permitted to be given hereunder shall be given in writing to Merchant at its shipping address set forth on the first page of this Agreement and to DP at its designated address. Notice shall be given by hand delivery, certified mail or next day delivery, and the date upon which any such notice is received at the designated address shall be deemed to be the date of such notice.
- 13. Force Majeure:** DP may not be liable for failure to perform due to any contingency beyond its reasonable control such as acts of God, acts of Government, war or other hostility, civil disorder, weather, fire, power, labor dispute, or other causes which are unavoidable.
- 14. Legal Compliance:** Both the Merchant and DP understand that both parties shall be responsible for their own compliance with federal, state and local laws, rules and regulations that are applicable with respect to this Agreement.
- 15. Effective Date / Governing Law:** This agreement constitutes the entire Agreement between DP and Merchant and shall become effective upon execution by Merchant and DP. This agreement supersedes all previous negotiations, commitments and writings, including any all representations made by agents, resellers and representatives of DP whether oral or in writing. This agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico. The parties agree that any claim, dispute or other difference between them shall be resolved by binding arbitration pursuant to the Commercial Arbitration Rules of the American Association, with arbitration to occur at San Juan, Puerto Rico. The prevailing party shall be entitled to recover its reasonable attorney's fees and arbitration costs.