

The undersigned merchant (“Merchant”) is party to a merchant agreement for provision of payment processing services currently in place (“Merchant Agreement”) and serviced by OpenEdge, a division of Global Payments. OpenEdge, operating through PayPros LLC, (“OpenEdge”) shall provide and Merchant shall utilize and access the Decline Minimizer Services (defined below) in accordance with the terms of this agreement (“Agreement”) and the practices and procedures established by OpenEdge from time-to-time, and the parties agree as follows:

- 1. Provision of Service.** Merchant warrants that its business is of such a nature that it needs to receive updated cardholder account information and does not belong to any high-risk categories as determined by Visa®. In consideration of Merchant paying the fees and charges for credit card processing set forth in the Agreement, and for other good and valuable consideration, which the parties do hereby acknowledge as received, as of the date Merchant signs this Agreement (“Effective Date”) OpenEdge will provide to Merchant the credit card Decline Minimizer service provided by the respective bank card associations, including Visa, MasterCard®, and Discover® (“Bank Associations”) that are designed to assist merchants in recurring payment industries with maintenance of credit cardholder account data (“Decline Minimizer Service”). The Decline Minimizer Service is provided by and through OpenEdge, subject to its availability by the Bank Associations. Merchant acknowledges that a Bank Association may terminate OpenEdge’ ability or right to provide the Decline Minimizer Service in its entirety, and OpenEdge may terminate its obligation under this Agreement to provide the Decline Minimizer Service to Merchant upon thirty (30) days written notice. The Decline Minimizer Service may be subject to additional terms, conditions or fees as mutually agreed upon by the parties.
- 2. Compliance with Laws and Regulations.** Merchant agrees to comply with all Federal, State, Local and Bank Association rules and regulations in its use of the Decline Minimizer Service.
- 3. Pricing and Payment.** Merchant shall not be required to pay any fees or charges (“Fees”) for the Decline Minimizer Service. However at any time during the Term (defined below) hereof, OpenEdge may commence charging Fees upon giving Merchant at least thirty (30) days prior written notice of such Fee charge. Merchant may elect to discontinue the service without any change to Fees by notifying OpenEdge of its intent to terminate its participation within 30 days of receiving notice of the Fee change.
- 4. Term and Termination.** This agreement will become effective upon your signature below and will continue until terminated by OpenEdge or until your Merchant Agreement is terminated. Either party may terminate this Agreement at any time and for any reason upon thirty (30) days’ notice to the other party. This Agreement may further be terminated by either party for cause upon giving the other party fifteen (15) days written notice of the breach of this Agreement committed by the other party, the facts underlying the breach, and giving the other party a reasonable time to cure the breach. Either party may immediately terminate this Agreement at any time in the event that (i) receiver is appointed, or an assignment is made, for the other party’s creditors or its property; (ii) the other party becomes insolvent or is generally unable to pay its debts when due; (iii) the other party makes an assignment for the benefit of its creditors; (iv) any voluntary or involuntary proceedings are commenced by or against the other party which are not dismissed within 120 days; or (v) the other party is liquidated or dissolved.
- 5. Confidentiality of Data from Decline Minimizer Service.** Merchant agrees that it shall keep all information and data accessed through the Decline Minimizer Service strictly confidential (“Confidential Data”). Merchant may not disclose any Confidential Data, whether to any third party or otherwise, and may not use the Confidential Data for any purpose other than those expressly permitted by the applicable Bank Association or as provided in the Agreement.

6. Disclaimer; Limitations of Liability. Merchant acknowledges that the Decline Minimizer Service is only accurate to the extent a bank card issuing member of a Bank Association participates in the Decline Minimizer Service provided such respective Bank Association(s) and its bank card issuing members also participate in the Decline Minimizer Service provided through such Bank Association(s). Furthermore, Merchant acknowledges that OpenEdge is not responsible in any way for the accuracy or the completeness of data which may be accessed as part of the Decline Minimizer Service. **MERCHANT ACKNOWLEDGES AND AGREES THAT OPENEDGE WILL HAVE NO LIABILITY OF ANY KIND FOR LOSSES OR CLAIMS RELATED TO THE DECLINE MINIMIZER SERVICE. IN NO EVENT SHALL OPENEDGE, OR ITS THIRD PARTY CREDIT CARD PROCESSING PROVIDERS (I.E. FIRST DATA MEMBER SERVICES CORPORATION), OR RESPECTIVE BANK ASSOCIATIONS BE LIABLE TO MERCHANT OR ANY OTHER PARTY FOR ANY LOSS OF PROFITS OR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, EVEN IF THE POSSIBILITY OF THE OCCURRENCE OF SUCH DAMAGES WAS FORESEEABLE.**

7. General Provisions.

7.1 Governing Law; Jurisdiction. This Agreement and the rights and obligations of the parties are to be construed, interpreted and enforced pursuant to the laws of the State of Delaware, notwithstanding its conflict of laws provisions. Any lawsuit or proceeding that arises out of or relates to this Agreement may be brought only in the state and federal courts located in the State of Georgia, County of Fulton and each of the parties irrevocably submits to and consents to personal and subject matter jurisdiction of any state court located therein and to any federal court located in the Northern District of Georgia.

7.2 Assignment. This Agreement shall not be assigned or delegated by Merchant to any other party without the prior written consent of OpenEdge, which shall not be unreasonably withheld.

7.3 Legal Fees. If any action, including an action for injunctive relief, is brought to enforce or interpret the terms of this Agreement, the prevailing party is entitled to attorneys' fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled. The parties intend this provision to be given the most liberal construction possible and to apply to any circumstances in which such party reasonably incurs expenses.

7.4 Force Majeure: If performance by OpenEdge or any of their respective third party credit card processing providers of any Decline Minimizer Service or obligation under this Agreement is prevented, restricted, delayed or interfered with by reason of acts or events beyond their reasonable control, including but not limited to labor disputes and strikes; acts of nature, fire, floods, lightning, hurricanes, earthquakes or severe weather; utility or communications failures; failures of the bank card system network; computer associated outages or delay in receiving electronic data; war, civil commotion or acts of terrorism; or the introduction of any new law, order or regulation which prohibits or restricts performance of this Agreement, then OpenEdge, and their respective affiliates affected by the occurrence of such acts or events shall be excused from their performance hereunder to the extent of the prevention, restriction, delay or interference.

7.5 Entire Agreement. This Agreement contains the entire agreement between Merchant and OpenEdge relating to the subject matter addressed herein, including the provision of Decline Minimizer Service, and supersedes any prior or contemporaneous understandings or agreements, whether oral or written, between the parties regarding the subject matter of this Agreement.

By my signature below, I acknowledge acceptance of the foregoing Terms and Conditions governing my participation in the Decline Minimizer Services.

Merchant:

Signature:

Name:

Title/Capacity:

Date: