

EXHIBIT C-1

PROPERTY-LEVEL AGREEMENT TEMPLATE (ORACLE MICROS PMS)

HOSTED SERVICES AGREEMENT FOR HOSTED GATEWAY SERVICES

This Hosted Services Agreement for Hosted Gateway Services (this “Agreement”) is entered into as of the Effective Date (indicated below) by and between the entity identified below as the Customer and Elavon, Inc. (“Elavon”). This Agreement governs the Customer’s receipt and use of the services described below.

This Agreement consists of this signature page and the Terms and Conditions included in Schedule A to the Hosted Services Agreement for Hosted Gateway Services, which is accessible at the URL specified below and incorporated into this Agreement by reference. Customer shall also execute the Safe-T Suite Services Addendum at Appendix A to this Agreement in connection with the tokenization and encryption services being provided thereunder:

Schedule A - Terms and Conditions, available at <https://www.elavon.com/~media/Files/wyndham.pdf>

Appendix A – Safe-T Suite Services Addendum (separately executed)

Hosted Gateway Services

Hosted Gateway Services: As further set forth in this Agreement, Elavon will provide Customer the services described in this paragraph (the “Hosted Gateway Services”). The Hosted Gateway Services will support Payment Device authorization data and facilitate the transmission of authorization and settlement information related to Transactions to and from various Origination Points (e.g., property management systems (PMS), point of sale systems (POS) and/or other Payment Device data capture integrations) used by Customer as mutually agreed to between Elavon and Customer. The Hosted Gateway Services shall submit Transactions received from an Origination Point in accordance with this Agreement to the Destination Point (or Payment Services Entity) designated by Customer for authorization, and will return to the Origination Point the authorization response message received from such Destination Point (or Payment Services Entity). A list of Payment Devices and Transaction types supported by the Hosted Gateway Services is available from Elavon upon request.

The Hosted Gateway Services include a browser-based user interface, the Service Web Site that provides Customer with the functionality for batch management, settlement balancing and research and reporting of Transactions. System reporting shall be available to all Authorized Users via secure password and log-on access. Customer acknowledges and agrees that the system reporting and application features and services available to Customer may vary depending on the Elavon Services used by Customer.

Term: Unless otherwise terminated as set forth in the Agreement, this Agreement will remain in effect for a period of one (1) year (the “Initial Term”) from the Effective Date. Following the Initial Term, this Agreement will automatically renew for a period of successive one (1) year terms (each a “Renewal Term” and together with the Initial Term, the “Term”) unless a party provides written notice to the other party of its intent not to renew this Agreement at least ninety (90) days prior to the expiration of the then current term.

Territory: For purposes of this Agreement, the “Territory” shall be defined as the United States and Canada.

THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, SCHEDULE A, IS THE COMPLETE AND ENTIRE UNDERSTANDING AND AGREEMENT OF THE PARTIES REGARDING THE SUBJECT MATTER HEREOF AND SUPERSEDES ALL PRIOR WRITTEN OR ORAL AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS WITH RESPECT THERETO, INCLUDING WITHOUT LIMITATION, ANY PURCHASE ORDER OR PROPOSAL.

[Signature on Next Page]

IN WITNESS WHEREOF, Customer has caused a duly authorized representative to execute this Agreement on behalf of Customer as of the date accepted and executed, as provided below.

_____,
(the “CUSTOMER”)

Address: _____

By: _____

Name: _____

Title: _____

Date: _____
(“Effective Date”)

SCHEDULE A
TO
HOSTED SERVICES AGREEMENT FOR HOSTED GATEWAY SERVICES

TERMS AND CONDITIONS

SECTION A - General Provisions

1. **Definitions.** Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in Section B of these Terms and Conditions.

2. **Elavon Services and Hosted System.**

(a) **Customer Access to and Use of Elavon Services and Hosted System.** During the Term, Elavon grants Customer the right to access and use the Hosted System and Elavon Services as provided in this Agreement and the schedules and exhibits executed by Customer in connection herewith. Specifically, subject to the terms, conditions and limitations set forth in this Agreement, Elavon grants Customer a limited, revocable, non-exclusive, non-assignable, non-transferable right in the Territory during the Term to: (i) use the Hosted Gateway Services to exchange information with the Hosted System, (ii) use the Additional Services, if any, and (iii) access and use the Service Web Site solely for Customer's own internal business purposes in accordance with the terms and conditions of this Agreement. All such access and use of the Elavon Services and the Hosted System shall be from systems and facilities located within the Territory.

(b) **Elavon Certification.** In order to provide Elavon Services with respect to a certain Destination Point, Elavon must be certified with that Destination Point for the applicable Elavon Services and/or Transactions requested by Customer. Customer acknowledges and agrees that: (i) all Elavon Services may not be available for all Destination Points, and (ii) Elavon may not be certified with, or remain certified with, each Destination Point in order to provide the Elavon Services in connection with or to submit Transactions to that Destination Point. All access to and use of Elavon Services by Customer is subject to the limitations and restrictions for those Elavon Services set forth in this Agreement and the applicable Additional Services Addenda. Notwithstanding the foregoing, in the event Elavon is the Destination Point, Elavon shall remain certified to provide the Elavon Services with respect to, and to submit Transactions to, itself as the Destination Point throughout the Term.

(c) **Updates to Elavon Services and Materials.** Customer acknowledges and agrees that Elavon shall have the right, in its sole discretion, to provide Updates of or to the Elavon Services, the Hosted System and/or Elavon Materials from time to time during the Term, provided, however, that, other than as necessary to maintain a competitive service or as required by a Destination Point or the Sabre SynXis PM system, no such Update shall in any way degrade or diminish the services then-currently being provided to Customer or adversely affect any interfaces related to such services.

(d) **Support Services.** Elavon shall provide Customer with Support Services in accordance with the terms set forth in Section C. Notwithstanding anything in this Agreement to the contrary, Elavon shall not be required to provide Support Services if any of the following events occur: (i) Customer fails to pay all fees in full when due (excluding fees that Customer has disputed in good faith) and fails to cure within fifteen (15) days after Elavon has provided Customer with written notice of such occurrence or (ii) Customer's material breach of any of the terms of this Agreement and fails to cure within thirty (30) days after Elavon has provided Customer with written notice of such occurrence.

(e) **Professional Services.** Elavon may perform certain professional services as mutually agreed pursuant to a professional services agreement to be separately executed by the parties.

(f) **Third Party Contractors.** Elavon may use the services of third party service providers in connection with the performance of Elavon Services under this Agreement, including any Additional Services Addendum to this Agreement, without Customer's consent. Except as otherwise provided in this Agreement, Elavon shall be responsible for compliance by any such third party of the terms and conditions of the Agreement and for the acts and omissions of that third party related to performance of this Agreement. As between the Customer and Elavon, Elavon will be solely responsible for the performance of its obligations hereunder notwithstanding any use of or delegation of any responsibility to a third party service provider. Customer shall have no responsibility whatsoever with respect to any payments to Elavon's third party service providers.

(g) **Settlement Funds.** Except as may be expressly provided herein or in another agreement between Customer and Elavon, Elavon has no responsibility for Customer's receipt of settlement funds in connection with any Transaction, whether or not the Transaction or other data in connection with such Transaction was transmitted through the Elavon Services. It is Customer's responsibility to reconcile funds received in settlement of Transactions against actual Transaction activity, including any Transaction Receipts transmitted using the Elavon Services. Further, Elavon has no responsibility for the characterization or classification of any Transaction by any Transaction Processor or Payment Services Entity for interchange or other fee purposes. If Customer desires Elavon to perform any settlement or other Transaction processing functions for Customer, the parties shall enter into a separate Transaction acquiring agreement that shall describe the obligations of both parties in connection with such additional services.

3. Access Rights.

(a) Customer Access to and Use of Elavon Services. Customer and its Authorized Users will not, and will ensure that their employees do not: (i) access or use the Elavon Services for any purposes other than for internal business purposes, except as authorized by Elavon; (ii) copy, re-sell, republish, download, frame or transmit in any form or by any means, the Elavon Materials or Elavon Services, or any part thereof, including, without limitation, in order to act as a consultant, service bureau, outsourcing or application service provider for any third parties, or otherwise allow any third party to use or access the Elavon Materials or Elavon Services; except as authorized by Elavon; (iii) modify, reverse engineer, disassemble or decompile the Elavon Services, Hosted System or any part thereof or any underlying software; (iv) intentionally transmit any data that contains software viruses, time bombs, worms, Trojan horses, spyware, disabling devices, malicious code or other harmful or deleterious computer code, files or programs to or through the Connectivity or Elavon Services; (v) intentionally interfere with or disrupt the Connectivity, or the servers or networks connected to the Hosted System or providing the Elavon Services, or intentionally or unintentionally violate the regulations, policies or procedures of any associated networks; (vi) remove, change or obliterate the copyright, trade secret or other proprietary protection legends or notices that appear in connection with access to and use of the Elavon Services or any associated Elavon Materials. Customer will not access or use, and it will not permit any Authorized User to access or use, the Elavon Services or any other Elavon systems or proprietary materials disclosed to Customer (or its designee) for the purpose of creating, in whole or in part, a system that is functionally competitive with the Elavon Services. Customer shall promptly notify Elavon of and shall otherwise cooperate with Elavon in preventing any unauthorized access to, or use or copying of, the Elavon Services, or any part thereof by Customer, Authorized Users or any third party. Customer is and shall remain liable for all access and use by Customer and its personnel including, without limitation, Authorized Users of the Elavon Services, the Hosted System and any Connectivity.

(b) Third Party Software and Services. Customer acknowledges and agrees that certain of the products or services provided by Elavon or otherwise utilized by Customer in connection with the Elavon Services may use or communicate with software or equipment developed by or operated by third parties not under the control of Elavon. To the extent Elavon required such software, equipment or third parties, it shall be solely responsible for losses or damages related to that Third Party Software or equipment or third party services unless otherwise specifically set forth in this Agreement or any schedule or any addendum hereto, including any Additional Services Addendum. Otherwise, Customer agrees to look solely to such third party for remedies, losses or

damages related to that Third Party Software or equipment or third party services.

(c) Monitoring Rights. Customer acknowledges and agrees that the Elavon Services may allow Elavon to monitor access to the Elavon Services and Hosted System and to prohibit any access or use of data or information within the Elavon Services and Hosted System that Elavon reasonably believes is unauthorized, violate applicable law or that poses an unacceptable risk of material harm to Elavon, other Elavon customers or the Hosted System; provided, however, that Customer further acknowledges and agrees that, Elavon has no obligation to detect or prevent, and will have no liability for failing to detect or prevent, any unauthorized access to or use of the Elavon Services using any password or user ID assigned to or by Customer.

(d) Customer Agents and Subcontractors. Customer will at all times remain responsible for any acts or omissions of any of Customer's subcontractors or agents in performance of its obligations as if performed by Customer pursuant to this Agreement. Elavon shall be entitled to rely upon the accuracy and completeness of information and data, including Customer Data, provided by any such subcontractor or agent on Customer's behalf to the same extent that Elavon is entitled to rely on information or data provided by Customer.

(e) Conflict of Provisions. As between the parties to this Agreement, the provisions of this Agreement shall govern and prevail as to any purchase orders, statements of work or order forms executed in connection with this Agreement, whether executed before or after the Effective Date.

(f) Authority. Customer agrees that this Agreement and any other agreement, schedule, exhibit, form, addendum or other document that is intended to be binding on Customer or upon which Elavon will rely in providing the Elavon Services must be executed by an authorized signer.

4. Responsibilities of Customer.

(a) Access to Elavon Services and Connectivity. Customer is responsible for implementing and maintaining Customer's access to the Elavon Services and Connectivity, including, without limitation, with respect to all Customer Connectivity Software, in accordance with the specifications and requirements provided by Elavon. Customer is responsible for the physical and technical security and safeguards for Customer Resources and Connectivity. If Customer is using a third party provider to host any of its equipment, resources or software necessary to access or interface with the Hosted System or Connectivity, or if Customer will access the Elavon Services or transmit data to the Hosted System or the Connectivity through a third party hosting provider, Customer shall be responsible for compliance by that third party hosting provider with the terms and conditions of this Agreement and for the acts and omissions of that third party hosting provider. Customer acknowledges and agrees that Elavon shall not bear and expressly disclaims any and all liability related to Customer's use of telecommunications

services and related networks of Customer or a third party, including, without limitation, failure of Connectivity (to the extent such failure is due to the acts or omissions of a third party not controlled by Elavon) or any erroneous transmissions, corruption or loss of data, or inability to access the Elavon Services, the Hosted System or Connectivity as a result of any telecommunications failure or failure of Customer equipment or resources or Customer Software, including, without limitation, Customer network connectivity or due to the acts or omissions of any third party hosting or telecommunications provider.

(b) On-going Certification and Compliance. Any Customer Resource or system that may access or transmit data to the Elavon Services or the Hosted System must be submitted to Elavon for testing and approval and be certified by Elavon (“Certification”) before Customer may access or use the Elavon Services or the Hosted System in connection with such Customer Resource or System. Customer acknowledges that Customer is responsible for ensuring that any Customer Resource or Customer system that may access or transmit data to the Hosted System and systems of third party vendors used by Customer in connection with the Elavon Services maintains certification and compatibility with the Elavon Services and the Hosted System and is in compliance under applicable law and all applicable industry rules and regulations and the standards set by Payment Networks or the Payment Card Industry Security Standards Council (“PCI SSC”), as all may be modified or changed from time to time. Failure of Customer’s systems, including, without limitation, Customer’s point-of-sale system or property management system, or any third party systems to maintain Certification or to be compatible and function with the most recent Elavon Services as regulated and/or required shall excuse Elavon from its obligations under this Agreement pertaining to the delivery of the Elavon Services or the Hosted System, including, but not limited to Section C of this Agreement, and in connection with any other services that Elavon may be providing to Customer.

(c) Set-up and Boarding. Customer will cooperate with Elavon in the Customer Boarding and the Customer Validation Process and provide to Elavon all specifications, information and data required by Elavon in the process of assimilating the information and data necessary to confirm that the Hosted System and each Customer Location and Origination Point are configured to make use of the applicable Elavon Services and to process Transactions through the Hosted System. Elavon is entitled to reasonably rely on the information provided by Customer in connection with Elavon’s set-up and boarding of a Customer Location and Origination Point in the Hosted System and in Elavon’s performance of the Elavon Services, including identification and set-up of Destination Points, Payment Services Entities, Customer ID, merchant category code, and any other information that may impact the Elavon Services or the processing of Transactions by Elavon or any Payment Services Entity. Customer shall notify Elavon of any changes to any Customer Location information, including, without limitation, any Customer ID, in writing at least ten

(10) days prior to the effective date of such changes and shall identify in the notice the date as of which Elavon should implement the change within the Hosted System. Elavon shall use commercially reasonable efforts to implement any such changes in accordance with Customer’s reasonable instructions. In no event shall Elavon be liable for any errors in the handling of Customer Data, the processing of Transactions or in the performance of the Elavon Services that are attributable to: (i) inaccurate or incomplete information or data provided by Customer or (ii) Elavon’s reasonable reliance upon Customer’s instructions with respect to Customer Boarding. Customer shall be responsible for any and all fees and expenses associated with the Customer Boarding and the Customer Validation Process, as reflected in the Customer enrollment forms.

(d) Information Security and Data Protection. The Elavon Services are provided for use in accordance with the operating environment specifications and requirements provided by Elavon, including, without limitation, as provided in the Documentation, the Elavon Materials, and on or in connection with the applicable Additional Services Addenda. Elavon and Customer each will implement and maintain a written comprehensive information security program that complies with the Security Requirements. Customer agrees to reasonably cooperate with measures facilitated by Elavon for ensuring ongoing Security Requirement compliance by Customer. Notwithstanding the foregoing, Customer acknowledges and agrees that, as between Elavon and Customer, Customer is responsible for the physical and technical security and safeguards for all Customer Data, software, connectivity and equipment operated, maintained or provided by Customer or to Customer by any third party, not under Elavon’s control, in connection with the Elavon Services, including, without limitation, communications devices, databases, telecommunications and network services, and related resources.

(e) Administration; Authorized Users. Customer shall designate an Administrator in writing signed by an authorized signer. The Administrator shall create passwords and user IDs for Authorized Users, and Customer shall be responsible for the distribution and security of such passwords and user IDs. Customer is responsible for ensuring the access granted to each Authorized User to the Elavon Services or the Hosted System is limited to only the access and information necessary for the Authorized User to perform his or her job functions on behalf of Customer. Customer shall ensure that all Authorized Users will be trained and qualified to access and use the Elavon Services in accordance with the terms of this Agreement and the Documentation. Customer is responsible for compliance with the terms of this Agreement by each of its Authorized Users and is solely responsible for all acts or omissions of the Authorized Users.

(f) Security of Passwords/Access. Customer is solely responsible for keeping all passwords and user IDs assigned to it and its Authorized Users secret and confidential, including, without limitation, as may be required to comply with the

Documentation and applicable Security Requirements. Customer agrees it is solely responsible for any communications or other uses of the Elavon Services that are made using its or its Authorized Users' passwords and user IDs, as well as for any obligation which may result from such use. Customer is responsible for changing the user IDs and passwords of its Authorized Users if it believes that any of those user IDs or passwords have been stolen or might otherwise be misused and for disabling any Authorized User's IDs and passwords promptly upon the termination of employment of such Authorized User. Customer shall notify Elavon immediately of any unauthorized use of any password or user ID or any other breach of security that is suspected by Customer, including any violation of Security Requirements. Notwithstanding the foregoing, should passwords and/or User IDs be disclosed due to a breach of a system under Elavon's control, Elavon shall be solely responsible for any unauthorized communications or other unauthorized uses of the Elavon Services that are made using Customer's or Customer's Authorized Users' passwords and user IDs, as well as for any obligation which may result from such use. For avoidance of doubt, all authorized communications using a compromised Customer or Authorized User password or user ID shall be valid and Customer shall be liable for such communications.

(g) Amendments; Upload Site. Customer acknowledges that it has received and reviewed the Agreement as of the date hereof. Customer further acknowledges that from time to time, Wyndham and Elavon may enter into amendments, addenda or other modifications to the Agreement (each, an "Amendment" and collectively, "Amendments"), each of which will be posted to <https://www.elavon.com/~media/Files/wyndham.pdf> or a successor website designated by Provider (the "Upload Site"). Customer agrees that it will monitor the Upload Site for any Amendments periodically, but not less than once a month, and that it will promptly review the terms of each Amendment posted. Customer further agrees that the terms of each Amendment will bind Customer to the same extent as if Customer had executed such Amendment, except to the extent expressly provided otherwise by the terms of such Amendment, regardless of whether Customer has reviewed such Amendment or not.

5. Suspension of Service. In the event of a Suspension Triggering Event, without limiting any other remedies available to Elavon at law or in equity, Elavon reserves the right to suspend: (a) Customer's and any Authorized Users' access to the Hosted System and/or (b) Customer's or any Authorized Users' access to and use of the Elavon Services, in each case under the circumstances provided in this subsection. Such suspension may be immediate and without notice if any of the following events occur: (i) Customer's breach of any applicable law or regulation, including any Payment Network Regulations; (ii) if required by any court order, Payment Services Entity, Payment Network or any Destination Point, provided, however, that, in the event any court order or notice

from any Payment Services Entity, Payment Network or Destination Point does not require immediate suspension of Customer or an Authorized User, Elavon may delay such suspension for the time period permitted under the court order or in the notice by the Payment Services Entity, Payment Network or Destination Point, provided further that Customer will indemnify and hold harmless Elavon from any fines, penalties, levies, assessments or other costs associated with Elavon continuing to provide Connectivity or access to or use of the Hosted System or the Elavon Services following such court order or notice; or (iii) if Elavon determines, in its reasonable discretion, that the provision of Connectivity to or the use of or access to the Hosted System or the Elavon Services by Customer or any Authorized User poses an unacceptable security risk to Elavon, any Payment Services Entity, any Payment Network, any other Elavon customers or any Destination Point, or jeopardizes the confidentiality, security or integrity of the Hosted System. Without limiting any other remedies available to Elavon at law or in equity, Elavon reserves the right to immediately suspend: (A) the provision of Connectivity to Customer or any Authorized User or (B) Customer's or any Authorized User's access to and use of the Hosted System or the Elavon Services if either of the following events occur: (x) failure by Customer to pay all fees to Elavon in full (excluding fees that Customer has disputed in good faith) and fails to cure within fifteen (15) days of receipt of notice from Elavon or (y) material breach by Customer of any of the terms of this Agreement and fails to cure within thirty (30) days of receipt of notice from Elavon. "Suspension Triggering Event" shall mean any event described in this paragraph giving rise to a suspension right.

6. Fees and Payment

(a) Fees. Customer shall pay Elavon the fees set forth on the signature page to the Safe-T Suite Addendum and the fees set forth in Exhibit A to the Safe-T Suite Addendum. Notwithstanding any provision in this Agreement to the contrary, Elavon shall have the right to increase the fees set forth on any enrollment form or another schedule or addendum hereto solely to pass through to Customer any increases in or any new fees imposed by a Destination Point or other Payment Services Entity, Payment Network or other third party. Elavon further reserves the right to pass through to Customer all fees, fines, penalties, or assessments imposed by any Destination Point or other Payment Services Entity, Payment Network or other third party as a result of the activities, acts or omissions of Customer. Any modification to fees identified as "pass-through" fees on any enrollment form or any other schedule or addendum that may later be added to this Agreement will reflect the actual costs to Elavon set by the third party for such fees.

(b) Payment Terms. All Elavon fees shall be billed in advance, unless fees are being calculated on a per Transaction basis. All fees shall be due and payable in accordance with the payment terms provided on the enrollment forms and are non-refundable. Except as expressly provided on the

enrollment forms, all amounts due and payable shall be made in U.S. dollars. If Customer fails to pay any fees in full when due and payable, then, in addition to all other rights and remedies at law or otherwise, Elavon shall have the right to charge Customer, and Customer shall have the obligation to pay, late payment charges equal to one percent (1.0%) per month on the unpaid amount for the period starting with the date payment was due and ending on the date when the full payment is received by Elavon. In addition, Elavon will be entitled to recover from Customer all reasonable costs incurred to obtain full payment of undisputed fees, including reasonable attorneys' fees.

(c) Additional Fees. Customer shall pay Elavon the fees set forth in each Additional Services Addendum for its use of the applicable Additional Services (collectively, the "Additional Fees"). Additional terms and conditions related to Additional Fees may be set forth in the applicable Additional Services Addendum, a pricing exhibit thereto, or the enrollment forms.

(d) DDA and ACH Authorization; Collection of Fees. Customer will establish and maintain with an ACH participating financial institution one or more demand deposit accounts ("DDA(s)") to facilitate payment of fees to Elavon. Unless otherwise indicated in this Agreement, Elavon may debit any fees Customer owes to Elavon via ACH or similar direct transfer from Customer's DDA within thirty (30) days of the occurrence of the Transaction or other event that caused such fees to be payable to Elavon, and Elavon shall submit a statement showing the amounts owed and debited within thirty (30) days of debiting any DDA. If invoicing is indicated in any enrollment form or any Additional Services Addendum instead of direct debiting of DDAs when fees are owed, Elavon shall submit to Customer an invoice for such fees owed by Customer in connection with this Agreement on a monthly basis. Customer will pay amounts reflected in such invoices within the time period set forth in the applicable schedule or the invoice. Customer authorizes Elavon to initiate ACH credit and debit entries to the DDA in order to pay undisputed fees and any other undisputed amounts that may be due by Customer to Elavon under this Agreement. The foregoing authorizations will remain in effect after termination of this Agreement until all of Customer's payment obligations to Elavon have been satisfied in full. Elavon has the right to rely on written instructions submitted by Customer requesting changes to the DDA. In the event Customer changes the DDA, the ACH authorizations established hereunder will apply to the new account and Customer shall provide Elavon such information regarding the new DDA as it deems necessary to effect debits from or credits to the DDA as provided under this Agreement. It may take Elavon up to ten (10) business days after Elavon's receipt of a written notice from Customer to reflect in its system any change to Customer's DDA.

(e) Taxes. The fees listed under this Agreement do not include sales, use, excise, property, value added, gross receipts or

any other taxes or import or export duties. In the event foreign, federal, state or local taxes or duties are assessed on the Elavon Services, Customer is obligated to pay those taxes and duties as required under applicable law and shall reimburse Elavon for any such taxes or duties, except for taxes based on the income of Elavon. If Customer is a tax-exempt entity, Customer will provide Elavon with an appropriate certificate of tax exemption.

(f) Payment to Customer's Employees, Agents, Independent Contractors, Sales Representatives and Other Personnel. Customer acknowledges and agrees that Customer is solely liable for the payment of salaries, hourly wages or other compensation to any of Customer's employees, agents, independent contractors, sales representatives or such other personnel engaged by Customer, and that Elavon shall have no obligation for any such payment.

7. Termination

(a) Termination by Customer.

(i) Customer shall have the right to terminate this Agreement upon written notice to Elavon in the event Elavon materially breaches this Agreement and the material breach is incapable of cure or remains uncured for a period of thirty (30) days after receipt by Elavon of a written notice of breach from Customer specifying the nature of the breach.

(ii) Customer shall have the right to terminate this Agreement without cause with ninety (90) days' prior written notice to Elavon and subject to the early termination obligations set forth in Section 7(e).

(b) Termination by Elavon. Without limiting the rights of Elavon to suspend provision of Elavon Services as provided herein, Elavon shall have the right to terminate this Agreement, upon written notice to Customer, in the event of any of the following:

(i) Customer is in monetary default of this Agreement for a period of fifteen (15) days after receipt of written notice of such default from Elavon; or

(ii) Customer materially breaches this Agreement and the breach is incapable of cure or remains uncured for a period of thirty (30) days after receipt by Customer of a written notice of breach from Elavon specifying the nature of the breach; or

(iii) Customer ceases to be a Franchisee and Elavon notifies Customer of its desire not to renew this Agreement no later than thirty (30) days prior to the end of the then-current Initial Term or Renewal Term.

(c) Immediate Termination. Notwithstanding any cure period described herein, Elavon shall further have the right to immediately terminate this Agreement or Customer's use of the Elavon Services hereunder, without further liability on the

part of Elavon, upon written notice to Customer in the event of any of the following: (i) Elavon determines, in its reasonable discretion, that it is commercially impractical to continue performing the Elavon Services in connection with this Agreement, including, without limitation, in light of a change in applicable laws, Payment Network Regulations or the requirements of any Payment Services Entity; (ii) any Payment Network or Payment Services Entity prohibits Elavon from providing, or prohibits Customer from using, the Elavon Services related to that Payment Network or Payment Services Entity or otherwise requires that Elavon terminate one or more Elavon Services; (iii) in the event of a Change of Control of Customer; (iv) Customer is subject to a bankruptcy proceeding; (v) Customer engages in activities that violate or cause Elavon to violate Payment Network Regulations or which cause Elavon to violate its agreement with any Payment Services Entity; or (vi) Elavon determines, in its reasonable discretion, that Customer has engaged in activities that are fraudulent, that violate applicable laws or regulatory requirements, whether local, state or federal, or that cause Elavon to violate applicable laws or regulatory requirements, or that damage the goodwill of Elavon or any of the Payment Networks.

(d) Effect of Termination or Expiration. Subject to Section 7(e) in the event of termination or expiration of this Agreement, all permissions granted to Customer to use the Elavon Services hereunder will immediately cease, and Elavon shall have the right to disable Connectivity and all access by Customer and Authorized Users to the Elavon Services, any Service Web Site(s) and the Hosted System, including all user IDs and passwords. Upon Customer’s request, except as may otherwise be set forth in this Agreement or an Additional Services Addendum agreed to by the parties hereto, all Customer’s Confidential Information, including Customer Data, in Elavon’s possession (except data contained in Elavon’s backup files or required to be maintained under applicable law or otherwise permitted to be retained by Elavon hereunder) shall be forwarded to Customer, in the then-current format maintained by Elavon. Upon Elavon’s request, all Elavon’s Confidential Information in Customer’s possession (except such information as is required to be maintained under applicable law) shall be forwarded to Elavon or destroyed, and, if destroyed, Customer shall certify to Elavon in writing that such information was destroyed. Customer shall promptly pay Elavon for all undisputed fees due to Elavon up to the effective date of termination or expiration. In the event Customer continues accessing the Hosted System or using the Elavon Services following the expiration of the Term or the termination of this Agreement or a schedule, Customer will be subject to all of its duties and obligations under this Agreement consistent with such access or use, including, but not limited to, Customer’s obligation to comply with applicable laws and regulations and pay the fees and other amounts due to Elavon for such access and use, until Elavon or Customer terminates such access and use.

(e) Early Termination Obligations. “Early Termination Obligations. If Customer terminates this Agreement before the end of the Initial Term or any Renewal Term pursuant to Section 7(a)(ii) or exercises any right of Customer pursuant to an Additional Services Addendum to terminate such addendum or the service or services provided thereunder, Customer shall pay Elavon, as liquidated damages, early termination fees as set forth below:

Time between Agreement Effective Date and Termination Date	Termination Fee
Less than 12 months	\$1,200
12-24 months	\$1,000
24-36 months	\$825
36-48 months	\$700
More than 48 months	\$550

Upon expiration or termination of this Agreement for any reason, upon mutual execution of a professional services agreement, Elavon shall provide such transition assistance as reasonably necessary to transfer the services provided by Elavon to Customer’s new designated service provider as set forth in such professional services agreement.”

8. Ownership and Reservation of Rights

(a) Retained Rights of Elavon. Customer acknowledges and agrees that, as between Customer and Elavon, Elavon retains all right, title and interest in and to the Elavon Services, Elavon Materials, Hosted System, Documentation, Elavon’s Confidential Information, Updates, Customizations and all Intellectual Property Rights in any of the foregoing. Customer has not acquired any ownership interest or license rights (except such rights as are expressly set forth in this Agreement (including Section 2(a) above)) in or to the Elavon Services, Elavon Materials, Hosted System, Documentation, Elavon’s Confidential Information, Updates, Customizations or Intellectual Property Rights in any of the foregoing, in whole or in part, and will not acquire any such interest or rights by reason of this Agreement. In the event any right, title or interest in and to any Customizations is deemed to vest in Customer, Customer hereby assigns and agrees to assign to Elavon all worldwide right, title and interest in, to and under such Customizations, including, all Intellectual Property Rights therein. All rights not otherwise provided herein or in an applicable Additional Services Addendum are reserved to Elavon. Customer acknowledges and agrees that the rights granted to Customer under this Agreement are non-exclusive and nothing in this Agreement shall limit in any manner the ability of Elavon to market, sell, offer for sale, license or otherwise exploit the Elavon Services, Elavon Materials, Hosted System, Documentation, Elavon’s Confidential Information, Updates, Customizations or Intellectual Property Rights in any of the foregoing to any third parties, directly or

indirectly, or to appoint or authorize any other person or entity to do the same.

(b) Customer Data; Retention and Delivery.

(i) Elavon shall not bear and expressly disclaims any and all liability related to Customer's use of telecommunications services and related networks of Customer or a third party, including, without limitation, failure of Connectivity (to the extent such failure is due to the acts or omissions of a third party not controlled by Elavon) or any erroneous transmission, corruption or loss of data, or inability to access the Elavon Services, the Hosted System or Connectivity as a result of the failure of the telecommunications systems, equipment, resources or software of Customer or any third party. Without limiting the foregoing, Elavon shall not be responsible for the reconstruction of any information or data lost in transmission to or from the Hosted System due to any malfunction of Customer's or Customer's third-party service provider's systems. Customer acknowledges that the ability of the Elavon Services to convert Customer Data into formats that can be used by the Elavon Software, other Elavon service offerings, any Destination Point or any other Payment Services Entity is based on the integrity of the Customer Data in its systems, and Elavon is not responsible for ensuring or verifying the accuracy of the content or format of any Customer Data received by it. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE ELAVON SERVICES RELY ON THE DATA AND DIRECTIONS PROVIDED BY CUSTOMER AND ITS AUTHORIZED USERS. ELAVON DOES NOT GUARANTEE THE ACCURACY, COMPLETENESS OR ADEQUACY OF ANY DATA OR OTHER INFORMATION PROVIDED OR MADE AVAILABLE BY CUSTOMER OR ITS AUTHORIZED USERS, AND ELAVON WILL NOT BE LIABLE FOR ANY ERROR, OMISSION, DEFECT, DEFICIENCY OR NONCONFORMITY IN DATA OR RESULTS OBTAINED THROUGH CUSTOMER'S USE OF THE SOFTWARE OR THE ELAVON SERVICES, EXCEPT TO THE EXTENT CAUSED BY ELAVON'S BREACH OF THIS AGREEMENT.

(ii) Customer is responsible for ensuring it has all necessary right, title and interest in and to Customer Data to provide such information to Elavon for use and retention by Elavon as contemplated under this Agreement. Customer grants to Elavon a revocable non-exclusive, royalty-free right and license to access and use all Customer Data as necessary or appropriate for Elavon to provide the Elavon Services and as otherwise permitted under this Agreement, including, without limitation, releasing such Customer Data to third parties as directed by Customer (including release to Destination Points and any other Payment Services

Entities) or in connection with Elavon's performance of the Elavon Services. Customer acknowledges and agrees that Elavon may use, retain, distribute and disclose derivative data based originally on Customer Data that has been compiled and aggregated with other data (the "Aggregated Data"), so long as such Aggregated Data does not identify Customer as the source of such data. "Aggregated Data" shall not constitute Customer Data or Customer's Confidential Information under this Agreement provided that Elavon will not use Aggregated Data in any manner prohibited by law.

(iii) Elavon shall have the right to rely on instructions and approvals submitted by Customer regarding access to and use of all Customer Data. Customer may view and retain certain Customer Data stored by Elavon in accordance with the functionality of the applicable Elavon Services and the terms and conditions of this Agreement. The Hosted Gateway Services enable Customer (and its Authorized Users) to view and transmit certain Customer Data via the Service Web Site. In the event that Customer wishes to access or receive copies of Customer Data that is not accessible or downloadable via the Service Web Site, Customer may request that Elavon provide such Customer Data and Elavon will work with Customer to provide such Customer Data on mutually agreed upon terms; provided, however, that access to clear-text Cardholder Data will be provided to Customer only upon Customer's execution of a completed Clear Card Request Form, which is available from Elavon upon request. Subject to Elavon's obligations under this Agreement, Elavon shall have no responsibility for any Customer Data that Customer accesses or downloads from the Hosted System. Customer shall be responsible for maintaining sufficient "backups" of information and data (e.g., Transaction Receipts or detailed reporting) with respect to Transactions and a copy of all Customer Data in order to reconstruct any information or data lost due to any malfunction of Customer's or Elavon's systems, including, without limitation, the Elavon Services, the Hosted System or Connectivity.

(iv) In connection with viewing and transmission of Customer Data pursuant to this Agreement, the Elavon Services or the Hosted System may permit Authorized Users to send and receive Customer Data to and from third parties. Elavon does not regulate or track the viewing, transmittal or receipt of any data to or by such third parties and shall not be liable or responsible for: (I) the viewing or use of Customer Data by a third party who has accessed or received such data: (A) from Customer or any Authorized User, or (B) using any user ID assigned to Customer, or (II) any transmission of Customer Data outside of the Hosted System by

Customer, an Authorized User or any third party using any user ID assigned to Customer or any Authorized User. By transmitting any data to any third party or providing any third party with access to data, Customer warrants that it has the right and authority to transmit or provide access to that data to each such third party.

- (v) In the event that, following the expiration of the Term or the termination of this Agreement or any schedule or addendum hereto, Customer desires to access Customer Data stored by Elavon in accordance with the functionality of the applicable Elavon Services, Customer shall be required to: (I) enter into a data access agreement to be separately executed by the parties and (II) pay any fees imposed by Elavon in connection with such access.

9. Confidentiality.

(a) ***“Confidential Information” means, as to either party, such party’s confidential and proprietary business or technical information, regardless of the form or media, that is reasonably identified as confidential or proprietary at the time of disclosure or which under the circumstances surrounding disclosure ought to be reasonably considered as confidential or proprietary, including, without limitation (i) in the case of Elavon, Software, Documentation, all pricing and other financial information for the Elavon Services, compilations, databases, implementation methods, techniques, algorithms, rules, methodology, technical specifications, technical information, drawings, engineering data, performance specifications, cost and price information and data and reports; and (ii) in the case of Customer, Customer Data.***

(b) ***Confidentiality Obligations. Each party (the “Receiving Party”) agrees to protect the Confidential Information of the other party (“Disclosing Party”) from unauthorized disclosure, publication or dissemination with the same standard of care and discretion it employs with similar information of its own, but in no event less than reasonable care, and, except as otherwise necessary to perform its obligations or exercise its rights under this Agreement, shall not use, reproduce, distribute, disclose or otherwise disseminate the Disclosing Party’s Confidential Information. The obligations of non-disclosure provided hereunder shall continue during the Term and: (i) with respect to Confidential Information that does not constitute a trade secret, for a period of three (3) years thereafter and (ii) with respect to Confidential Information that rises to the level of a trade secret under applicable law, for such period of time thereafter as the information shall retain its status as a trade secret under applicable law, and no less than three (3) years thereafter. Confidential Information does not include any data or information which is already known to the Receiving Party prior to disclosure by the Disclosing Party, or which: (I) has become generally known to the public through no wrongful act of the Receiving Party; (II) has been rightfully received by the Receiving Party from a third party without restriction on***

disclosure and without, to the knowledge of the Receiving Party, a breach of an obligation of confidentiality running directly or indirectly to the other party; or (III) is independently developed by the Receiving Party without use, directly or indirectly, of the Confidential Information received from the Disclosing Party. The Receiving Party shall have the right to disclose information which is required to be disclosed pursuant to court order or by law or regulation; provided, however, that in the event disclosure is required by law, regulation or court order, the Receiving Party will: (x) notify the Disclosing Party of the obligation to make such disclosure promptly and sufficiently in advance of the time required to disclose to allow the Disclosing Party the opportunity to seek a protective order, (y) cooperate with the Disclosing Party at the Disclosing Party’s expense in seeking the protective order, and (z) make disclosure only to the extent required to comply with the law, regulation or court order.

(c) ***Relief.*** The Disclosing Party may suffer irreparable harm if the confidentiality obligations set forth in this Section are not specifically enforced and such party may not have an adequate remedy at law in the event of an actual or threatened violation by the Receiving Party of its obligations under this Section. The Receiving Party therefore agrees that the Disclosing Party may be entitled (in addition to other available remedies) to an injunction restraining any actual, threatened or further breaches of the Receiving Party’s obligations under this Section or any other appropriate equitable order or decree.

10. Compliance with Laws and Payment Network Regulations.

(a) ***Compliance with Laws and Payment Network Regulations.*** Each party will comply with federal, state and local laws, government regulations and orders material to that party’s performance of its obligations under this Agreement. Customer further represents and warrants that it is in compliance with the Security Requirements with respect to all Cardholder Data and other data or information provided to Elavon or to Elavon’s agents in connection with this Agreement, and Customer will remain in compliance with such Security Requirements during the Term. Customer will use the Elavon Services only for lawful purposes in compliance with all applicable laws, rules and regulations and the terms and conditions of this Agreement. Customer warrants that Customer will comply with the Payment Network Regulations applicable to it in the performance of its business during the Term. Customer agrees to comply with the terms and conditions of the U.S. Commerce Department’s Export Administration Regulations and shall not enable any access to the Elavon Services by Customer or any Authorized Users or export, re-export, directly or indirectly, any software, Documentation or Confidential Information of Elavon, or component thereof, in violation of any applicable United States laws or regulations. Customer shall not market, demonstrate, resell or export, directly or indirectly, or enable access to or use of the Elavon Services or any information relating thereto from the United States to any country subject to

embargo or sanctions by the United States government or not approved by Elavon or for which the United States government or any agency thereof requires an export license or approval without first obtaining the same at the cost of the party requiring such export license or approval.

(b) Fines, Penalties, and Assessments. Customer shall be responsible for and pay any fine, penalty or assessment by any Payment Network as a result of the acts of Customer in violation of Payment Network Regulations whether such amount is assessed directly against Customer, against any Payment Services Entity or against Elavon.

11. Limited Warranty; Disclaimer of Warranties.

Elavon warrants that (i) the Elavon Services, Elavon Materials, Hosted System and Connectivity will substantially conform in all material respects to the Documentation and other terms and conditions set forth in the Agreement; (ii) Elavon will use commercially reasonable efforts to render the Elavon Services using personnel that have the knowledge, training, skills, experience, qualifications and resources necessary to provide and perform the Elavon Services in accordance with this Agreement; and (iii) Elavon will use commercially reasonable efforts to render the Elavon Services in a prompt, diligent and professional manner consistent with the practices and professional standards used by, and consistent with levels of performance achieved by, well-managed operations performing services similar to the Elavon Services.

(a) Disclaimer of Warranties. **EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, THE ELAVON SERVICES, ELAVON MATERIALS, HOSTED SYSTEM AND CONNECTIVITY ARE PROVIDED "AS IS" AND ELAVON DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, ACCURACY, SATISFACTORY QUALITY, TITLE, SECURITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, USAGE OR TRADE WITH RESPECT TO THE ELAVON SERVICES, ELAVON MATERIALS, HOSTED SYSTEM OR CONNECTIVITY PROVIDED HEREUNDER OR UNDER ANY SCHEDULE OR ADDENDUM.** Elavon disclaims any responsibility for the accuracy of any data or other information delivered to Customer to the extent that any inaccuracy results from the data provided by Customer or a Destination Point. Elavon does not ensure uninterrupted or error-free services. In addition, Elavon shall not be liable for any disruptions to the Elavon Services or Connectivity caused by actions, inactions, equipment malfunctions, or telecommunications or power losses between a Customer Location or Origination Point or at the Destination Point.

(b) Internet Security Disclaimer. **CUSTOMER ACKNOWLEDGES THAT THE INTERNET IS NOT A**

SECURE MEDIUM AND IS SUBJECT TO INTERRUPTION AND DISRUPTION. TRANSMISSION OF INFORMATION AND DATA VIA THE INTERNET IS OUT OF ELAVON'S CONTROL. ELAVON IS NOT RESPONSIBLE FOR ANY INTERCEPTION OR CORRUPTION OF INFORMATION OR DATA DURING ANY TRANSMISSION OVER THE INTERNET OR ANY RELATED TELECOMMUNICATIONS NETWORK OR AT ANY CUSTOMER LOCATION OR CUSTOMER NETWORK ACCESS POINT.

(c) No oral or written information given by Elavon, its agents or employees shall create any warranty or representation not set forth in this Agreement.

12. Limitation of Liability.

(a) **EXCEPT FOR A PARTY'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS, LOST REVENUE, LOSS OF DATA OR GOODWILL ARISING OUT OF THE SERVICES PROVIDED OR THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE ELAVON SERVICES, HOSTED SYSTEM, CONNECTIVITY, DOCUMENTATION OR SOFTWARE (INCLUDING ANY THIRD PARTY SOFTWARE) OR USE THEREOF BY CUSTOMER, UNDER ANY THEORY OF LAW OR EQUITY (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE) EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL ELAVON BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES.**

(b) **EXCEPT FOR A PARTY'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT, CUSTOMER'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT OR AN ADDITIONAL SERVICES ADDENDUM, OR CUSTOMER'S INDEMNIFICATION OBLIGATIONS UNDER THE SAFE-T SUITE SERVICES ADDENDUM, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY FOR ANY DAMAGES (DIRECT OR OTHERWISE) OR PENALTIES OR LOSS, CONCERNING THE PERFORMANCE OR NON-PERFORMANCE OF SERVICES OR OTHERWISE ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY THEORY OF LAW OR EQUITY (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE) EXCEED THE FEES PAID TO ELAVON BY CUSTOMER FOR THE PORTION OF THE ELAVON SERVICES GIVING RISE TO SUCH CLAIM DURING THE THREE (3) MONTHS IMMEDIATELY**

PRECEDING THE CLAIM, ANY CLAIM FOR SUCH DAMAGES OR PENALTIES BEING HEREBY WAIVED BY CUSTOMER. ELAVON'S PAYMENT OF DAMAGES(DIRECT OR OTHERWISE) OR PENALTIES OR LOSS, CONCERNING THE PERFORMANCE OR NON-PERFORMANCE OF SERVICES OR OTHERWISE ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY THEORY OF LAW OR EQUITY (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE) SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND SHALL BE FULL SATISFACTION AND SETTLEMENT OF ALL CLAIMS ASSOCIATED WITH SUCH DAMAGES; AND CUSTOMER SHALL NOT BRING ANY CLAIMS AGAINST ANY THIRD PARTY IN CONNECTION WITH SUCH DAMAGES, PENALTIES OR LOSSES.

(c) EACH OF THE PARTIES AGREES THAT THE LIMITATIONS OF LIABILITY SET OUT IN THIS AGREEMENT ARE FAIR AND REASONABLE IN THE COMMERCIAL CIRCUMSTANCES OF THIS AGREEMENT AND THAT IT WOULD NOT HAVE ENTERED INTO THIS AGREEMENT BUT FOR THE OTHER PARTY'S AGREEMENT TO THESE LIMITATIONS OF LIABILITY IN THE MANNER, AND TO THE EXTENT, PROVIDED UNDER THIS AGREEMENT. THIS SECTION SHALL APPLY EVEN IN THE EVENT OF A BREACH OF A CONDITION OR ESSENTIAL TERM OF THIS AGREEMENT AND IF OTHER REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.

13. Customer Audit. Upon ten (10) business days' prior written notice from Elavon, Customer shall allow Elavon and/or its agents and any Payment Services Entity having jurisdiction over Elavon to conduct financial and procedural audits and to inspect and audit Customer's records relating to Customer's performance under this Agreement during business hours at Customer's regular place of business for such records. Elavon shall bear the cost of such inspection and audit unless Elavon reasonably determines based on such audit that Customer is not in compliance with this Agreement, in which case such cost shall be borne by Customer. Customer will maintain complete and accurate records of its performance under this Agreement.

14. Indemnification. Customer shall indemnify, hold harmless, and at Elavon's option, defend Elavon, its parents, subsidiaries, and affiliated entities, and their respective officers, directors, employees, representatives, agents, successors and assigns (collectively, "Elavon Indemnified Parties") from and against any liabilities, damages, losses, fines, judgments, costs and expenses (including, without limitation, all settlements, reasonable attorney's fees and legal fees, expert fees and court costs) (collectively, "Losses") and reimburse the Elavon Indemnified Parties for Losses to the extent arising out of or resulting from any third party claims, suits, proceedings, investigations, actions or demands relating

to or arising out of: (a) breach by Customer of any of the terms of this Agreement, including, without limitation, any representations, warranties or obligations under this Agreement or any act or omission of those for whom Customer is responsible; (b) the negligence or willful misconduct of Customer, its employees, representatives or agents in performance under this Agreement; (c) violation of applicable federal, state or local or municipal laws, rules, regulations, ordinances, or orders, or any Payment Network Regulations in connection with performance by Customer under this Agreement; or (d) damage to any of Elavon's tangible personal property or personal injury to Elavon and its employees or agents while on Customer's premises, except to the extent that any such damage is determined to have resulted from the negligence or misconduct of Elavon. Customer will not enter into any settlement that imposes any liability or obligation on the Elavon Indemnified Party, or contains any admission or acknowledgement of wrongdoing (whether in tort or otherwise), without Elavon's prior written consent. Elavon may join in the defense, with its own counsel, at its own expense.

15. Force Majeure. Except for payment of Elavon fees due by Customer, no party shall be responsible for, or be considered to be in breach hereunder, nor shall any party be responsible for failure or delay in fulfilling its obligations under this Agreement, if caused by an event beyond the party's reasonable control; provided such party took reasonable measures to protect against such event, avoid such event's impact on its performance hereunder and continues to attempt to perform here under. If a force majeure event interrupts Elavon's provision of any Elavon Services, Customer shall continue to pay Elavon the fees for the Elavon Services owed under this Agreement and Elavon shall make all reasonable efforts to restore such Elavon Services. Customer shall not owe Elavon the fees for the Elavon Services which were not performed during such interruption. If the force majeure event continues for a period of more than fourteen (14) days, then Customer may, upon notice to Elavon, as its sole and exclusive remedy, continue to abate payment to Elavon to the extent Elavon Services are not performed and/or terminate this Agreement.

16. Notices. Except as otherwise specified in this Agreement, any notice or communication required or permitted under this Agreement must be sent to Customer at the address specified in the signature page to this Agreement and to Elavon, with a copy to Elavon's legal department, at the addresses specified below, or to a party's substitute address provided to the other party in writing, and shall be deemed received on the earlier of: (a) actual receipt, or (b) five (5) business days after being deposited in the United States mail, or (c) one (1) business day after being deposited for overnight delivery with any nationally recognized commercial overnight mail service.

Elavon, Inc.
Attn: Head of Gateway Sales
10700 76th Court
Largo, FL 33777

With a copy to:

Elavon, Inc.

Attn: General Counsel

Two Concourse Parkway, Suite 800

Atlanta, GA 30328

17. Publicity. Elavon shall have the right to use the Customer's name, trademarks, or trade names, in oral or written communications to third parties, including any sales or marketing publication or advertisement, describing Customer as a customer of Elavon with respect to the Elavon Services provided hereunder. Except as provided herein, neither party may use the trademark or trade names of the other party, including but not limited to in press releases, without the advance written approval of the other party.

18. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Georgia, excluding (a) its conflicts of laws principles; (b) the United Nations Convention on Contracts for the International Sale of Goods; (c) the 1974 Convention on the Limitation Period in the International Sale of Goods; and (d) the Protocol amending the 1974 Convention, done at Vienna April 11, 1980. Jurisdiction and venue for any claim or cause of action arising under this Agreement shall be solely and exclusively in the United States District Court for the Northern District of Georgia, and the parties submit to personal jurisdiction of, and waive any personal jurisdiction or inconvenient forum objection to, that court. If subject matter jurisdiction does not exist in the United States District Court for the Northern District of Georgia, then the sole and exclusive forum and venue for any such action shall be the courts of the State of Georgia located in Fulton County and the parties submit to personal jurisdiction of, and waive any personal jurisdiction or inconvenient forum objection to, such court. In the event of a dispute, and prior to filing any litigation, the parties agree to escalate discussions to at least senior management level and to discuss in good faith the possible utilization of alternative dispute resolution procedures, including, but not limited to, non-binding mediation. **EACH PARTY EXPRESSLY WAIVES ALL RIGHTS TO A JURY TRIAL IN CONNECTION WITH ANY DISPUTE.**

19. Assignment; Inurement. Customer shall not have the right to transfer or assign its rights or obligations under this Agreement to any other individual or entity, without the prior written consent of Elavon or its permitted assigns, which consent shall not be unreasonably withheld; provided that Customer may transfer or assign its rights and obligations under this Agreement to an affiliate or subsidiary as part of a business reorganization and that Customer provides written notice to Elavon of such transfer or assignment. Subject to the foregoing, this Agreement, and the obligations and benefits herein contained, shall inure to the benefit of, and be binding upon, the successors and assigns of the parties hereto.

20. Relationship of the Parties. Both parties agree that they are independent entities. Nothing in this Agreement shall be construed to create a partnership, joint venture or agency

relationship between the parties. Each party is responsible for the supervision, management and direction of its own employees. This Agreement is intended for the benefit of the parties hereto and is not intended to create an interest in any third party, and no third parties shall have any rights or be entitled to any benefits under this Agreement, except as expressly provided herein.

21. Communication with Customer. By providing a mobile phone number and/or e-mail address, Customer agrees that Elavon may provide Customer with information about Elavon's services including, without limitation, information about new products and/or services by telephone and/or electronic mail. Customer agrees that Elavon may make such communications via any telephone number (including cellular or mobile telephone numbers), electronic mail account or address and/or facsimile number provided by Customer or a Customer employee or agent to Elavon. Customer is not required to provide its mobile phone number and/or e-mail address in connection with this Agreement and if Customer does, it may elect in the future not to receive such communications from Elavon by contacting Elavon at *optout@elavon.com*.

22. Entire Agreement. This Agreement, including the schedules and exhibits attached hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof. This Agreement supersedes all prior or contemporaneous oral, implied or written agreements with respect to the subject matter hereof and shall take precedence over any inconsistent provisions contained in any purchase order issued by the Customer related thereto. This Agreement shall not be varied by any oral agreement or representation or by other than an instrument in writing of subsequent date hereto, executed by both parties by their duly authorized representatives. All schedules and exhibits are expressly incorporated in their entirety herein and made a part of this Agreement. In the event of a conflict between the terms of these terms and conditions and any schedule, exhibit, or Additional Services Addendum, the terms of such schedule, exhibit, or Additional Services Addendum shall control with respect solely to the subject-matter of thereof.

23. Miscellaneous. All of the obligations of each party hereto incurred prior to any termination of this Agreement or that by their nature should survive termination or expiration of the Agreement in order to achieve its purposes, including, without limitation, Sections 6, 7(d), and 8 – 23 (inclusive) shall survive the expiration or termination of this Agreement and remain binding upon and for the benefit of the parties hereto. If any provision of the Agreement is found to be illegal or otherwise unenforceable, the invalid or unenforceable provision shall be deemed to be curtailed or revised to the extent necessary to make such provision valid and enforceable and all other provisions of the Agreement shall remain enforceable and unaffected thereby so long as the curtailment or revision of the invalid or unenforceable provision does not result in a material change to an essential term or condition of

this Agreement. None of the failure, the delay by any party to exercise, or the partial exercise of any right under the Agreement will operate as a waiver or estoppel of such right, nor shall such amend the Agreement. All waivers requested by a party must be signed by the waiving party to be effective. This Agreement shall not be varied by any oral agreement or representation or by other than an instrument in writing of subsequent date hereto, executed by both parties by their duly authorized representatives. The Agreement may be signed in one or more counterparts, each of which shall constitute an original and all of which, taken together, shall constitute one and the same agreement. Delivery of the various documents and instruments comprising the Agreement may be accomplished by facsimile or electronic means (e.g., pdf documents via electronic mail), and such a signed facsimile or electronic document or copy shall constitute a signed original. Captions in the Agreement and in the attached exhibits and schedules are for convenience only and do not constitute a limitation of the terms in the Agreement. Singular terms shall include the plural and vice versa, unless the context otherwise requires. The word “day” shall mean “calendar day,” unless specifically stated otherwise. The language used will be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction will be applied against any party.

Section B – Glossary of Defined Terms

“ACH” means Automated Clearing House.

“Additional Fees” has the meaning given to it in Section 6(c) of Section A of this Schedule A.

“Additional Services” means hardware, software, products, or services provided by Elavon to Customer pursuant to an Additional Services Addendum to this Agreement.

“Additional Services Addendum” means the one or more addenda entered into by Customer in accordance with the terms of this Agreement that describes hardware, software, products, or services in addition to the Hosted Gateway Services provided by Elavon to Customer in connection with this Agreement. For avoidance of doubt, the SAFE-T Suite Services Addendum is an Additional Services Addendum.

“Administrator” means the Customer employee designated by Customer to establish user groups for access to the Elavon Services by Authorized Users of Customer and to issue and manage user IDs and passwords of Authorized Users.

“Agreement” has the meaning given to it on the signature page to this Hosted Services Agreement for Hosted Gateway Services.

“Aggregated Data” has the meaning given to it in Section 8(b)(ii) of Section A of this Schedule A.

“Authorized Users” means the Customer’s employees or other authorized personnel expressly authorized to access and use the Elavon Services and/or the Hosted System.

“BCP” has the meaning given to it in Section 3 of Section C of this Schedule A.

“Cardholder” means: (i) the individual in whose name a Payment Device has been issued; or (ii) any individual who possesses or uses a Payment Device and who purports to be the person in whose name the Payment Device was issued or who purports to be an authorized user of the Payment Device.

“Cardholder Data” means unique information about the Cardholder contained on the face or magnetic stripe of a payment card (e.g. the card number, card expiration date in combination with the card number, cardholder name in combination with the card number, track data/magnetic stripe, verification numbers CVV2, CVC2, CID and PIN Block) and Transaction data.

“Certification” has the meaning given to it in Section 4(b) of Section A of this Schedule A.

“Change of Control” means, with respect to a party (i) a merger or consolidation of such party with or into another entity, or the merger of another party with or into such party or any other transaction or series of transactions, with the effect that the equity holders of such party immediately prior to such transaction hold fifty percent (50%) or less of the total voting power entitled to vote in the election of directors, managers, or trustees of the surviving entity; or (ii) an acquisition by any person or group of beneficial ownership of a majority in interest of the voting power or voting capital or other equity interest of such person.

“Confidential Information” has the meaning given to it in Section 9(a) of Section A of this Schedule A.

“Connectivity” means the Elavon-controlled, non-public network connectivity and interfaces for transmitting data between the Origination Point and the Hosted System.

“Credit Card” means a card or device associated with a revolving line of credit that may be used to purchase goods and services from Customer or to pay an amount due to Customer. A “Credit Card” includes any of the following cards or devices that are associated with a line of credit extended to the person to whom the card or device is issued: (i) a Visa card or other card or device bearing the symbol(s) of Visa U.S.A., Inc. or Visa International, Inc. (including Visa Gold cards); (ii) a MasterCard card or other card or device bearing the symbol(s) of MasterCard International, Inc. (including MasterCard Gold cards); (iii) a Discover Network card or other card or device bearing the symbol(s) of Discover Network; or (iv) any card or device bearing the symbol of any other Credit Card Association.

“Credit Card Associations” means (i) Visa, Inc.; (ii) MasterCard International, Inc.; (iii) American Express Travel Related Services Company; (iv) Discover Financial Services; (v) Diners Club International; (vi) JCB; and (vii) any other organization or association that hereafter contracts with any Payment Services Entity to authorize, capture, and/or settle Transactions effected with Credit Cards issued or sponsored by such organization or association, and any successor organization or association to any of the foregoing.

“Customer” has the meaning given to it on the signature page to this Agreement.

“Customer Boarding” means Elavon’s process of gathering and assimilating the information required from Customer to confirm Elavon has the required data necessary to board Customer and to provide the applicable Elavon Services with respect to Customer.

“Customer Connectivity Software” means any software provided by or on behalf of Customer, whether integrated at Customer’s or a third party hosting or service provider’s operating environment, and the associated interfaces and data collection routines implemented by or on behalf of Customer to access and use the Elavon Services, including, without limitation, plug-ins, agents and operating system components.

“Customer Data” means all information or items proprietary to Customer provided to Elavon in order for Elavon to provide the Elavon Services with respect to Customer, including, without limitation, information Cardholder Data and Transaction information that is provided by Customer to Elavon in connection with the performance under this Agreement.

“Customer ID” means the unique identification number assigned to Customer by a Payment Services Entity or another third party, which identification number may be used to identify Transactions of such Customer.

“Customer Location” means a designated location at which a Customer uses the Elavon Services.

“Customer Resources” means all equipment, communications devices, databases, services and other resources that Customer maintains and/or operates in Customer’s or its third party hosting provider’s locations and which enable Customer to access and use the Elavon Services.

“Customer Software” means any and all software, owned by or to which Customer has licensed rights from third parties that Customer may use to access the Elavon Services and transmit Customer Data to the Hosted System, including, without limitation, any data import routines, APIs and Customer Connectivity Software.

“Customer Validation Process” means the process of gathering and assimilating the essential information required to ensure that Customer has the required data and configuration necessary for Customer to process all subscribed transactions to and from the applicable Transaction Processor, including, without limitation, implementation by Customer of the applicable Security Requirements to allow use of the Elavon Services.

“Customizations” means any works of authorship, work product, and any invention, process, method, development, design, schematic or technical information, whether patentable or not, including, without limitation, documentation, software or enhancements, improvements, alterations or derivatives of the Elavon Services or the Hosted System developed by Elavon, either alone or jointly with others, in connection with this Agreement.

“Day” has the meaning given to it in Section 23 of Section A of this Schedule A.

“DDA(s)” has the meaning given to it in Section 6(d) of Section A of this Schedule A.

“Debit Card” means a card or device bearing the symbol(s) of one or more EFT Networks or Credit Card Associations, which may be used to purchase goods and services from a Customer or to pay an amount due to a Customer by an electronic debit to the Cardholder’s designated deposit account. A “Debit Card” includes: (i) a card or device that bears the symbol of a Credit Card Association and may be used to conduct signature-based, offline debit Transactions; and (ii) a card or device that bears the symbol of an EFT Network and can be used to conduct PIN-based, online debit Transactions.

“Destination Point” means the location of a Payment Services Entity designated by Customer with respect to which Customer has requested Elavon to provide the Elavon Services and/or to which Customer has requested Elavon submit Transactions.

“Documentation” means Elavon standard written services description for the Elavon Services, as applicable, that is delivered to Customer under this Agreement, including user manuals and best practices guides, as may be amended by Elavon from time to time, but shall not include marketing materials, proposals, demonstrations and other promotional information.

“EFT Networks” means: (i) Interlink Network, Inc., Maestro U.S.A., Inc., STAR Networks, Inc., NYCE Payments Network, LLC, PULSE Network, LLC, ACCEL/Exchange Network, Alaska Option Services Corporation, Armed Forces Financial Network, Credit Union 24, Inc., NETS, Inc., and SHAZAM, Inc.; and (ii) any other organization or association that hereafter authorizes a Payment Services Entity to authorize, capture, and/or settle Transactions effected with

Debit Cards, and any successor organization or association to any of the foregoing.

“**Elavon**” has the meaning given to it on the signature page to this Agreement.

“**Elavon Indemnified Parties**” has the meaning given to it in Section 14 of Section A of this Schedule A.

“**Elavon Materials**” means the specifications, Documentations, interfaces, APIs, nonpublic or proprietary marketing collateral, data import routines, sample code and materials provided to Customer to enable Customer to perform its obligations or exercise its rights under this Agreement, including integration to the Elavon Services.

“**Elavon Services**” means, individually and collectively, the services provided by Elavon to Customer pursuant to this Agreement, including the Hosted Gateway Services, the Support Services, and any Additional Services.

“**Franchisee**” means an entity that is party to an agreement with Wyndham Hotel Group, LLC in which the Wyndham Hotel Group LLC provides a licensed privilege to operate a business using Franchisor’s trademarks.

“**Hosted Gateway Services**” means the services described on the signature page to the Agreement.

“**Hosted System**” means the Elavon proprietary switch technology, operating systems and software platform operated by Elavon for the Elavon Services.

“**Initial Term**” has the meaning given to it on the signature page to this Agreement.

“**Intellectual Property Rights**” means, collectively, worldwide patents, trade secrets, copyrights, trademarks, service marks, trade names and all other intellectual property rights and proprietary rights, including all rights or causes of action for infringement or misappropriation of any of the foregoing.

“**Losses**” has the meaning given to it in Section 14 of Section A of this Schedule A.

“**Origination Point**” means either: (i) the Customer central origination location that transmits data between the Customer and the Hosted System or (ii) if the Customer is integrated with the Elavon Services directly, the point-of-sale (POS), property management system (PMS), terminal central location, equipment or system from which the Customer transmits data to and/or receives data from the Hosted System.

“**Payment Device**” means a device or method used for the purpose of obtaining credit or debiting a designated account

including a Credit Card, Debit Card, and any other financial transaction device or method, including a check (whether converted into electronic form or used as a source document for an electronic fund transfer), benefit card, stored value card, “smart” card or other device created to be used for the purpose of obtaining credit or debiting a designated account.

“**Payment Network**” means any Credit Card Association or network, EFT Network, electronic check or automated clearing house association, governmental agency or authority, and any other entity or association that issues or sponsors a Payment Device or operates a network on which a Payment Device is processed.

“**Payment Network Regulations**” means individually and collectively, as the context may dictate, all rules, operating regulations, guidelines, specifications and related or similar requirements of any Payment Network, and guidelines for Transactions issued by Elavon from time to time, including, without limitation, all amendments, changes and revisions made thereto from time to time.

“**Payment Services Entity**” means any third party (which may include Elavon if Customer has engaged Elavon to provide Payment Device or Transaction processing services) that Customer has designated as a Destination Point for receipt of Transactions and to which Elavon is certified to submit transactions, including but not limited to, Transaction Processors, Payment Networks, third party service providers, program managers and other third parties associated with Payment Device acceptance or other programs of Customer.

“**PCI SSC**” has the meaning given to it in Section 4(b) of Section A of this Schedule A.

“**Renewal Term**” has the meaning given to it on the signature page to this Agreement.

“**Security Requirements**” means the applicable access control and data security requirements promulgated by Elavon, any Payment Network or by the PCI SSC, in each case as may be amended or supplemented from time to time.

“**Service Web Site**” means the internet web site(s) operated by Elavon and located at the URL designated by Elavon for Customer to access the Hosted Gateway Services (as that URL may be updated from time to time) and that constitutes a part of the Elavon Services.

“**Support Services**” means Elavon support services made available to Customer in support of the Hosted Gateway Services and the Service Web Site in accordance with the terms provided in Section C of this Schedule A.

“**Suspension Triggering Event**” has the meaning to it in Section 5 of Section A of this Schedule A.

“**Term**” has the meaning given to it on the signature page to this Agreement.

“**Territory**” has the meaning given to it on the signature page to this Agreement.

“**Third Party Software**” means any software products owned or licensed by a third party.

“**Transaction**” means any action between a Cardholder using a Payment Device and Customer that results in activity on the Cardholder’s account (e.g., a payment, purchase, refund or return).

“**Transaction Processor**” means service bureaus and other persons that provide transaction processing services, including authorization and/or settlement services, to Customer. The authorization services may support processing of credit, debit, check or other types of transaction services as may be available through the Elavon Services. In order to provide Elavon Services with respect to a Transaction Processor

designated by Customer for a Customer Location, Elavon must be certified with the selected Transaction Processor for the applicable Elavon Services.

“**Transaction Receipt**” means the paper or electronic record evidencing the purchase of goods or services from, or payment to, a Customer by a Cardholder using a Payment Device.

“**Updates**” means all updates, revisions, patches, fixes, new releases and other improvements to or discontinuance of any Elavon Services or the Hosted System provided to Customer under this Agreement.

Section C - Support Services

1. Support Services. Elavon shall operate a technical support call center twenty four (24) hours per day, seven (7) days per week, three hundred sixty five (365) days per year (24x7x365).

APPENDIX A

SAFE-T SUITE SERVICES ADDENDUM TO HOSTED SERVICES AGREEMENT

THIS SAFE-T SUITE SERVICES ADDENDUM is entered into as of the Addendum Effective Date indicated below by and between Elavon, Inc. (“Elavon”) and the party identified as “Customer” below. This SAFE-T Suite Services Addendum is an addendum to and supplements that certain Hosted Services Agreement (the “Agreement”) entered into by and between Customer and Elavon and having an Effective Date of _____. This SAFE-T Suite Services Addendum is governed by and is part of the Agreement. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement (including Schedule A thereto).

This SAFE-T Suite Services Addendum consists of this signature page, the SAFE-T Suite Terms and Conditions and the relevant Exhibits specified below for each of the selected items, each of which is incorporated in full by this reference. The SAFE-T Suite Terms and Conditions and the Exhibits are available at <https://www.elavon.com/~media/Files/wyndham.pdf>

Fees: The following Exhibit shall apply to Customer in connection with this SAFE-T Suite Services Addendum:

- Exhibit A (Fees)

SAFE-T Suite Services: Customer will be receiving each of the following Services:

- Tokenization Services
- Encryption Services

Encryption Services and Simplify Software and Support: Customer will be receiving each of the following items:

- Encryption Terminal Software Licensed from Elavon (*For this item, Exhibit C shall apply to Customer in connection with this SAFE-T Suite Services Addendum.*)
- Simplify License and Support (*For this item, Exhibit F shall apply to Customer in connection with this SAFE-T Suite Services Addendum.*)

Equipment Purchase: Customer is purchasing equipment as set forth below (“Equipment”) in accordance with the additional terms set forth in Exhibit E:

Terminal Type Selection: Please select the applicable option:

Terminal Type	Number of Terminals*
<input type="checkbox"/> Ingenico iPP320	_____
<input type="checkbox"/> Ingenico iPP350	_____
<input type="checkbox"/> Lane3000	_____
<input type="checkbox"/> Lane5000	_____
<input type="checkbox"/> Move5000	_____
<input type="checkbox"/> Lane7000	_____
<input type="checkbox"/> Link2500	_____

***(minimum of 2 terminals is required; if the number of terminals is not specified, 2 terminals will be deemed to have been selected)**

Optional Additional Warranty Programs:

- Advanced Exchange Program – 3 Year

THIS SAFE-T SUITE SERVICES ADDENDUM, INCLUDING THE SAFE-T SUITE TERMS AND CONDITIONS AND EXHIBITS INCORPORATED HEREIN, IS THE COMPLETE AND ENTIRE UNDERSTANDING OF THE PARTIES REGARDING THE SUBJECT MATTER HEREOF AND SUPERSEDES ALL PRIOR WRITTEN OR ORAL AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS WITH RESPECT THERETO, INCLUDING, WITHOUT LIMITATION, ANY PURCHASE ORDER OR PROPOSAL.

[Signature page follows]

IN WITNESS WHEREOF, Customer has caused a duly authorized representative to execute this SAFE-T Suite Services Addendum on behalf of Customer as of the Addendum Effective Date, as provided below.

"CUSTOMER"

By: _____
(Signature)

Name: _____
(Printed Name)

Title: _____

Date: _____
("Addendum Effective Date")

**TERMS AND CONDITIONS
TO
SAFE-T SUITE SERVICES ADDENDUM**

1) **FEES.**

Customer shall pay the SAFE-T Suite Services Fees and all other fees set forth on the signature page to the this SAFE-T Suite Services Addendum, in the enrollment form, Exhibit A to this SAFE-T Suite Services Addendum, or any other pricing attachment to the Agreement.

2) **DESCRIPTION OF SAFE-T SUITE SERVICES.**

Subject to the terms and conditions of this SAFE-T Suite Services Addendum and the Agreement, Elavon shall provide Customer with its choice of the following SAFE-T Suite Services (as indicated on the signature page to this SAFE-T Suite Services Addendum):

a) **ENCRYPTION SERVICES**, which shall consist of decryption of Transaction Receipts properly encrypted by Customer using Elavon-approved software, encryption keys and Hardware (as defined below), all in accordance with the terms and conditions of this SAFE-T Suite Services Addendum and the Agreement (such services, the "Encryption Services"); and

b) **TOKENIZATION SERVICES**, which shall consist of a tokenization feature pursuant to which Elavon will provide Customer with randomized numerical tokens (each, a "Token") in substitution for Credit Card and Debit Card account numbers (each such number, a "Card Account Number"; such services, the "Tokenization Services"). More specifically, when a Card Account Number associated with a Transaction is transmitted from Customer to Elavon, Elavon will:

- i) generate a Token;
- ii) associate the Token with the Card Account Number; and
- iii) send the Token, instead of the Card Account Number, back to Customer in the Transaction authorization response message.

For so long as this SAFE-T Suite Services Addendum remains in effect, the Token, rather than the associated Card Account Number, may be submitted by Customer to Elavon to process additional Transactions to the Credit Card or Debit Card associated with such Token across all Customer locations. The Card Account Number associated with each Token generated by Elavon can be retrieved by Elavon, on Customer's written request, until the date that is three (3) years after the expiration or termination of this SAFE-T Suite Services Addendum (the "Token Validity Period"), provided that the retrieval of Card Account Numbers after the expiration or termination of this SAFE-T Suite Services

Addendum will be subject to additional terms and conditions and at an additional cost to Customer.

3) **CUSTOMER RESPONSIBILITIES.**

a) Customer shall cause the appropriate hardware, including POS Devices and any hardware provided by or on behalf of Elavon from time to time, to be readily available for use at all Customer locations that are the recipients or users of the SAFE-T Suite Services (the "Hardware"). "POS Device" means a terminal, software or other point of sale device at a Customer location that conforms to the requirements established from time to time by the applicable Payment Networks.

b) Customer acknowledges that Elavon does not store Credit Card or Debit Card expiration dates. In order to use a Token to process a Transaction, Customer must provide the Token (in lieu of a Card Account Number) together with the expiration date for the original Credit Card or Debit Card.

4) **DE-TOKENIZATION.**

Customer may request a reversal of the Tokenization process as follows:

a) To reverse the Tokenization process on an individual Token basis, Customer may access an Elavon web portal and, with appropriate authentication credentials, retrieve the Card Account Number associated with any Token.

b) To reverse the Tokenization process on a bulk basis (i.e., in excess of 100 Tokens at a time), an officer of Customer must make a request in writing to Elavon and provide Elavon with the Tokens for which Customer wishes to reverse the Tokenization process. Elavon will provide Customer's requesting officer with an encrypted file containing the Card Account Numbers associated with such Tokens within thirty (30) days of receiving the request. Customer acknowledges and agrees that additional terms and conditions may apply to reversal of Tokenization on a bulk basis.

5) **LIABILITY; WARRANTIES; DISCLAIMER.**

a) Elavon warrants that (i) the Encryption Services, Tokenization Services, Hardware and any licensed products (including any software) will substantially conform in all material respects to the terms and conditions of this SAFE-T Suite Services Addendum, the Agreement, and any other applicable specifications and/or documentation provided to Customer by Elavon; (ii) Elavon will use commercially reasonable efforts to render the Encryption Services and

**TERMS AND CONDITIONS
TO
SAFE-T SUITE SERVICES ADDENDUM**

Tokenization Services using personnel that have the knowledge, training, skills, experience, qualifications and resources necessary to provide and perform the Encryption Services and Tokenization Services in accordance with this SAFE-T Suite Services Addendum and the Agreement; and (iii) Elavon will use commercially reasonable efforts to render the Encryption Services and Tokenization Services in a prompt, diligent and professional manner consistent with the practices and professional standards used by, and consistent with levels of performance achieved by, well-managed operations performing services similar to the Encryption Services and Tokenization Services.

b) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS SAFE-T SUITE SERVICES ADDENDUM, CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE DISCLAIMER OF WARRANTIES CONTAINED IN SECTION 11 OF SCHEDULE A TO THE AGREEMENT AND THE LIMITATION OF LIABILITY CONTAINED IN SECTION 12 OF SCHEDULE A TO THE AGREEMENT SHALL APPLY WITH RESPECT TO THE SAFE-T SUITE SERVICES, THE HARDWARE AND ANY LICENSED PRODUCTS (INCLUDING ANY SOFTWARE), IF ANY, PROVIDED UNDER THIS SAFE-T SUITE SERVICES ADDENDUM AND THAT THE SAFE-T SUITE SERVICES, HARDWARE AND LICENSED PRODUCTS (INCLUDING ANY SOFTWARE), IF ANY, PROVIDED UNDER THIS SAFE-T SUITE SERVICES ADDENDUM ARE PROVIDED "AS IS". NOTWITHSTANDING THE FOREGOING, THE TERMS OF ANY EXPRESS LIMITATION OF LIABILITY OR DISCLAIMER OF WARRANTIES CONTAINED IN ANY SCHEDULE, EXHIBIT, OR ADDENDUM HERETO SHALL CONTROL WITH RESPECT TO THE SERVICES AND PRODUCTS (INCLUDING HARDWARE AND SOFTWARE), IF ANY, PROVIDED PURSUANT TO SUCH SCHEDULE, EXHIBIT, OR ADDENDUM.

6) TERM AND TERMINATION.

This SAFE-T Suite Services Addendum shall commence as of the Addendum Effective Date and continue until the expiration or termination of the Agreement, unless either party gives notice to the other party of its intent not to renew this SAFE-T Suite Services Addendum at least ninety (90) days prior to the expiration of the then-current Term of the Agreement. This SAFE-T Suite Services Addendum

may be terminated by either party for any reason that such party may terminate the Agreement. Customer may elect to terminate this Addendum or any service provided hereunder on ninety (90) days' prior written notice to Elavon, provided that in the event of such termination, Customer shall pay to Elavon the applicable early termination fee with respect to the terminated service or services, as set forth in Section 7(e) of Schedule A to the Agreement.

7) TERRITORY.

Except as specifically set forth in this SAFE-T Suite Services Addendum, Customer may use the SAFE-T Suite Services indicated on the signature page to this SAFE-T Suite Services Addendum in the Territory.

8) DEFINITIONS.

Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms on the signature page to the SAFE-T Suite Services Addendum or the Agreement (as defined therein).

EXHIBIT A TO SAFE-T SUITE SERVICES ADDENDUM

Fees

1. **Hosted Gateway and SAFE-T Suite Services Fees.** The fees payable by Customer for the Tokenization and/or Encryption Services (the “SAFE-T Suite Services Fees”) and Hosted Gateway Services are specified in this section.

a) **Customer Boarding and Validation Fees (effective after the initial Fusebox and Security implementation) :**

- i) New Property Implementation Fee: \$200
- ii) Change of Service Fee \$125

b) **Support Fees:** due and payable commencing upon the date of execution of the SAFE-T Suite Services Addendum.

- i) SAFE-T Suite Services (Oracle), Hosted Gateway Services and Terminal Support Fixed Fee: \$12 per year, per Device

c) **Security Services Fees:**

- i) SAFE-T Suite Services (Oracle), Hosted Gateway Services and Terminal Support Fixed Fee without Elavon Acquiring: \$115 per month
- ii) SAFE-T Suite Services (Oracle), Hosted Gateway Services and Terminal Support Fixed Fee with Elavon Acquiring: \$90 per month
 “Elavon Acquiring” means credit and debit card acquiring services provided by Elavon.
- iii) Hosted Gateway Security Fee – Tokenization and Encryption: \$0.0150 per transactions after 40,000 Transactions annually per property

2. **Equipment Purchase Fees.**

(a) **Purchased Equipment and Software.** Customer has elected to purchase Equipment and license software from Elavon with the following specifications at the following specified costs:

POS Devices and Related Software

POS Device Types Purchased:	# of POS Device Units Purchased:	POS Device Cost per Unit:	# of POS Devices to receive Encryption Terminal Application:	Encryption Terminal Application License Fees per POS Device:	Encryption Terminal Application Load and Key Injection Fees per POS Device:	# of POS Devices to receive Simplify Software:	Simplify License Fees per POS Device:	Shipping Cost per POS Device:	Total Cost per POS Device:
<i>ISC250</i>	Minimum of 2 units per property	\$391.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$541.00
<i>iPP320</i>	Minimum of 2 units per property	\$290.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$440.00
<i>Lane3000</i>	Minimum of 2 units per property	\$293.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$443.00

Lane5000	Minimum of 2 units per property	\$468.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$618.00
Move5000	Minimum of 1 units per property	\$476.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$626.00
Lane7000	Minimum of 2 units per property	\$617.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$726.00
Link2500	Minimum of 1 units per property	\$311.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$461.00

Assumptions:
1) Each equipment bundle includes: Hardware, Key Injection, Cabling, Power Supply, Commbox (if needed), Voltage Encryption & Simplify One-Time License Fees & Deployment with standard 1 year Manufacturer Warranty
2) 3 year Advanced Exchange Program is optional and offered at an additional cost.

- (b) **Shipping.** The fee payable by Customer for shipment of POS Devices to the location or locations designated by Customer is Thirty Dollars (\$30.00) per POS Device. Customer is responsible for any and all additional costs associated with shipment of the Equipment to such designated location or locations. Provided that a POS Device is shipped using Elavon’s freight account, Elavon shall bear the risk of loss of such POS Device until the time of delivery to Customer; if the Customer directs Elavon to utilize any other shipping method, Customer expressly acknowledges and agrees that all risk of loss for the POS Device shall pass to Customer when the POS Device is tendered by Elavon or on Elavon’s behalf to the carrier for shipment to Customer.
- (c) **Warranty Terms.** If Customer has elected to receive the Advanced Exchange Program for POS Devices purchased from Elavon, as indicated on the signature page to this SAFE-T Suite Services Addendum, the following fees apply:

Item	Advanced Exchange Program (3 Year Term, Per Device)
POS Device Unit: ISC250	\$125.00
POS Device Unit: iPP320	\$100.00
POS Device Unit: Lane3000	\$407.00
POS Device Unit: Lane5000	\$420.00
POS Device Unit: Move5000	\$357.00
POS Device Unit: Lane7000	\$349.00
POS Device Unit: Link2500	\$318.00

- (d) **Additional Equipment and Software License Purchases.** In the event that Customer elects to purchase additional equipment or license additional instances of software from Elavon, Customer and Elavon shall execute a supplemental order form provided by Elavon.

EXHIBIT B TO SAFE-T SUITE SERVICES ADDENDUM

[Reserved. Intentionally left blank.]

EXHIBIT C TO SAFE-T SUITE SERVICES ADDENDUM

Elavon Software License Terms and Conditions

In the event Customer elects to obtain encryption keys and an encryption terminal application for encryption of card data from Elavon (the "Application"), this Exhibit C ("Elavon Software License Terms and Conditions") shall be attached to and be a part of the SAFE-T Suite Services Addendum.

General Terms and Conditions

1. **Sublicense.** Subject to the terms and conditions of the Agreement and the SAFE-T Suite Services Addendum (including, without limitation, this Exhibit C), and the payment of all applicable fees, Elavon hereby grants to Customer a limited, personal, non-exclusive, revocable, non-sublicensable (except as provided herein), and non-transferable sublicense for the term of the SAFE-T Suite Services Addendum to use the Application as installed on Customer's POS Devices distributed by Elavon solely to encrypt Transaction Receipts processed using such POS Devices. The foregoing license may be sublicensed by Customer to its Affiliates, provided that Customer will be responsible for the acts and omissions of such Affiliates as if the same were performed by Customer.
2. **Restrictions.** Except as set forth above, Customer shall have no right to copy, market, distribute (electronically or otherwise), sell, assign, pledge, lease, deliver, license, sublicense (except as provided herein), outsource, rent or otherwise transfer the Application to any third party or use the Application for service bureau, time-sharing, or other third-party use or to provide hosting, market by interactive cable or remote processing services to a third party. Customer shall not make or permit the making of any modifications, additions or enhancements to the Application. Customer shall not reverse engineer, decompile, disassemble, translate, modify, alter or create any derivative works based upon, or change, the Application, or any part thereof, or determine or attempt to determine any source code, algorithms, methods or techniques embodied in the Application, or part thereof, without the prior written consent of Elavon and its licensor. Customer agrees not to use the Application except as expressly licensed hereunder. Customer may not sell or transfer any POS Devices on which any Application or encryption keys are installed to any party unless Customer has first provided Elavon with prior written notice and (i) removed the Application and encryption keys from the POS Devices and (ii) destroyed the encryption keys in a manner compliant with then-current Payment Card Industry Data Security Standard (PCI-DSS) requirements. Elavon and/or its designated agent may monitor and audit Customer's use of the Application for purposes of verifying compliance with this Agreement and the SAFE-T Suite Services Addendum, including this Exhibit C.
3. **Reservation of Rights.** Customer acknowledges and accepts that, as between the parties: (i) all right, title and interest in and to the Application and all intellectual property rights associated with and in the Application shall at all times remain vested in Elavon and its supplier/licensors; and (ii) Customer shall acquire no rights, express or implied, in the Application, other than the limited sublicense granted herein. Customer shall not remove from the Application, or alter, any trademarks, trade names, logos, patent or copyright notices, proprietary notices, titles, legends or other notices or markings contained therein, or add any notices or markings to the Application, without the express written consent of Elavon and its licensor. The confidentiality obligations of Customer under the Agreement apply to the Application licensed hereunder and Customer shall limit access to the Application to only those employees and contractors of Customer with a need to access the Application to perform its services.
4. **Termination.** The license rights granted herein to the Application shall cease in the event (i) Customer sells or otherwise transfers a POS Device to any other unaffiliated party; (ii) Customer is no longer deemed an active customer using the Application to encrypt Transaction Receipts processed by Elavon; or (iii) Elavon is no longer authorized by its licensor to continue to use and/or sublicense the Application. Upon termination, all rights granted to Customer in any to the Application shall immediately cease and Customer shall discontinue any and all use of the Application and delete any copies of the Application on the POS Devices or within the control of Customer.
5. **Export and Import Regulations.** Customer acknowledges that the Application contains cryptographic features and is subject to United States and local country laws governing import, export, distribution and use. Customer is responsible for compliance by Customer with United States and local country laws and regulations and shall not export or transmit the Application (i) in violation of any export control laws of the United States or any other country, or (ii) to anyone on the

United States Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders.

6. **U.S. Government Restricted Rights.** If the Application is accessed or used by any agency or other part of the U.S. Government, the U.S. Government acknowledges that (i) the Application and accompanying materials constitute "commercial computer software" and "commercial computer software documentation" under paragraphs 252.227.14 and 252.227.7202 of the DoD Supplement to the Federal Acquisition Regulations ("DFARS") or any successor regulations, and the Government is acquiring only the usage rights specifically granted in this Agreement; (ii) the Application constitutes "restricted computer software" under paragraph 52.227 19 of the Federal Acquisition Regulations ("FAR") or any successor regulations and the government's usage rights are defined in this Agreement and the FAR.
7. **NO WARRANTIES; DISCLAIMERS.** THE APPLICATION IS PROVIDED ON AN "AS IS" BASIS IN ITS PRESENT STATE AND CONDITION. WITHOUT LIMITING ANY TERMS UNDER THE AGREEMENT OR THE SAFE-T SUITE SERVICES ADDENDUM, NEITHER ELAVON NOR ITS LICENSORS OR SUPPLIERS MAKES ANY WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, DISCLAIMS ANY AND ALL WARRANTIES WITH RESPECT TO THE APPLICATION, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, IMPLIED CONDITION OF SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. THE APPLICATION WILL BE CONSIDERED "ELAVON MATERIALS" FOR THE PURPOSES OF THE AGREEMENT.

Special Terms Applicable to Applications Sublicensed from Verifone, Inc.

In the event that Customer has received a sublicense to an Application provided by Verifone, Inc., the following additional terms and conditions shall apply:

- A. **Territory.** Notwithstanding anything in the SAFE-T Suite Services Addendum or elsewhere in the Agreement to the contrary, Customer may use the Application solely as installed on Customer's POS Devices located in the United States.
- B. **Limitation of Liability.** NOTWITHSTANDING ANYTHING IN THE AGREEMENT, INCLUDING THE SAFE-T SUITE SERVICES ADDENDUM, TO THE CONTRARY, IN NO EVENT SHALL ELAVON OR ITS LICENSORS, SUPPLIERS, OR AGENTS BE LIABLE FOR ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OR DATA, LOST PROFITS OR BUSINESS INTERRUPTION) BY OR ON BEHALF OF CUSTOMERS OR ANY CLAIMS BY ANY THIRD PARTIES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE PROVISION OR USE OF THE APPLICATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL ELAVON OR ITS LICENSORS, SUPPLIERS, OR AGENTS HAVE ANY OBLIGATION TO DEFEND OR INDEMNIFY CUSTOMER FOR ANY CLAIMS ARISING IN ANY WAY OUT OF THE PROVISION OR USE OF THE APPLICATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Special Terms Applicable to Applications Sublicensed from Voltage Security, Inc.

In the event that Customer has received a sublicense to an Application provided by Voltage Security, Inc., the following additional terms and conditions shall apply:

- A. **Territory.** Customer may use the Application solely as installed on Customer's POS Devices located in the Territory.
- B. **Limitation of Liability.** NOTWITHSTANDING ANYTHING IN THE AGREEMENT, INCLUDING THE SAFE-T SUITE SERVICES ADDENDUM, TO THE CONTRARY, IN NO EVENT SHALL ELAVON OR ITS LICENSORS, SUPPLIERS, OR AGENTS BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO,

PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OR DATA, LOST PROFITS OR BUSINESS INTERRUPTION) BY OR ON BEHALF OF CUSTOMER OR ANY CLAIMS BY ANY THIRD PARTIES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE PROVISION OR USE OF THE APPLICATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL ELAVON OR ITS LICENSORS, SUPPLIERS, OR AGENTS HAVE ANY OBLIGATION TO DEFEND OR INDEMNIFY CUSTOMER FOR ANY CLAIMS ARISING IN ANY WAY OUT OF THE PROVISION OR USE OF THE APPLICATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- C. **Third Party Beneficiary.** Voltage Security, Inc. is a designated third party beneficiary under this Exhibit C with the right to enforce all terms related to the Application under this Exhibit C directly against Customer. Governing law for any claim brought by the designated third party beneficiary shall be the law of the jurisdiction within the United States in which the claim is brought; provided, that if Customer is a government entity or institution, governing law for any such claim shall be that set forth in the Agreement.

EXHIBIT D TO SAFE-T SUITE SERVICES ADDENDUM
Leased Equipment Schedule

[Reserved. Intentionally left blank.]

EXHIBIT E TO SAFE-T SUITE SERVICES ADDENDUM
Purchased Equipment Schedule

In the event Customer elects to purchase equipment from Elavon, this Exhibit E shall be a part of the SAFE-T Suite Services Addendum.

1. Equipment and Pricing.

- a) Purchased Equipment. Customer has elected to purchase the equipment set forth on the signature page to this SAFE-T Suite Services Addendum (the “Purchased Equipment”) from Elavon pursuant to this SAFE-T Suite Services Addendum. The fees payable by Customer for the Purchased Equipment are set forth on Exhibit A to this SAFE-T Suite Services Addendum.
- b) Shipping. The fees payable by Customer for shipment of the Purchased Equipment to the location or locations designated by Customer are set forth in Section 3 of Exhibit A to this SAFE-T Suite Services Addendum. Provided that the Purchased Equipment is shipped using Elavon’s freight account, Elavon shall bear the risk of loss of such Purchased Equipment until the time of delivery to Customer; if the Customer directs Elavon to utilize any other shipping method, Customer expressly acknowledges and agrees that all risk of loss for the Purchased Equipment shall pass to Customer when the Purchased Equipment is tendered by Elavon or on Elavon’s behalf to the carrier for shipment to Customer.

- 2. Terminal Software and Encryption Keys.** If Customer has elected to receive Encryption Services or license software from Elavon in conjunction with this SAFE-T Suite Services Addendum (as indicated on the signature page to this SAFE-T Suite Services Addendum), the encryption keys and licensed software will be loaded onto Customer’s POS Devices, and Customer shall pay the applicable fees detailed in Exhibit A to this SAFE-T Suite Services Addendum for any encryption keys or licensed software that Customer has elected to receive.

3. Warranty Terms.

OEM Warranty: Any standard warranties provided by the original equipment manufacturer (“OEM”) of the Purchased Equipment are, to the fullest extent permitted by the OEM, passed through to Customer at no additional cost to Customer; and the OEM (and not Elavon) shall be responsible for honoring any such OEM warranty. With respect to any POS Device purchased from Elavon, Elavon and/or its equipment vendor will facilitate the OEM warranty service as follows:

Prior to returning any POS Device under an OEM warranty, Customer must first obtain a return merchandise authorization number (“RMA Number”) from Elavon. Customer must then ship such POS Device to Elavon’s equipment vendor at the address provided by Elavon, with reference to the RMA Number. Elavon’s equipment vendor will either handle the OEM warranty issue itself or ship the POS Device to the OEM for further handling. Upon Elavon’s equipment vendor either handling the warranty issue itself or receiving a repaired or replacement POS Device from the OEM, Elavon’s equipment vendor will ship the repaired or replacement POS Device to Customer.

Customer will bear the risk of loss of any returned POS Device until the time of delivery to Elavon’s equipment vendor with proper reference to the RMA Number. For any repaired or replacement POS Device shipped to Customer, the risk of loss will transfer to Customer at the time of delivery to Customer. In all cases, Customer shall be responsible for all shipping and handling costs associated with such OEM warranty service, including reimbursing Elavon for any shipping and handling costs paid by Elavon on Customer’s behalf.

If Customer has selected additional warranty options for POS Devices purchased from Elavon, as indicated on the signature page to this SAFE-T Suite Services Addendum, the following terms shall apply, as applicable, limited only to such POS Devices purchased from Elavon (and specifically excluding any other peripheral equipment purchased from Elavon and all equipment purchased from a third party):

Premium Advanced Exchange Program:

The Premium Advanced Exchange Program provides the following services during the applicable warranty period, which shall commence on the date of shipment of the POS Device to Customer:

- i. In the event that a POS Device requires service, on Customer’s request, Elavon will ship a like-model, refurbished POS Device to Customer for delivery the next business day (provided Customer’s request is received

prior to 6 p.m. Eastern time) at no additional cost to Customer. The refurbished POS Device will be configured and tested prior to shipment to Customer.

- ii. Customer will be provided with a call tag to enable Elavon to retrieve or cause the retrieval of Customer's POS Device requiring service. Customer must use the call tag promptly upon receipt. If Elavon does not receive the POS Device requiring service within thirty (30) days of the issuance of the call tag, Customer may be charged the cost of a new replacement POS Device.
- iii. Elavon will retrieve or cause the retrieval of the POS Device requiring service at no additional cost to Customer.
- iv. Elavon will bill Customer, and Customer will be responsible for paying Elavon, for the costs of repairing POS Devices retrieved by Elavon unless such repairs are covered by the OEM warranty or the Premium Repair Warranty Program.

With regard to the Premium Advanced Exchange Program: (a) Customer must initiate the exchange process with Elavon, and (b) Elavon will bear the risk of loss of the refurbished POS Device sent to Customer and the POS Device requiring service while such POS Devices are in the possession of Elavon or its freight carrier, and Customer shall bear the risk of loss at all other times.

Premium Repair Warranty Program:

The Premium Repair Warranty Program provides the following services during the warranty period, which shall commence on the date of shipment of the POS Device to Customer:

- i. All repair fees, service, and parts related to any repair of the POS Device, other than with respect to repairs attributable to misuse or abuse of the POS Device or cosmetic damage not affecting the performance of the POS Device.
- ii. Cleaning and testing of repaired POS Devices.

With regard to the Premium Repair Warranty Program: (a) Customer must obtain an RMA Number from Elavon in order to initiate the warranty process, and (b) Elavon will bear the risk of loss of the repaired POS Device while such POS Device is in the possession of Elavon or its freight carrier, and Customer shall bear the risk of loss at all other times.

For the avoidance of doubt, any and all warranties provided under this SAFE-T Suite Services Addendum, including this Exhibit E, shall not extend to any equipment, software or hardware purchased from any third party.

- 4. Miscellaneous Terms/Disclaimer.** This Exhibit E is supplemental to and forms a part of the SAFE-T Suite Services Addendum to the Agreement, the terms of which are fully applicable hereto.

IN THE EVENT OF ANY DEFECT, MALFUNCTION, ERROR, OR DAMAGE TO ANY PURCHASED EQUIPMENT PROVIDED HEREUNDER, ELAVON'S SOLE OBLIGATION SHALL BE THE PROVISION OF WARRANTY SERVICE PURSUANT TO THE WARRANTY OPTION (IF ANY) SELECTED BY CUSTOMER ON EXHIBIT A, AND CUSTOMER'S SOLE REMEDIES WITH RESPECT TO ELAVON SHALL BE THE RECEIPT OF WARRANTY SERVICE FROM ELAVON OR ITS DESIGNEE PURSUANT TO SUCH WARRANTY OPTION OR UNDER THE MANUFACTURER'S WARRANTY. ELAVON SHALL HAVE NO LIABILITY TO CUSTOMER FOR COSTS, LOSSES, OR DAMAGES OF ANY KIND OR NATURE, WHETHER DIRECT, INDIRECT, CONSEQUENTIAL OR OTHERWISE, WITH RESPECT TO ANY SUCH DEFECT, MALFUNCTION, ERROR, OR DAMAGE.

EXHIBIT F TO SAFE-T SUITE SERVICES ADDENDUM

Simplify Software License

In the event Customer elects to license the Simplify Software from Elavon, this Exhibit F (“Simplify Software License”) shall be attached to and shall be a part of the SAFE-T Suite Services Addendum.

Section A – Terms and Conditions

1. **Definitions.** Capitalized terms used in this Exhibit F (the “Simplify License”) and not otherwise defined shall have the meanings ascribed to them in the glossary set forth in Section B of this Simplify License.
2. **License Grant and Permitted Use.**
 - a) Elavon hereby grants to Customer a non-exclusive, non-sublicensable, non-assignable, limited license in the Territory to use and allow Authorized Users to use the Simplify Software as installed on terminals owned or otherwise controlled by Customer and to install, use, and allow Authorized User to use any subsequent Releases of such Simplify Software provided to Customer from time to time, solely for Customer’s internal business purposes to process data in accordance with the Documentation. This Simplify License permits Customer to use the Simplify Software only on the number of POS Devices set forth on the signature page to the SAFE-T Suite Services Addendum. Customer is not permitted to use the Simplify Software to service any other POS Devices unless permitted by Elavon in writing. Customer is not authorized to make copies of the Simplify Software.
 - b) Elavon hereby grants to Customer a non-exclusive, non-sublicensable, non-assignable, limited license to use and to allow Authorized Users to use the Documentation solely in connection with access to and the use of the Simplify Software pursuant to this Simplify License. Customer shall have the right to make a reasonable number of copies of the Documentation, at no additional charge, solely for Customer’s own internal business purposes in connection with access to and use of the Simplify Software under this Simplify License; provided, however, that all proprietary markings of Elavon must be affixed and retained by Customer on any such copies.
 - c) Except as provided in this Simplify License, Customer shall not: (i) copy, re-sell, reproduce, transfer, rent, lease, pledge, sublicense, distribute or republish in any form or by any means or allow another to use or access the Licensed Materials, or any portion thereof, including, without limitation, to provide outsourcing, service bureau, hosting services or training to third parties; (ii) alter, modify or otherwise prepare derivative works of the Licensed Materials; (iii) reverse engineer, disassemble or decompile the Simplify Software, or any part thereof; (iv) remove, change or obliterate the copyright, trade secret or other proprietary protection legends or notices which appear on or in the Licensed Materials; or (v) combine any Licensed Materials with any unauthorized third party software. Customer will not access or use, and it will not permit any Authorized Users to access or use, the Licensed Materials or proprietary materials disclosed to Customer for the purpose of creating, in whole or in part, a system that is functionally competitive with the Simplify Software. Customer shall promptly notify Elavon of and shall otherwise cooperate with Elavon in preventing any unauthorized access to, or use or copying of, the Licensed Materials by Authorized Users or any other third party.
 - d) All rights not expressly granted to Customer under this Simplify License are reserved by Elavon.
3. **Delivery and Installation.**
 - a) All installation of the Simplify Software, other than installation of Releases (as described below) must be conducted by or at the direction of Elavon.
 - b) Delivery of the Simplify Software by Elavon shall be deemed to have occurred when a POS Device with the Simplify Software installed is tendered by Elavon or on Elavon’s behalf to a carrier for shipment to the Customer. Elavon will deliver one (1) copy of the Documentation to Customer in a format determined by Elavon.

4. Limited Warranties; Disclaimers.

- a) Elavon warrants as follows:
 - i) During the Warranty Period, the Simplify Software will include the functionality described in and will perform substantially in accordance with the Documentation in all material respects, provided that the Simplify Software is used in accordance with the terms of this Simplify License and the Documentation. In the event the Simplify Software does not perform as warranted during the Warranty Period and Elavon is unable to remedy such nonconformity within a reasonable time after receiving written notice thereof, Elavon shall, as Customer's sole and exclusive remedy, refund to Customer the fees paid hereunder for the Licensed Materials, upon the return of the Licensed Materials by Customer.
 - ii) Elavon shall use commercially reasonable measures to screen the Simplify Software to avoid introducing any computer virus that is designed (A) to permit unauthorized access or use by third parties to the Simplify Software, (B) to damage, erase or delay access to the Simplify Software, or (C) to perform any other similar actions. Elavon shall not insert any code or other device into any Simplify Software that would have the effect of disabling, damaging, erasing, delaying or otherwise shutting down all or any portion of the Simplify Software.
 - iii) The Simplify Software Support Services (as defined below) will be performed in a professional and workmanlike manner. Elavon shall have and maintain sufficient resources to perform the Simplify Software Support Services in accordance with this Simplify License.
- b) Limitations. Elavon's obligations under Section 4(a) of this Simplify License shall not apply: (i) to any modifications, alterations or customizations developed by or on behalf of Customer; (ii) if the Licensed Materials are not used on the equipment specified or in accordance with the Documentation; (iii) if the Licensed Materials have been installed, implemented, customized, modified, enhanced or altered by any third party (except any third party utilized by Elavon to provide services under this Simplify License); (iv) if Customer is not using the most recent Release of the Licensed Materials; or (v) to any error or defect caused by Customer, an Authorized User or any third party (except any third party utilized by Elavon to provide services under this Simplify License) or third party software.

5. Simplify Software Support Services; Releases.

- a) Simplify Software Support Services. During the term of this Simplify License, Elavon shall provide Customer with the following support services (the "Simplify Software Support Services"):
 - i) Providing Customer with solutions to any known material problem relating to each installation of the Simplify Software in a timely manner as such solutions become known to Elavon;
 - ii) Using commercially reasonable efforts to supply timely corrections for problems reported to Elavon by Customer that Elavon can reproduce in a currently supported version of the Simplify Software;
 - iii) Furnishing a reasonable level of telephone support, as determined by Elavon, in the form of counsel and advice on use and maintenance of the Simplify Software; and
 - iv) Providing Customer with new Releases of the Simplify Software as provided herein.
- b) Simplify Software Support Services Fees. For so long as this Simplify Software License remains in effect, Customer shall pay the fees for the Simplify Software Support Services set forth on Exhibit A to the SAFE-T Suite Services Addendum (the "Simplify Software Support Services Fees"). Customer understands and agrees that Simplify Software Support Services Fees shall not include fees for professional services, if any, associated with delivery and installation of any new Release of Simplify Software or modification of the then-current Major Release of Simplify Software then in use by Customer, which shall be agreed in writing by Customer and Elavon.
- c) New Releases; Notice of Releases. Customer shall be entitled to receive all new Releases of the Simplify Software, including Major Releases, provided that Customer complies with the terms set forth in this Simplify License, including, without limitation, the payment of all Simplify Software Support Services Fees in full when due. Whenever commercially reasonable, Elavon will provide Customer with fourteen (14) days' advance notice of a new Release; provided however, when a Release is published on a shorter timeframe based on emergency or exigent circumstances, Elavon may provide shorter notice. Customer must ensure that Releases are installed and implemented within fourteen (14) days of becoming available to Customer. Elavon shall not be responsible for any updates, upgrades or changes to Customer's computer systems that may be necessary in conjunction with delivery, installation or use of any new Release of the Simplify Software.

- d) **Supported Releases.** During the term of this Simplify License, Elavon will provide Simplify Software Support Services for the (i) then-current Major Release of the Simplify Software and, (ii) for no more than twelve (12) months following the commercial launch of the then-current Major Release, the immediately prior Major Release of the Simplify Software; provided that Customer complies with the terms and conditions of this Simplify License and the Documentation, including, without limitation, payment obligations.
- e) **Unsupported Releases.** If Customer elects to continue using a Release that is two (2) or more Major Releases back (an “Unsupported Release”), Elavon will have no further obligation to provide Simplify Software Support Services for that Unsupported Release; provided, that Customer shall not thereby be relieved of its obligation to pay the Simplify Software Support Services Fees. Elavon, in its sole discretion, may elect to provide Simplify Software Support Services for Unsupported Releases at an additional charge to be mutually determined by the parties in writing, but Elavon shall have no obligation to do so. Whether or not Elavon elects to provide Simplify Software Support Services for an Unsupported Release, Elavon shall have no responsibility or liability for the compliance or non-compliance of any such Unsupported Release with industry standards, laws or Payment Network Regulations.

6. Responsibilities of Customer.

- a) **Customer Data.** Customer acknowledges the Simplify Software does not verify accuracy of information or format of any data or information input by Customer.
- b) **Customer Telecommunications.** Customer shall be responsible for ensuring that its telecommunications connectivity, and any such connectivity provided by any third party on behalf of Customer, is properly certified and maintained and complies with applicable industry rules and regulations, including Payment Network Regulations.
- c) **Customer Systems and Equipment.** Customer shall be responsible for ensuring that the systems and equipment, including, without limitation, any POS Devices and any systems or equipment of third-party vendors used by Customer, remain certified and compatible with the most recent Release of the Simplify Software. Elavon shall not be responsible for any updates, upgrades, or changes to Customer’s systems or equipment, including, without limitation, the POS Device or any third-party systems or equipment, that may be necessary in conjunction with delivery, installation or use of the Simplify Software. Failure of the Customer’s systems or equipment, including, without limitation, the POS Device, or any third-party systems, to remain certified or to be compatible and function with the most recent Release of the Simplify Software as regulated and/or required shall excuse Elavon from any and all liability under this Simplify License and in connection with any other services that Elavon may be providing to Customer for the failure of the Simplify Software to perform in accordance with the Documentation.
- d) ELAVON DOES NOT GUARANTEE THE ACCURACY, COMPLETENESS OR ADEQUACY OF ANY DATA OR OTHER INFORMATION PROVIDED OR MADE AVAILABLE BY CUSTOMER OR ITS AUTHORIZED USERS, AND ELAVON WILL NOT BE LIABLE FOR ANY ERROR, OMISSION, DEFECT, DEFICIENCY, OR NONCONFORMITY IN THE DATA OR RESULTS FROM USING THE LICENSED MATERIALS, EXCEPT TO THE EXTENT DIRECTLY CAUSED BY A FAILURE OF THE LICENSED MATERIALS TO PERFORM IN ACCORDANCE WITH THE DOCUMENTATION.
- e) **Compliance by Customer’s Authorized Users.** Customer is responsible for compliance by each of its Authorized Users with the terms and conditions of this Simplify License and is responsible and liable for all access and use by Authorized Users and acts or omissions of Authorized Users under this Simplify License.

7. Fees and Payment. Customer shall pay Elavon the Simplify Software Support Services Fees and such other fees for the Simplify Software (collectively, the “Simplify Software Fees”) set forth on the signature page to the SAFE-T Suite Services Addendum and Exhibit A to the SAFE-T Suite Services Addendum or otherwise agreed by the parties in writing. All Simplify Software Fees are non-refundable, except as otherwise provided in this Simplify License or the SAFE-T Suite Services Addendum.

8. Ownership and Reservation of Rights. Elavon retains all right, title and interest, including, without limitation, all Intellectual Property Rights, in and to the Licensed Materials, Elavon Confidential Information and all Customizations. No rights in the Licensed Materials, Elavon Confidential Information or Customizations are granted to Customer other than those limited license rights expressly set forth in this Simplify License. In the event any right, title or interest in and to any Licensed Materials or to any

Customizations developed by Customer or Elavon is deemed to vest in Customer, Customer hereby assigns and agrees to assign to Elavon all worldwide right, title, and interest in and to such Licensed Materials and to any Customizations, including all Intellectual Property Rights therein.

9. Indemnification.

- a) Infringement Indemnification by Elavon. Elavon will defend (or at its option, settle), indemnify, and hold harmless Customer, against any third-party lawsuit or proceeding brought against the Indemnified Party by a third party based on a claim that the Licensed Materials or Customer's use of the Licensed Materials infringes an Intellectual Property Right of any third party enforceable in the Territory (an "Infringement Claim"); provided that Customer follows the indemnification procedures set forth in this Section. Indemnification for any Infringement Claim under this Section 9(a) shall be limited to the payment of final award of damages assessed against Customer resulting from such claim in a final judgment by a court of competent jurisdiction, including awarded costs, or any amount in settlement or compromise authorized by Elavon in writing.
- b) Exclusions. This indemnification is limited to the Licensed Materials as delivered to the Customer. Elavon shall have no obligations under Section 9(a), including, without limitation, defense or indemnification obligations in the event of any of the following: (i) access to or use of the Licensed Materials other than as specified under this Simplify License and the related Documentation; (ii) failure or refusal by Customer to install, implement or use the current Release; (iii) the claim arises from or relates to a modification to the Licensed Materials not performed by Elavon or created by Elavon at the direction of Customer; (iv) combination or use of the Licensed Materials with non-Elavon products, data, materials, or services (whether or not such products, data, materials, or services are provided to Customer by Elavon); or (v) any other acts of Customer in violation of this Agreement.
- c) IP Remedies. If Elavon is enjoined or reasonably believes that it is likely to be enjoined from providing the Simplify Software as a result of a claim that is covered by Section 9(a) Elavon will use commercially reasonable efforts to either (i) procure the rights necessary for Customer to continue to use the Simplify Software in accordance with the SAFE-T Suite Services Addendum, or (ii) replace the Simplify Software with other non-infringing work product or modify the Simplify Software to make it not infringing while retaining substantially similar functionality. If Elavon determines in good faith that the remedies set forth in clauses (i) and (ii) above are not commercially feasible after using its commercially reasonable efforts, Elavon may require Customer to discontinue use of the Simplify Software and terminate this Simplify License and the licenses granted pursuant to it. If Elavon elects to exercise its rights under the preceding sentence, Elavon will (1) use commercially reasonable efforts to provide not less than thirty (30) days' prior written notice of the discontinuation or termination, to the extent more immediate discontinuation or termination is not required by an injunction or other circumstances and (2) promptly reimburse to Customer, after the effective date of discontinuation or termination, a pro rata portion of any prepaid Simplify License Fees and Simplify Support Services Fees paid by Customer for the Simplify Software.
- d) THIS SECTION SETS FORTH THE EXCLUSIVE REMEDY OF CUSTOMER AND THE SOLE AND COMPLETE LIABILITY OF ELAVON WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT OR MISAPPROPRIATION.

- 10. Export Control Notice.** Customer acknowledges that the Licensed Materials are being delivered to Customer in the United States and are, therefore, subject to United States export control laws. Customer shall not export, re-export, directly or indirectly, the Licensed Materials from the United States without Elavon's prior written authorization and agrees to comply with applicable United States and foreign export control laws, including, by way of example, the United States Commerce Department's Export Administration Regulations, the International Traffic in Arms regulations and any regulations or licenses administered by the Department of the Treasury's Office of Foreign Assets Control.

Section B – Glossary

Authorized User means any individual that Customer permits to access and use the Simplify Software for Customer's ordinary business purposes.

Customizations means any works of authorship, work product, and any invention, process, method, development, design, schematic, or technical information, whether patentable or not, including, without

limitation, documentation, software or enhancement, improvements, alterations, or derivatives of the Simplify Software or the Licensed Materials developed by Elavon, either alone or jointly with others, in connection with the provision of Simplify Software Support Services.

Documentation means the specifications and written services description for the Simplify Software that are delivered to Customer under this Simplify License, including user manuals, all as may be amended by Elavon from time to time. Documentation shall not include marketing materials, proposals, demonstrations and other promotional information.

Licensed Materials means one installed copy of the executable code (i.e. object code) of the Simplify Software on Customer POS Devices and a copy of the Documentation reasonably necessary for a user to operate the Simplify Software and any copies of the foregoing.

Major Release means any additional or replacement code or Documentation provided by Elavon that adds major new capabilities or functionality to the Licensed Materials, as designated by a change in the number to the left of the decimal point in the version number (e.g., from version 1.0 to 2.0). Major Release does not include new or additional modules of Licensed Materials, which must be licensed separated from Elavon.

Minor Release means any additional or replacement code or Documentation provided by Elavon that does not add major new capabilities or functionality and that is made generally available by Elavon to its customers using the applicable Major Release of the Licensed Materials, as designated by a change in the number to the right of the decimal point in the version number (e.g., from version 1.1 to version 1.2).

Release means Major Releases, Minor Releases and Revisions, collectively.

Revision means any product temporary fix, error corrections, work-around, or other maintenance correction made available by Elavon to its customers, as designated by a change in the number to the right of the second decimal point in the version number (e.g., from 1.1.1 to 1.1.2).

Simplify Software means the installed version of the software application referred to and marketed as the Simplify software, including any Releases made available by Elavon to Customer under this Simplify License.

Simplify Software Fees means the applicable fees for the Licensed Materials, Simplify Software, Simplify Software Support Services, and any other services or products, as set forth on the signature page to the SAFE-T Suite Services Addendum and in Exhibit A to the SAFE-T Suite Services Addendum.

Simplify Software Support Services means the support services provided by Elavon to Customer as set forth in Exhibit A to the SAFE-T Suite Services Addendum.

Unsupported Release has the meaning given to it in Section 5(e) of this Simplify License.

Warranty Period means the period beginning on the Addendum Effective Date and ending on the earlier of ninety (90) days from the Addendum Effective Date or the date of Customer's first use in a production environment of a POS Device on which the Simplify Software is installed.

EXHIBIT C-2

PROPERTY-LEVEL AGREEMENT TEMPLATE (SABRE SYNXIS PMS)

HOSTED SERVICES AGREEMENT FOR HOSTED GATEWAY SERVICES

This Hosted Services Agreement for Hosted Gateway Services (this “Agreement”) is entered into as of the Effective Date (indicated below) by and between the entity identified below as the Customer and Elavon, Inc. (“Elavon”). This Agreement governs the Customer’s receipt and use of the services described below.

This Agreement consists of this signature page and the Terms and Conditions included in Schedule A to the Hosted Services Agreement for Hosted Gateway Services, which is accessible at the URL specified below and incorporated into this Agreement by reference. Customer shall also execute the Safe-T Suite Services Addendum at Appendix A to this Agreement in connection with the tokenization and encryption services being provided thereunder:

Schedule A - Terms and Conditions, available at <https://www.elavon.com/~media/Files/wyndham.pdf>

Appendix A – Safe-T Suite Services Addendum (separately executed)

Hosted Gateway Services

Hosted Gateway Services: As further set forth in this Agreement, Elavon will provide Customer the services described in this paragraph (the “Hosted Gateway Services”). The Hosted Gateway Services will support Payment Device authorization data and facilitate the transmission of authorization and settlement information related to Transactions to and from various Origination Points (e.g., property management systems (PMS), point of sale systems (POS) and/or other Payment Device data capture integrations) used by Customer as mutually agreed to between Elavon and Customer. The Hosted Gateway Services shall submit Transactions received from an Origination Point in accordance with this Agreement to the Destination Point (or Payment Services Entity) designated by Customer for authorization, and will return to the Origination Point the authorization response message received from such Destination Point (or Payment Services Entity). A list of Payment Devices and Transaction types supported by the Hosted Gateway Services is available from Elavon upon request.

The Hosted Gateway Services include a browser-based user interface, the Service Web Site that provides Customer with the functionality for batch management, settlement balancing and research and reporting of Transactions. System reporting shall be available to all Authorized Users via secure password and log-on access. Customer acknowledges and agrees that the system reporting and application features and services available to Customer may vary depending on the Elavon Services used by Customer.

Term: Unless otherwise terminated as set forth in the Agreement, this Agreement will remain in effect for a period of one (1) years (the “Initial Term”) from the Effective Date. Following the Initial Term, this Agreement will automatically renew for a period of successive one (1) year terms (each a “Renewal Term” and together with the Initial Term, the “Term”) unless a party provides written notice to the other party of its intent not to renew this Agreement at least ninety (90) days prior to the expiration of the then current term.

Territory: For purposes of this Agreement, the “Territory” shall be defined as the United States and Canada.

THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, SCHEDULE A, IS THE COMPLETE AND ENTIRE UNDERSTANDING AND AGREEMENT OF THE PARTIES REGARDING THE SUBJECT MATTER HEREOF AND SUPERSEDES ALL PRIOR WRITTEN OR ORAL AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS WITH RESPECT THERETO, INCLUDING WITHOUT LIMITATION, ANY PURCHASE ORDER OR PROPOSAL.

[Signature on Next Page]

IN WITNESS WHEREOF, Customer has caused a duly authorized representative to execute this Agreement on behalf of Customer as of the date accepted and executed, as provided below.

_____,
(the “CUSTOMER”)

Address: _____

By: _____

Name: _____

Title: _____

Date: _____
(“Effective Date”)

SCHEDULE A
TO
HOSTED SERVICES AGREEMENT FOR HOSTED GATEWAY SERVICES

TERMS AND CONDITIONS

SECTION A - General Provisions

1. **Definitions.** Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in **Section B** of these Terms and Conditions.

2. **Elavon Services and Hosted System.**

(a) **Customer Access to and Use of Elavon Services and Hosted System.** During the Term, Elavon grants Customer the right to access and use the Hosted System and Elavon Services as provided in this Agreement and the schedules and exhibits executed by Customer in connection herewith. Specifically, subject to the terms, conditions and limitations set forth in this Agreement, Elavon grants Customer a limited, revocable, non-exclusive, non-assignable, non-transferable right in the Territory during the Term to: (i) use the Hosted Gateway Services to exchange information with the Hosted System, (ii) use the Additional Services, if any, and (iii) access and use the Service Web Site solely for Customer's own internal business purposes in accordance with the terms and conditions of this Agreement. All such access and use of the Elavon Services and the Hosted System shall be from systems and facilities located within the Territory.

(b) **Elavon Certification.** In order to provide Elavon Services with respect to a certain Destination Point, Elavon must be certified with that Destination Point for the applicable Elavon Services and/or Transactions requested by Customer. Customer acknowledges and agrees that: (i) all Elavon Services may not be available for all Destination Points, and (ii) Elavon may not be certified with, or remain certified with, each Destination Point in order to provide the Elavon Services in connection with or to submit Transactions to that Destination Point. All access to and use of Elavon Services by Customer is subject to the limitations and restrictions for those Elavon Services set forth in this Agreement and the applicable Additional Services Addenda. Notwithstanding the foregoing, in the event Elavon is the Destination Point, Elavon shall remain certified to provide the Elavon Services with respect to, and to submit Transactions to, itself as the Destination Point throughout the Term.

(c) **Updates to Elavon Services and Materials.** Customer acknowledges and agrees that Elavon shall have the right, in its sole discretion, to provide Updates of or to the Elavon Services, the Hosted System and/or

Elavon Materials from time to time during the Term, provided, however, that, other than as necessary to maintain a competitive service or as required by a Destination Point or the Sabre SynXis PM system, no such Update shall in any way degrade or diminish the services then-currently being provided to Customer or adversely affect any interfaces related to such services.

(d) **Support Services.** Elavon shall provide Customer with Support Services in accordance with the terms set forth in **Section C**. Notwithstanding anything in this Agreement to the contrary, Elavon shall not be required to provide Support Services if any of the following events occur: (i) Customer fails to pay all fees in full when due (excluding fees that Customer has disputed in good faith) and fails to cure within fifteen (15) days after Elavon has provided Customer with written notice of such occurrence or (ii) Customer's material breach of any of the terms of this Agreement and fails to cure within thirty (30) days after Elavon has provided Customer with written notice of such occurrence.

(e) **Professional Services.** Elavon may perform certain professional services as mutually agreed pursuant to a professional services agreement to be separately executed by the parties.

(f) **Third Party Contractors.** Elavon may use the services of third party service providers in connection with the performance of Elavon Services under this Agreement, including any Additional Services Addendum to this Agreement, without Customer's consent. Except as otherwise provided in this Agreement, Elavon shall be responsible for compliance by any such third party of the terms and conditions of the Agreement and for the acts and omissions of that third party related to performance of this Agreement. As between the Customer and Elavon, Elavon will be solely responsible for the performance of its obligations hereunder notwithstanding any use of or delegation of any responsibility to a third party service provider. Customer shall have no responsibility whatsoever with respect to any payments to Elavon's third party service providers.

(g) **Settlement Funds.** Except as may be expressly provided herein or in another agreement between Customer and Elavon, Elavon has no responsibility for Customer's receipt of settlement funds in connection with any Transaction, whether or

not the Transaction or other data in connection with such Transaction was transmitted through the Elavon Services. It is Customer's responsibility to reconcile funds received in settlement of Transactions against actual Transaction activity, including any Transaction Receipts transmitted using the Elavon Services. Further, Elavon has no responsibility for the characterization or classification of any Transaction by any Transaction Processor or Payment Services Entity for interchange or other fee purposes. If Customer desires Elavon to perform any settlement or other Transaction processing functions for Customer, the parties shall enter into a separate Transaction acquiring agreement that shall describe the obligations of both parties in connection with such additional services.

3. Access Rights.

(a) Customer Access to and Use of Elavon Services. Customer and its Authorized Users will not, and will ensure that their employees do not: (i) access or use the Elavon Services for any purposes other than for internal business purposes, except as authorized by Elavon; (ii) copy, re-sell, republish, download, frame or transmit in any form or by any means, the Elavon Materials or Elavon Services, or any part thereof, including, without limitation, in order to act as a consultant, service bureau, outsourcing or application service provider for any third parties, or otherwise allow any third party to use or access the Elavon Materials or Elavon Services; except as authorized by Elavon; (iii) modify, reverse engineer, disassemble or decompile the Elavon Services, Hosted System or any part thereof or any underlying software; (iv) intentionally transmit any data that contains software viruses, time bombs, worms, Trojan horses, spyware, disabling devices, malicious code or other harmful or deleterious computer code, files or programs to or through the Connectivity or Elavon Services; (v) intentionally interfere with or disrupt the Connectivity, or the servers or networks connected to the Hosted System or providing the Elavon Services, or intentionally or unintentionally violate the regulations, policies or procedures of any associated networks; (vi) remove, change or obliterate the copyright, trade secret or other proprietary protection legends or notices that appear in connection with access to and use of the Elavon Services or any associated Elavon Materials. Customer will not access or use, and it will not permit any Authorized User to access or use, the Elavon Services or any other Elavon systems or proprietary materials disclosed to Customer (or its designee) for the purpose of creating, in whole or in part, a system that is functionally competitive with the Elavon Services. Customer shall promptly notify

Elavon of and shall otherwise cooperate with Elavon in preventing any unauthorized access to, or use or copying of, the Elavon Services, or any part thereof by Customer, Authorized Users or any third party. Customer is and shall remain liable for all access and use by Customer and its personnel including, without limitation, Authorized Users of the Elavon Services, the Hosted System and any Connectivity.

(b) Third Party Software and Services. Customer acknowledges and agrees that certain of the products or services provided by Elavon or otherwise utilized by Customer in connection with the Elavon Services may use or communicate with software or equipment developed by or operated by third parties not under the control of Elavon. To the extent Elavon required such software, equipment or third parties, it shall be solely responsible for losses or damages related to that Third Party Software or equipment or third party services unless otherwise specifically set forth in this Agreement or any schedule or any addendum hereto, including any Additional Services Addendum. Otherwise, Customer agrees to look solely to such third party for remedies, losses or damages related to that Third Party Software or equipment or third party services.

(c) Monitoring Rights. Customer acknowledges and agrees that the Elavon Services may allow Elavon to monitor access to the Elavon Services and Hosted System and to prohibit any access or use of data or information within the Elavon Services and Hosted System that Elavon reasonably believes is unauthorized, violate applicable law or that poses an unacceptable risk of material harm to Elavon, other Elavon customers or the Hosted System; provided, however, that Customer further acknowledges and agrees that, Elavon has no obligation to detect or prevent, and will have no liability for failing to detect or prevent, any unauthorized access to or use of the Elavon Services using any password or user ID assigned to or by Customer.

(d) Customer Agents and Subcontractors. Customer will at all times remain responsible for any acts or omissions of any of Customer's subcontractors or agents in performance of its obligations as if performed by Customer pursuant to this Agreement. Elavon shall be entitled to rely upon the accuracy and completeness of information and data, including Customer Data, provided by any such subcontractor or agent on Customer's behalf to the same extent that Elavon is entitled to rely on information or data provided by Customer.

(e) Conflict of Provisions. As between the parties to this Agreement, the provisions of this Agreement shall govern and prevail as to any purchase orders,

statements of work or order forms executed in connection with this Agreement, whether executed before or after the Effective Date.

(f) Authority. Customer agrees that this Agreement and any other agreement, schedule, exhibit, form, addendum or other document that is intended to be binding on Customer or upon which Elavon will rely in providing the Elavon Services must be executed by an authorized signer.

4. Responsibilities of Customer.

(a) Access to Elavon Services and Connectivity. Customer is responsible for implementing and maintaining Customer's access to the Elavon Services and Connectivity, including, without limitation, with respect to all Customer Connectivity Software, in accordance with the specifications and requirements provided by Elavon. Customer is responsible for the physical and technical security and safeguards for Customer Resources and Connectivity. If Customer is using a third party provider to host any of its equipment, resources or software necessary to access or interface with the Hosted System or Connectivity, or if Customer will access the Elavon Services or transmit data to the Hosted System or the Connectivity through a third party hosting provider, Customer shall be responsible for compliance by that third party hosting provider with the terms and conditions of this Agreement and for the acts and omissions of that third party hosting provider. Customer acknowledges and agrees that Elavon shall not bear and expressly disclaims any and all liability related to Customer's use of telecommunications services and related networks of Customer or a third party, including, without limitation, failure of Connectivity (to the extent such failure is due to the acts or omissions of a third party not controlled by Elavon) or any erroneous transmissions, corruption or loss of data, or inability to access the Elavon Services, the Hosted System or Connectivity as a result of any telecommunications failure or failure of Customer equipment or resources or Customer Software, including, without limitation, Customer network connectivity or due to the acts or omissions of any third party hosting or telecommunications provider.

(b) On-going Certification and Compliance. Any Customer Resource or system that may access or transmit data to the Elavon Services or the Hosted System must be submitted to Elavon for testing and approval and be certified by Elavon ("Certification") before Customer may access or use the Elavon Services or the Hosted System in connection with such Customer Resource or System. Customer acknowledges that Customer is responsible for ensuring that any Customer Resource or Customer

system that may access or transmit data to the Hosted System and systems of third party vendors used by Customer in connection with the Elavon Services maintains certification and compatibility with the Elavon Services and the Hosted System and is in compliance under applicable law and all applicable industry rules and regulations and the standards set by Payment Networks or the Payment Card Industry Security Standards Council ("PCI SSC"), as all may be modified or changed from time to time. Failure of Customer's systems, including, without limitation, Customer's point-of-sale system or property management system, or any third party systems to maintain Certification or to be compatible and function with the most recent Elavon Services as regulated and/or required shall excuse Elavon from its obligations under this Agreement pertaining to the delivery of the Elavon Services or the Hosted System, including, but not limited to Section C of this Agreement, and in connection with any other services that Elavon may be providing to Customer.

(c) Set-up and Boarding. Customer will cooperate with Elavon in the Customer Boarding and the Customer Validation Process and provide to Elavon all specifications, information and data required by Elavon in the process of assimilating the information and data necessary to confirm that the Hosted System and each Customer Location and Origination Point are configured to make use of the applicable Elavon Services and to process Transactions through the Hosted System. Elavon is entitled to reasonably rely on the information provided by Customer in connection with Elavon's set-up and boarding of a Customer Location and Origination Point in the Hosted System and in Elavon's performance of the Elavon Services, including identification and set-up of Destination Points, Payment Services Entities, Customer ID, merchant category code, and any other information that may impact the Elavon Services or the processing of Transactions by Elavon or any Payment Services Entity. Customer shall notify Elavon of any changes to any Customer Location information, including, without limitation, any Customer ID, in writing at least ten (10) days prior to the effective date of such changes and shall identify in the notice the date as of which Elavon should implement the change within the Hosted System. Elavon shall use commercially reasonable efforts to implement any such changes in accordance with Customer's reasonable instructions. In no event shall Elavon be liable for any errors in the handling of Customer Data, the processing of Transactions or in the performance of the Elavon Services that are attributable to: (i) inaccurate or incomplete information or data provided by Customer or (ii) Elavon's reasonable reliance upon Customer's

instructions with respect to Customer Boarding. Customer shall be responsible for any and all fees and expenses associated with the Customer Boarding and the Customer Validation Process, as reflected in the Customer enrollment forms.

(d) Information Security and Data Protection.

The Elavon Services are provided for use in accordance with the operating environment specifications and requirements provided by Elavon, including, without limitation, as provided in the Documentation, the Elavon Materials, and on or in connection with the applicable Additional Services Addenda. Elavon and Customer each will implement and maintain a written comprehensive information security program that complies with the Security Requirements. Customer agrees to reasonably cooperate with measures facilitated by Elavon for ensuring ongoing Security Requirement compliance by Customer. Notwithstanding the foregoing, Customer acknowledges and agrees that, as between Elavon and Customer, Customer is responsible for the physical and technical security and safeguards for all Customer Data, software, connectivity and equipment operated, maintained or provided by Customer or to Customer by any third party, not under Elavon's control, in connection with the Elavon Services, including, without limitation, communications devices, databases, telecommunications and network services, and related resources.

(e) Administration; Authorized Users.

Customer shall designate an Administrator in writing signed by an authorized signer. The Administrator shall create passwords and user IDs for Authorized Users, and Customer shall be responsible for the distribution and security of such passwords and user IDs. Customer is responsible for ensuring the access granted to each Authorized User to the Elavon Services or the Hosted System is limited to only the access and information necessary for the Authorized User to perform his or her job functions on behalf of Customer. Customer shall ensure that all Authorized Users will be trained and qualified to access and use the Elavon Services in accordance with the terms of this Agreement and the Documentation. Customer is responsible for compliance with the terms of this Agreement by each of its Authorized Users and is solely responsible for all acts or omissions of the Authorized Users.

(f) Security of Passwords/Access. Customer is solely responsible for keeping all passwords and user IDs assigned to it and its Authorized Users secret and confidential, including, without limitation, as may be required to comply with the Documentation and applicable Security Requirements. Customer agrees it is solely responsible for any communications or

other uses of the Elavon Services that are made using its or its Authorized Users' passwords and user IDs, as well as for any obligation which may result from such use. Customer is responsible for changing the user IDs and passwords of its Authorized Users if it believes that any of those user IDs or passwords have been stolen or might otherwise be misused and for disabling any Authorized User's IDs and passwords promptly upon the termination of employment of such Authorized User. Customer shall notify Elavon immediately of any unauthorized use of any password or user ID or any other breach of security that is suspected by Customer, including any violation of Security Requirements. Notwithstanding the foregoing, should passwords and/or User IDs be disclosed due to a breach of a system under Elavon's control, Elavon shall be solely responsible for any unauthorized communications or other unauthorized uses of the Elavon Services that are made using Customer's or Customer's Authorized Users' passwords and user IDs, as well as for any obligation which may result from such use. For avoidance of doubt, all authorized communications using a compromised Customer or Authorized User password or user ID shall be valid and Customer shall be liable for such communications.

(g) Amendments; Upload Site. Customer acknowledges that it has received and reviewed the Agreement as of the date hereof. Participating Member further acknowledges that from time to time, Wyndham and Elavon may enter into amendments, addenda or other modifications to the Agreement (each, an "Amendment" and collectively, "Amendments"), each of which will be posted to <https://www.elavon.com/~media/Files/wyndham.pdf> or a successor website designated by Provider (the "Upload Site"). Customer agrees that it will monitor the Upload Site for any Amendments periodically, but not less than once a month, and that it will promptly review the terms of each Amendment posted. Customer further agrees that the terms of each Amendment will bind Customer to the same extent as if Customer had executed such Amendment, except to the extent expressly provided otherwise by the terms of such Amendment, regardless of whether Customer has reviewed such Amendment or not.

5. Suspension of Service. In the event of a Suspension Triggering Event, without limiting any other remedies available to Elavon at law or in equity, Elavon reserves the right to suspend: (a) Customer's and any Authorized Users' access to the Hosted System and/or (b) Customer's or any Authorized Users' access to and use of the Elavon Services, in each case under the circumstances provided in this subsection. Such suspension may be immediate and without notice if any

of the following events occur: (i) Customer's breach of any applicable law or regulation, including any Payment Network Regulations; (ii) if required by any court order, Payment Services Entity, Payment Network or any Destination Point, provided, however, that, in the event any court order or notice from any Payment Services Entity, Payment Network or Destination Point does not require immediate suspension of Customer or an Authorized User, Elavon may delay such suspension for the time period permitted under the court order or in the notice by the Payment Services Entity, Payment Network or Destination Point, provided further that Customer will indemnify and hold harmless Elavon from any fines, penalties, levies, assessments or other costs associated with Elavon continuing to provide Connectivity or access to or use of the Hosted System or the Elavon Services following such court order or notice; or (iii) if Elavon determines, in its reasonable discretion, that the provision of Connectivity to or the use of or access to the Hosted System or the Elavon Services by Customer or any Authorized User poses an unacceptable security risk to Elavon, any Payment Services Entity, any Payment Network, any other Elavon customers or any Destination Point, or jeopardizes the confidentiality, security or integrity of the Hosted System. Without limiting any other remedies available to Elavon at law or in equity, Elavon reserves the right to immediately suspend: (A) the provision of Connectivity to Customer or any Authorized User or (B) Customer's or any Authorized User's access to and use of the Hosted System or the Elavon Services if either of the following events occur: (x) failure by Customer to pay all fees to Elavon in full (excluding fees that Customer has disputed in good faith) and fails to cure within fifteen (15) days of receipt of notice from Elavon or (y) material breach by Customer of any of the terms of this Agreement and fails to cure within thirty (30) days of receipt of notice from Elavon. "Suspension Triggering Event" shall mean any event described in this paragraph giving rise to a suspension right.

6. Fees and Payment.

(a) Fees. Customer shall pay Elavon the fees set forth on the signature page to the Safe-T Suite Addendum and the fees set forth in Exhibit A to the Safe-T Suite Addendum. Notwithstanding any provision in this Agreement to the contrary, Elavon shall have the right to increase the fees set forth on any enrollment form or another schedule or addendum hereto solely to pass through to Customer any increases in or any new fees imposed by a Destination Point or other Payment Services Entity, Payment Network or other third party. Elavon further reserves the right to pass through to Customer all fees, fines, penalties, or assessments imposed by any Destination Point or other Payment Services Entity, Payment Network or other third party as a result of the activities, acts or omissions of Customer. Any modification to fees identified as "pass-through" fees on any enrollment form or any other schedule or

addendum that may later be added to this Agreement will reflect the actual costs to Elavon set by the third party for such fees.

(b) Payment Terms. All Elavon fees shall be billed in advance, unless fees are being calculated on a per Transaction basis. All fees shall be due and payable in accordance with the payment terms provided on the enrollment forms and are non-refundable. Except as expressly provided on the enrollment forms, all amounts due and payable shall be made in U.S. dollars. If Customer fails to pay any fees in full when due and payable, then, in addition to all other rights and remedies at law or otherwise, Elavon shall have the right to charge Customer, and Customer shall have the obligation to pay, late payment charges equal to one percent (1.0%) per month on the unpaid amount for the period starting with the date payment was due and ending on the date when the full payment is received by Elavon. In addition, Elavon will be entitled to recover from Customer all reasonable costs incurred to obtain full payment of undisputed fees, including reasonable attorneys' fees.

(c) Additional Fees. Customer shall pay Elavon the fees set forth in each Additional Services Addendum for its use of the applicable Additional Services (collectively, the "Additional Fees"). Additional terms and conditions related to Additional Fees may be set forth in the applicable Additional Services Addendum, a pricing exhibit thereto, or the enrollment forms.

(d) DDA and ACH Authorization; Collection of Fees. Customer will establish and maintain with an ACH participating financial institution one or more demand deposit accounts ("DDA(s)") to facilitate payment of fees to Elavon. Unless otherwise indicated in this Agreement, Elavon may debit any fees Customer owes to Elavon via ACH or similar direct transfer from Customer's DDA within thirty (30) days of the occurrence of the Transaction or other event that caused such fees to be payable to Elavon, and Elavon shall submit a statement showing the amounts owed and debited within thirty (30) days of debiting any DDA. If invoicing is indicated in any enrollment form or any Additional Services Addendum instead of direct debiting of DDAs when fees are owed, Elavon shall submit to Customer an invoice for such fees owed by Customer in connection with this Agreement on a monthly basis. Customer will pay amounts reflected in such invoices within the time period set forth in the applicable schedule or the invoice. Customer authorizes Elavon to initiate ACH credit and debit entries to the DDA in order to pay undisputed fees and any other undisputed amounts that may be due by Customer to

Elavon under this Agreement. The foregoing authorizations will remain in effect after termination of this Agreement until all of Customer's payment obligations to Elavon have been satisfied in full. Elavon has the right to rely on written instructions submitted by Customer requesting changes to the DDA. In the event Customer changes the DDA, the ACH authorizations established hereunder will apply to the new account and Customer shall provide Elavon such information regarding the new DDA as it deems necessary to effect debits from or credits to the DDA as provided under this Agreement. It may take Elavon up to ten (10) business days after Elavon's receipt of a written notice from Customer to reflect in its system any change to Customer's DDA.

(e) Taxes. The fees listed under this Agreement do not include sales, use, excise, property, value added, gross receipts or any other taxes or import or export duties. In the event foreign, federal, state or local taxes or duties are assessed on the Elavon Services, Customer is obligated to pay those taxes and duties as required under applicable law and shall reimburse Elavon for any such taxes or duties, except for taxes based on the income of Elavon. If Customer is a tax-exempt entity, Customer will provide Elavon with an appropriate certificate of tax exemption.

(f) Payment to Customer's Employees, Agents, Independent Contractors, Sales Representatives and Other Personnel. Customer acknowledges and agrees that Customer is solely liable for the payment of salaries, hourly wages or other compensation to any of Customer's employees, agents, independent contractors, sales representatives or such other personnel engaged by Customer, and that Elavon shall have no obligation for any such payment.

7. Termination.

(a) Termination by Customer.

- (i) Customer shall have the right to terminate this Agreement upon written notice to Elavon in the event Elavon materially breaches this Agreement and the material breach is incapable of cure or remains uncured for a period of thirty (30) days after receipt by Elavon of a written notice of breach from Customer specifying the nature of the breach.
- (ii) Customer shall have the right to terminate this Agreement without cause with ninety (90) days' prior written notice to Elavon and subject to the early termination obligations set forth in Section 7(e).

(b) Termination by Elavon. Without limiting the rights of Elavon to suspend provision of Elavon Services as provided herein, Elavon shall have the right to terminate this Agreement, upon written notice to Customer, in the event of any of the following:

- (i) Customer is in monetary default of this Agreement for a period of fifteen (15) days after receipt of written notice of such default from Elavon; or
- (ii) Customer materially breaches this Agreement and the breach is incapable of cure or remains uncured for a period of thirty (30) days after receipt by Customer of a written notice of breach from Elavon specifying the nature of the breach; or
- (iii) Customer ceases to be a Franchisee and Elavon notifies Customer of its desire not to renew this Agreement no later than thirty (30) days prior to the end of the then-current Initial Term or Renewal Term.

(c) Immediate Termination. Notwithstanding any cure period described herein, Elavon shall further have the right to immediately terminate this Agreement or Customer's use of the Elavon Services hereunder, without further liability on the part of Elavon, upon written notice to Customer in the event of any of the following: (i) Elavon determines, in its reasonable discretion, that it is commercially impractical to continue performing the Elavon Services in connection with this Agreement, including, without limitation, in light of a change in applicable laws, Payment Network Regulations or the requirements of any Payment Services Entity; (ii) any Payment Network or Payment Services Entity prohibits Elavon from providing, or prohibits Customer from using, the Elavon Services related to that Payment Network or Payment Services Entity or otherwise requires that Elavon terminate one or more Elavon Services; (iii) in the event of a Change of Control of Customer; (iv) Customer is subject to a bankruptcy proceeding; (v) Customer engages in activities that violate or cause Elavon to violate Payment Network Regulations or which cause Elavon to violate its agreement with any Payment Services Entity; or (vi) Elavon determines, in its reasonable discretion, that Customer has engaged in activities that are fraudulent, that violate applicable laws or regulatory requirements, whether local, state or federal, or that cause Elavon to violate applicable laws or regulatory requirements, or that damage the goodwill of Elavon or any of the Payment Networks.

(d) Effect of Termination or Expiration. Subject to Section 7(e) in the event of termination or expiration of this Agreement, all permissions granted to Customer to use the Elavon Services hereunder will immediately cease, and Elavon shall have the right to disable Connectivity and all access by Customer and Authorized Users to the Elavon Services, any Service Web Site(s) and the Hosted System, including all user IDs and passwords. Upon Customer's request, except as may otherwise be set forth in this Agreement or an

Additional Services Addendum agreed to by the parties hereto, all Customer's Confidential Information, including Customer Data, in Elavon's possession (except data contained in Elavon's backup files or required to be maintained under applicable law or otherwise permitted to be retained by Elavon hereunder) shall be forwarded to Customer, in the then-current format maintained by Elavon. Upon Elavon's request, all Elavon's Confidential Information in Customer's possession (except such information as is required to be maintained under applicable law) shall be forwarded to Elavon or destroyed, and, if destroyed, Customer shall certify to Elavon in writing that such information was destroyed. Customer shall promptly pay Elavon for all undisputed fees due to Elavon up to the effective date of termination or expiration. In the event Customer continues accessing the Hosted System or using the Elavon Services following the expiration of the Term or the termination of this Agreement or a schedule, Customer will be subject to all of its duties and obligations under this Agreement consistent with such access or use, including, but not limited to, Customer's obligation to comply with applicable laws and regulations and pay the fees and other amounts due to Elavon for such access and use, until Elavon or Customer terminates such access and use.

(e) Early Termination Obligations. If Customer terminates this Agreement before the end of the Initial Term or any Renewal Term pursuant to Section 7(a)(ii) or exercises any right of Customer pursuant to an Additional Services Addendum to terminate such addendum or the service or services provided thereunder, Customer shall pay Elavon, as liquidated damages, the applicable early termination fee for the Equipment (as defined in the Safe-T Suite Services Addendum) as set forth in the Safe-T Suite Service Addendum. Upon expiration or termination of this Agreement for any reason, upon mutual execution of a professional services agreement, Elavon shall provide such transition assistance as reasonably necessary to transfer the services provided by Elavon to Customer's new designated service provider as set forth in such professional services agreement.

8. Ownership and Reservation of Rights.

(a) Retained Rights of Elavon. Customer acknowledges and agrees that, as between Customer and Elavon, Elavon retains all right, title and interest in and to the Elavon Services, Elavon Materials, Hosted System, Documentation, Elavon's Confidential Information, Updates, Customizations and all Intellectual Property Rights in any of the foregoing. Customer has not acquired any ownership interest or license rights (except such rights as are expressly set forth in this Agreement (including Section 2(a) above)) in or to the Elavon Services,

Elavon Materials, Hosted System, Documentation, Elavon's Confidential Information, Updates, Customizations or Intellectual Property Rights in any of the foregoing, in whole or in part, and will not acquire any such interest or rights by reason of this Agreement. In the event any right, title or interest in and to any Customizations is deemed to vest in Customer, Customer hereby assigns and agrees to assign to Elavon all worldwide right, title and interest in, to and under such Customizations, including, all Intellectual Property Rights therein. All rights not otherwise provided herein or in an applicable Additional Services Addendum are reserved to Elavon. Customer acknowledges and agrees that the rights granted to Customer under this Agreement are non-exclusive and nothing in this Agreement shall limit in any manner the ability of Elavon to market, sell, offer for sale, license or otherwise exploit the Elavon Services, Elavon Materials, Hosted System, Documentation, Elavon's Confidential Information, Updates, Customizations or Intellectual Property Rights in any of the foregoing to any third parties, directly or indirectly, or to appoint or authorize any other person or entity to do the same.

(b) Customer Data; Retention and Delivery.

(i) Elavon shall not bear and expressly disclaims any and all liability related to Customer's use of telecommunications services and related networks of Customer or a third party, including, without limitation, failure of Connectivity (to the extent such failure is due to the acts or omissions of a third party not controlled by Elavon) or any erroneous transmission, corruption or loss of data, or inability to access the Elavon Services, the Hosted System or Connectivity as a result of the failure of the telecommunications systems, equipment, resources or software of Customer or any third party. Without limiting the foregoing, Elavon shall not be responsible for the reconstruction of any information or data lost in transmission to or from the Hosted System due to any malfunction of Customer's or Customer's third-party service provider's systems. Customer acknowledges that the ability of the Elavon Services to convert Customer Data into formats that can be used by the Elavon Software, other Elavon service offerings, any Destination Point or any other Payment Services Entity is based on the integrity of the Customer Data in its systems, and Elavon is not responsible for ensuring or verifying the accuracy of the content or format of any Customer Data received by it. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE ELAVON SERVICES RELY ON THE DATA AND DIRECTIONS PROVIDED BY CUSTOMER AND ITS AUTHORIZED USERS. ELAVON DOES NOT GUARANTEE THE ACCURACY, COMPLETENESS OR ADEQUACY

OF ANY DATA OR OTHER INFORMATION PROVIDED OR MADE AVAILABLE BY CUSTOMER OR ITS AUTHORIZED USERS, AND ELAVON WILL NOT BE LIABLE FOR ANY ERROR, OMISSION, DEFECT, DEFICIENCY OR NONCONFORMITY IN DATA OR RESULTS OBTAINED THROUGH CUSTOMER'S USE OF THE SOFTWARE OR THE ELAVON SERVICES, EXCEPT TO THE EXTENT CAUSED BY ELAVON'S BREACH OF THIS AGREEMENT.

- (ii) Customer is responsible for ensuring it has all necessary right, title and interest in and to Customer Data to provide such information to Elavon for use and retention by Elavon as contemplated under this Agreement. Customer grants to Elavon a revocable non-exclusive, royalty-free right and license to access and use all Customer Data as necessary or appropriate for Elavon to provide the Elavon Services and as otherwise permitted under this Agreement, including, without limitation, releasing such Customer Data to third parties as directed by Customer (including release to Destination Points and any other Payment Services Entities) or in connection with Elavon's performance of the Elavon Services. Customer acknowledges and agrees that Elavon may use, retain, distribute and disclose derivative data based originally on Customer Data that has been compiled and aggregated with other data (the "Aggregated Data"), so long as such Aggregated Data does not identify Customer as the source of such data. "Aggregated Data" shall not constitute Customer Data or Customer's Confidential Information under this Agreement provided that Elavon will not use Aggregated Data in any manner prohibited by law.
- (iii) Elavon shall have the right to rely on instructions and approvals submitted by Customer regarding access to and use of all Customer Data. Customer may view and retain certain Customer Data stored by Elavon in accordance with the functionality of the applicable Elavon Services and the terms and conditions of this Agreement. The Hosted Gateway Services enable Customer (and its Authorized Users) to view and transmit certain Customer Data via the Service Web Site. In the event that Customer wishes to access or receive copies of Customer Data that is not accessible or downloadable via the Service Web Site, Customer may request that Elavon provide such Customer Data and Elavon will work with Customer to provide such Customer Data on mutually agreed upon terms; provided, however, that access to clear-text Cardholder Data will be provided to Customer only upon Customer's execution of a completed Clear Card Request Form, which is available from Elavon upon request. Subject to Elavon's obligations under this Agreement, Elavon shall have no responsibility for any

Customer Data that Customer accesses or downloads from the Hosted System. Customer shall be responsible for maintaining sufficient "backups" of information and data (e.g., Transaction Receipts or detailed reporting) with respect to Transactions and a copy of all Customer Data in order to reconstruct any information or data lost due to any malfunction of Customer's or Elavon's systems, including, without limitation, the Elavon Services, the Hosted System or Connectivity.

- (iv) In connection with viewing and transmission of Customer Data pursuant to this Agreement, the Elavon Services or the Hosted System may permit Authorized Users to send and receive Customer Data to and from third parties. Elavon does not regulate or track the viewing, transmittal or receipt of any data to or by such third parties and shall not be liable or responsible for: (I) the viewing or use of Customer Data by a third party who has accessed or received such data: (A) from Customer or any Authorized User, or (B) using any user ID assigned to Customer, or (II) any transmission of Customer Data outside of the Hosted System by Customer, an Authorized User or any third party using any user ID assigned to Customer or any Authorized User. By transmitting any data to any third party or providing any third party with access to data, Customer warrants that it has the right and authority to transmit or provide access to that data to each such third party.
- (v) In the event that, following the expiration of the Term or the termination of this Agreement or any schedule or addendum hereto, Customer desires to access Customer Data stored by Elavon in accordance with the functionality of the applicable Elavon Services, Customer shall be required to: (I) enter into a data access agreement to be separately executed by the parties and (II) pay any fees imposed by Elavon in connection with such access.

9. Confidentiality.

(a) "Confidential Information" means, as to either party, such party's confidential and proprietary business or technical information, regardless of the form or media, that is reasonably identified as confidential or proprietary at the time of disclosure or which under the circumstances surrounding disclosure ought to be reasonably considered as confidential or proprietary, including, without limitation (i) in the case of Elavon, Software, Documentation, all pricing and other financial information for the Elavon Services, compilations, databases, implementation methods, techniques, algorithms, rules, methodology, technical specifications, technical information, drawings, engineering data, performance specifications, cost and price information and data and reports; and (ii) in the case of Customer, Customer Data.

(b) Confidentiality Obligations. Each party (the "Receiving Party") agrees to protect the Confidential Information of the other party ("Disclosing Party") from

unauthorized disclosure, publication or dissemination with the same standard of care and discretion it employs with similar information of its own, but in no event less than reasonable care, and, except as otherwise necessary to perform its obligations or exercise its rights under this Agreement, shall not use, reproduce, distribute, disclose or otherwise disseminate the Disclosing Party's Confidential Information. The obligations of non-disclosure provided hereunder shall continue during the Term and: (i) with respect to Confidential Information that does not constitute a trade secret, for a period of three (3) years thereafter and (ii) with respect to Confidential Information that rises to the level of a trade secret under applicable law, for such period of time thereafter as the information shall retain its status as a trade secret under applicable law, and no less than three (3) years thereafter. Confidential Information does not include any data or information which is already known to the Receiving Party prior to disclosure by the Disclosing Party, or which: (I) has become generally known to the public through no wrongful act of the Receiving Party; (II) has been rightfully received by the Receiving Party from a third party without restriction on disclosure and without, to the knowledge of the Receiving Party, a breach of an obligation of confidentiality running directly or indirectly to the other party; or (III) is independently developed by the Receiving Party without use, directly or indirectly, of the Confidential Information received from the Disclosing Party. The Receiving Party shall have the right to disclose information which is required to be disclosed pursuant to court order or by law or regulation; provided, however, that in the event disclosure is required by law, regulation or court order, the Receiving Party will: (x) notify the Disclosing Party of the obligation to make such disclosure promptly and sufficiently in advance of the time required to disclose to allow the Disclosing Party the opportunity to seek a protective order, (y) cooperate with the Disclosing Party at the Disclosing Party's expense in seeking the protective order, and (z) make disclosure only to the extent required to comply with the law, regulation or court order.

(c) Relief. The Disclosing Party may suffer irreparable harm if the confidentiality obligations set forth in this Section are not specifically enforced and such party may not have an adequate remedy at law in the event of an actual or threatened violation by the Receiving Party of its obligations under this Section. The Receiving Party therefore agrees that the Disclosing Party may be entitled (in addition to other available remedies) to an injunction restraining any actual, threatened or further breaches of the Receiving Party's obligations under this Section or any other appropriate equitable order or decree.

10. Compliance with Laws and Payment Network Regulations.

(a) Compliance with Laws and Payment Network Regulations. Each party will comply with federal, state and local laws, government regulations and orders material to that party's performance of its obligations under this Agreement. Customer further represents and warrants that it is in compliance with the Security Requirements with respect to all

Cardholder Data and other data or information provided to Elavon or to Elavon's agents in connection with this Agreement, and Customer will remain in compliance with such Security Requirements during the Term. Customer will use the Elavon Services only for lawful purposes in compliance with all applicable laws, rules and regulations and the terms and conditions of this Agreement. Customer warrants that Customer will comply with the Payment Network Regulations applicable to it in the performance of its business during the Term. Customer agrees to comply with the terms and conditions of the U.S. Commerce Department's Export Administration Regulations and shall not enable any access to the Elavon Services by Customer or any Authorized Users or export, re-export, directly or indirectly, any software, Documentation or Confidential Information of Elavon, or component thereof, in violation of any applicable United States laws or regulations. Customer shall not market, demonstrate, resell or export, directly or indirectly, or enable access to or use of the Elavon Services or any information relating thereto from the United States to any country subject to embargo or sanctions by the United States government or not approved by Elavon or for which the United States government or any agency thereof requires an export license or approval without first obtaining the same at the cost of the party requiring such export license or approval.

(b) Fines, Penalties, and Assessments. Customer shall be responsible for and pay any fine, penalty or assessment by any Payment Network as a result of the acts of Customer in violation of Payment Network Regulations whether such amount is assessed directly against Customer, against any Payment Services Entity or against Elavon.

11. Limited Warranty; Disclaimer of Warranties.

Elavon warrants that (i) the Elavon Services, Elavon Materials, Hosted System and Connectivity will substantially conform in all material respects to the Documentation and other terms and conditions set forth in the Agreement; (ii) Elavon will use commercially reasonable efforts to render the Elavon Services using personnel that have the knowledge, training, skills, experience, qualifications and resources necessary to provide and perform the Elavon Services in accordance with this Agreement; and (iii) Elavon will use commercially reasonable efforts to render the Elavon Services in a prompt, diligent and professional manner consistent with the practices and professional standards used by, and consistent with levels of performance achieved by, well-managed operations performing services similar to the Elavon Services.

(a) Disclaimer of Warranties. **EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS**

AGREEMENT, THE ELAVON SERVICES, ELAVON MATERIALS, HOSTED SYSTEM AND CONNECTIVITY ARE PROVIDED "AS IS" AND ELAVON DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, ACCURACY, SATISFACTORY QUALITY, TITLE, SECURITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, USAGE OR TRADE WITH RESPECT TO THE ELAVON SERVICES, ELAVON MATERIALS, HOSTED SYSTEM OR CONNECTIVITY PROVIDED HEREUNDER OR UNDER ANY SCHEDULE OR ADDENDUM. Elavon disclaims any responsibility for the accuracy of any data or other information delivered to Customer to the extent that any inaccuracy results from the data provided by Customer or a Destination Point. Elavon does not ensure uninterrupted or error-free services. In addition, Elavon shall not be liable for any disruptions to the Elavon Services or Connectivity caused by actions, inactions, equipment malfunctions, or telecommunications or power losses between a Customer Location or Origination Point or at the Destination Point.

(b) Internet Security Disclaimer. CUSTOMER ACKNOWLEDGES THAT THE INTERNET IS NOT A SECURE MEDIUM AND IS SUBJECT TO INTERRUPTION AND DISRUPTION. TRANSMISSION OF INFORMATION AND DATA VIA THE INTERNET IS OUT OF ELAVON'S CONTROL. ELAVON IS NOT RESPONSIBLE FOR ANY INTERCEPTION OR CORRUPTION OF INFORMATION OR DATA DURING ANY TRANSMISSION OVER THE INTERNET OR ANY RELATED TELECOMMUNICATIONS NETWORK OR AT ANY CUSTOMER LOCATION OR CUSTOMER NETWORK ACCESS POINT.

(c) No oral or written information given by Elavon, its agents or employees shall create any warranty or representation not set forth in this Agreement.

12. Limitation of Liability.

(a) EXCEPT FOR A PARTY'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS, LOST REVENUE, LOSS OF DATA OR GOODWILL ARISING OUT OF THE SERVICES PROVIDED OR THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE ELAVON SERVICES, HOSTED SYSTEM, CONNECTIVITY, DOCUMENTATION OR SOFTWARE (INCLUDING ANY THIRD PARTY SOFTWARE) OR USE THEREOF BY

CUSTOMER, UNDER ANY THEORY OF LAW OR EQUITY (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE) EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL ELAVON BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES.

(b) EXCEPT FOR A PARTY'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT, CUSTOMER'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT OR AN ADDITIONAL SERVICES ADDENDUM, OR CUSTOMER'S INDEMNIFICATION OBLIGATIONS UNDER THE SAFE-T SUITE SERVICES ADDENDUM, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY FOR ANY DAMAGES (DIRECT OR OTHERWISE) OR PENALTIES OR LOSS, CONCERNING THE PERFORMANCE OR NON-PERFORMANCE OF SERVICES OR OTHERWISE ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY THEORY OF LAW OR EQUITY (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE) EXCEED THE FEES PAID TO ELAVON BY CUSTOMER FOR THE PORTION OF THE ELAVON SERVICES GIVING RISE TO SUCH CLAIM DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE CLAIM, ANY CLAIM FOR SUCH DAMAGES OR PENALTIES BEING HEREBY WAIVED BY CUSTOMER. ELAVON'S PAYMENT OF DAMAGES(DIRECT OR OTHERWISE) OR PENALTIES OR LOSS, CONCERNING THE PERFORMANCE OR NON-PERFORMANCE OF SERVICES OR OTHERWISE ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY THEORY OF LAW OR EQUITY (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE) SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND SHALL BE FULL SATISFACTION AND SETTLEMENT OF ALL CLAIMS ASSOCIATED WITH SUCH DAMAGES; AND CUSTOMER SHALL NOT BRING ANY CLAIMS AGAINST ANY THIRD PARTY IN CONNECTION WITH SUCH DAMAGES, PENALTIES OR LOSSES.

(c) EACH OF THE PARTIES AGREES THAT THE LIMITATIONS OF LIABILITY SET OUT IN THIS AGREEMENT ARE FAIR AND

REASONABLE IN THE COMMERCIAL CIRCUMSTANCES OF THIS AGREEMENT AND THAT IT WOULD NOT HAVE ENTERED INTO THIS AGREEMENT BUT FOR THE OTHER PARTY'S AGREEMENT TO THESE LIMITATIONS OF LIABILITY IN THE MANNER, AND TO THE EXTENT, PROVIDED UNDER THIS AGREEMENT. THIS SECTION SHALL APPLY EVEN IN THE EVENT OF A BREACH OF A CONDITION OR ESSENTIAL TERM OF THIS AGREEMENT AND IF OTHER REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.

13. Customer Audit. Upon ten (10) business days' prior written notice from Elavon, Customer shall allow Elavon and/or its agents and any Payment Services Entity having jurisdiction over Elavon to conduct financial and procedural audits and to inspect and audit Customer's records relating to Customer's performance under this Agreement during business hours at Customer's regular place of business for such records. Elavon shall bear the cost of such inspection and audit unless Elavon reasonably determines based on such audit that Customer is not in compliance with this Agreement, in which case such cost shall be borne by Customer. Customer will maintain complete and accurate records of its performance under this Agreement.

14. Indemnification. Customer shall indemnify, hold harmless, and at Elavon's option, defend Elavon, its parents, subsidiaries, and affiliated entities, and their respective officers, directors, employees, representatives, agents, successors and assigns (collectively, "Elavon Indemnified Parties") from and against any liabilities, damages, losses, fines, judgments, costs and expenses (including, without limitation, all settlements, reasonable attorney's fees and legal fees, expert fees and court costs) (collectively, "Losses") and reimburse the Elavon Indemnified Parties for Losses to the extent arising out of or resulting from any third party claims, suits, proceedings, investigations, actions or demands relating to or arising out of: (a) breach by Customer of any of the terms of this Agreement, including, without limitation, any representations, warranties or obligations under this Agreement or any act or omission of those for whom Customer is responsible; (b) the negligence or willful misconduct of Customer, its employees, representatives or agents in performance under this Agreement; (c) violation of applicable federal, state or local or municipal laws, rules, regulations, ordinances, or orders, or any Payment Network Regulations in connection with performance by Customer under this Agreement; or (d) damage to any of Elavon's tangible personal property or personal injury to Elavon and its employees or agents while on Customer's premises, except to the extent that any such damage is determined to have resulted from the negligence or misconduct of Elavon. Customer will not enter into any settlement that imposes any liability or obligation on the Elavon Indemnified Party, or contains any admission or acknowledgement of wrongdoing (whether in

tort or otherwise), without Elavon's prior written consent. Elavon may join in the defense, with its own counsel, at its own expense.

15. Force Majeure. Except for payment of Elavon fees due by Customer, no party shall be responsible for, or be considered to be in breach hereunder, nor shall any party be responsible for failure or delay in fulfilling its obligations under this Agreement, if caused by an event beyond the party's reasonable control; provided such party took reasonable measures to protect against such event, avoid such event's impact on its performance hereunder and continues to attempt to perform here under. If a force majeure event interrupts Elavon's provision of any Elavon Services, Customer shall continue to pay Elavon the fees for the Elavon Services owed under this Agreement and Elavon shall make all reasonable efforts to restore such Elavon Services. Customer shall not owe Elavon the fees for the Elavon Services which were not performed during such interruption. If the force majeure event continues for a period of more than fourteen (14) days, then Customer may, upon notice to Elavon, as its sole and exclusive remedy, continue to abate payment to Elavon to the extent Elavon Services are not performed and/or terminate this Agreement.

16. Notices. Except as otherwise specified in this Agreement, any notice or communication required or permitted under this Agreement must be sent to Customer at the address specified in the signature page to this Agreement and to Elavon, with a copy to Elavon's legal department, at the addresses specified below, or to a party's substitute address provided to the other party in writing, and shall be deemed received on the earlier of: (a) actual receipt, or (b) five (5) business days after being deposited in the United States mail, or (c) one (1) business day after being deposited for overnight delivery with any nationally recognized commercial overnight mail service.

Elavon, Inc.

Attn: Head of Gateway Sales
10700 76th Court
Largo, FL 33777

With a copy to:

Elavon, Inc.

Attn: General Counsel
Two Concourse Parkway, Suite 800
Atlanta, GA 30328

17. Publicity. Elavon shall have the right to use the Customer's name, trademarks, or trade names, in oral or written communications to third parties, including any sales or marketing publication or advertisement, describing Customer as a customer of Elavon with respect to the Elavon Services provided hereunder. Except as provided herein, neither party may use the trademark or trade names of the other party, including but not limited to in press releases, without the advance written approval of the other party.

18. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of

Georgia, excluding (a) its conflicts of laws principles; (b) the United Nations Convention on Contracts for the International Sale of Goods; (c) the 1974 Convention on the Limitation Period in the International Sale of Goods; and (d) the Protocol amending the 1974 Convention, done at Vienna April 11, 1980. Jurisdiction and venue for any claim or cause of action arising under this Agreement shall be solely and exclusively in the United States District Court for the Northern District of Georgia, and the parties submit to personal jurisdiction of, and waive any personal jurisdiction or inconvenient forum objection to, that court. If subject matter jurisdiction does not exist in the United States District Court for the Northern District of Georgia, then the sole and exclusive forum and venue for any such action shall be the courts of the State of Georgia located in Fulton County and the parties submit to personal jurisdiction of, and waive any personal jurisdiction or inconvenient forum objection to, such court. In the event of a dispute, and prior to filing any litigation, the parties agree to escalate discussions to at least senior management level and to discuss in good faith the possible utilization of alternative dispute resolution procedures, including, but not limited to, non-binding mediation. **EACH PARTY EXPRESSLY WAIVES ALL RIGHTS TO A JURY TRIAL IN CONNECTION WITH ANY DISPUTE.**

19. Assignment; Inurement. Customer shall not have the right to transfer or assign its rights or obligations under this Agreement to any other individual or entity, without the prior written consent of Elavon or its permitted assigns, which consent shall not be unreasonably withheld; provided that Customer may transfer or assign its rights and obligations under this Agreement to an affiliate or subsidiary as part of a business reorganization and that Customer provides written notice to Elavon of such transfer or assignment. Subject to the foregoing, this Agreement, and the obligations and benefits herein contained, shall inure to the benefit of, and be binding upon, the successors and assigns of the parties hereto.

20. Relationship of the Parties. Both parties agree that they are independent entities. Nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship between the parties. Each party is responsible for the supervision, management and direction of its own employees. This Agreement is intended for the benefit of the parties hereto and is not intended to create an interest in any third party, and no third parties shall have any rights or be entitled to any benefits under this Agreement, except as expressly provided herein.

21. Communication with Customer. By providing a mobile phone number and/or e-mail address, Customer agrees that Elavon may provide Customer with information about Elavon's services including, without limitation, information about new products and/or services by telephone and/or electronic mail. Customer agrees that Elavon may make such communications via any telephone number (including cellular or mobile telephone numbers), electronic mail account or address and/or facsimile number provided by Customer or a Customer employee or agent to Elavon. Customer is not

required to provide its mobile phone number and/or e-mail address in connection with this Agreement and if Customer does, it may elect in the future not to receive such communications from Elavon by contacting Elavon at optout@elavon.com.

22. Entire Agreement. This Agreement, including the schedules and exhibits attached hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof. This Agreement supersedes all prior or contemporaneous oral, implied or written agreements with respect to the subject matter hereof and shall take precedence over any inconsistent provisions contained in any purchase order issued by the Customer related thereto. This Agreement shall not be varied by any oral agreement or representation or by other than an instrument in writing of subsequent date hereto, executed by both parties by their duly authorized representatives. All schedules and exhibits are expressly incorporated in their entirety herein and made a part of this Agreement. In the event of a conflict between the terms of these terms and conditions and any schedule, exhibit, or Additional Services Addendum, the terms of such schedule, exhibit, or Additional Services Addendum shall control with respect solely to the subject-matter of thereof.

23. Miscellaneous. All of the obligations of each party hereto incurred prior to any termination of this Agreement or that by their nature should survive termination or expiration of the Agreement in order to achieve its purposes, including, without limitation, Sections 6, 7(d), and 8 – 23 (inclusive) shall survive the expiration or termination of this Agreement and remain binding upon and for the benefit of the parties hereto. If any provision of the Agreement is found to be illegal or otherwise unenforceable, the invalid or unenforceable provision shall be deemed to be curtailed or revised to the extent necessary to make such provision valid and enforceable and all other provisions of the Agreement shall remain enforceable and unaffected thereby so long as the curtailment or revision of the invalid or unenforceable provision does not result in a material change to an essential term or condition of this Agreement. None of the failure, the delay by any party to exercise, or the partial exercise of any right under the Agreement will operate as a waiver or estoppel of such right, nor shall such amend the Agreement. All waivers requested by a party must be signed by the waiving party to be effective. This Agreement shall not be varied by any oral agreement or representation or by other than an instrument in writing of subsequent date hereto, executed by both parties by their duly authorized representatives. The Agreement may be signed in one or more counterparts, each of which shall constitute an original and all of which, taken together, shall constitute one and the same agreement. Delivery of the various documents and instruments comprising the Agreement may be accomplished by facsimile or electronic means (e.g., pdf documents via electronic mail), and such a signed facsimile or electronic document or copy shall constitute a signed original. Captions in the Agreement and in the attached exhibits and schedules are for

convenience only and do not constitute a limitation of the terms in the Agreement. Singular terms shall include the plural and vice versa, unless the context otherwise requires. The word “day” shall mean “calendar day,” unless specifically stated otherwise. The language used will be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction will be applied against any party.

Section B – Glossary of Defined Terms

“**ACH**” means Automated Clearing House.

“**Additional Fees**” has the meaning given to it in Section 6(c) of Section A of this Schedule A.

“**Additional Services**” means hardware, software, products, or services provided by Elavon to Customer pursuant to an Additional Services Addendum to this Agreement.

“**Additional Services Addendum**” means the one or more addenda entered into by Customer in accordance with the terms of this Agreement that describes hardware, software, products, or services in addition to the Hosted Gateway Services provided by Elavon to Customer in connection with this Agreement. For avoidance of doubt, the SAFE-T Suite Services Addendum is an Additional Services Addendum.

“**Administrator**” means the Customer employee designated by Customer to establish user groups for access to the Elavon Services by Authorized Users of Customer and to issue and manage user IDs and passwords of Authorized Users.

“**Agreement**” has the meaning given to it on the signature page to this Hosted Services Agreement for Hosted Gateway Services.

“**Aggregated Data**” has the meaning given to it in Section 8(b)(ii) of Section A of this Schedule A.

“**Authorized Users**” means the Customer’s employees or other authorized personnel expressly authorized to access and use the Elavon Services and/or the Hosted System.

“**BCP**” has the meaning given to it in Section 3 of Section C of this Schedule A.

“**Cardholder**” means: (i) the individual in whose name a Payment Device has been issued; or (ii) any individual who possesses or uses a Payment Device and who purports to be the person in whose name the Payment Device was issued or who purports to be an authorized user of the Payment Device.

“**Cardholder Data**” means unique information about the Cardholder contained on the face or magnetic stripe of a payment card (e.g. the card number, card expiration date in combination with the card number, cardholder name in combination with the card number, track data/magnetic stripe,

verification numbers CVV2, CVC2, CID and PIN Block) and Transaction data.

“**Certification**” has the meaning given to it in Section 4(b) of Section A of this Schedule A.

“**Change of Control**” means, with respect to a party (i) a merger or consolidation of such party with or into another entity, or the merger of another party with or into such party or any other transaction or series of transactions, with the effect that the equity holders of such party immediately prior to such transaction hold fifty percent (50%) or less of the total voting power entitled to vote in the election of directors, managers, or trustees of the surviving entity; or (ii) an acquisition by any person or group of beneficial ownership of a majority in interest of the voting power or voting capital or other equity interest of such person.

“**Confidential Information**” has the meaning given to it in Section 9(a) of Section A of this Schedule A.

“**Connectivity**” means the Elavon-controlled, non-public network connectivity and interfaces for transmitting data between the Origination Point and the Hosted System.

“**Credit Card**” means a card or device associated with a revolving line of credit that may be used to purchase goods and services from Customer or to pay an amount due to Customer. A “Credit Card” includes any of the following cards or devices that are associated with a line of credit extended to the person to whom the card or device is issued: (i) a Visa card or other card or device bearing the symbol(s) of Visa U.S.A., Inc. or Visa International, Inc. (including Visa Gold cards); (ii) a MasterCard card or other card or device bearing the symbol(s) of MasterCard International, Inc. (including MasterCard Gold cards); (iii) a Discover Network card or other card or device bearing the symbol(s) of Discover Network; or (iv) any card or device bearing the symbol of any other Credit Card Association.

“**Credit Card Associations**” means (i) Visa, Inc.; (ii) MasterCard International, Inc.; (iii) American Express Travel Related Services Company; (iv) Discover Financial Services; (v) Diners Club International; (vi) JCB; and (vii) any other organization or association that hereafter contracts with any Payment Services Entity to authorize, capture, and/or settle Transactions effected with Credit Cards issued or sponsored by such organization or association, and any successor organization or association to any of the foregoing.

“**Customer**” has the meaning given to it on the signature page to this Agreement.

“**Customer Boarding**” means Elavon’s process of gathering and assimilating the information required from Customer to confirm Elavon has the required data necessary to board

Customer and to provide the applicable Elavon Services with respect to Customer.

“Customer Connectivity Software” means any software provided by or on behalf of Customer, whether integrated at Customer’s or a third party hosting or service provider’s operating environment, and the associated interfaces and data collection routines implemented by or on behalf of Customer to access and use the Elavon Services, including, without limitation, plug-ins, agents and operating system components.

“Customer Data” means all information or items proprietary to Customer provided to Elavon in order for Elavon to provide the Elavon Services with respect to Customer, including, without limitation, information Cardholder Data and Transaction information that is provided by Customer to Elavon in connection with the performance under this Agreement.

“Customer ID” means the unique identification number assigned to Customer by a Payment Services Entity or another third party, which identification number may be used to identify Transactions of such Customer.

“Customer Location” means a designated location at which a Customer uses the Elavon Services.

“Customer Resources” means all equipment, communications devices, databases, services and other resources that Customer maintains and/or operates in Customer’s or its third party hosting provider’s locations and which enable Customer to access and use the Elavon Services.

“Customer Software” means any and all software, owned by or to which Customer has licensed rights from third parties that Customer may use to access the Elavon Services and transmit Customer Data to the Hosted System, including, without limitation, any data import routines, APIs and Customer Connectivity Software.

“Customer Validation Process” means the process of gathering and assimilating the essential information required to ensure that Customer has the required data and configuration necessary for Customer to process all subscribed transactions to and from the applicable Transaction Processor, including, without limitation, implementation by Customer of the applicable Security Requirements to allow use of the Elavon Services.

“Customizations” means any works of authorship, work product, and any invention, process, method, development, design, schematic or technical information, whether patentable or not, including, without limitation, documentation, software or enhancements, improvements, alterations or derivatives of the Elavon Services or the Hosted System developed by Elavon, either alone or jointly with others, in connection with this Agreement.

“Day” has the meaning given to it in Section 23 of Section A of this Schedule A.

“DDA(s)” has the meaning given to it in Section 6(d) of Section A of this Schedule A.

“Debit Card” means a card or device bearing the symbol(s) of one or more EFT Networks or Credit Card Associations, which may be used to purchase goods and services from a Customer or to pay an amount due to a Customer by an electronic debit to the Cardholder’s designated deposit account. A “Debit Card” includes: (i) a card or device that bears the symbol of a Credit Card Association and may be used to conduct signature-based, offline debit Transactions; and (ii) a card or device that bears the symbol of an EFT Network and can be used to conduct PIN-based, online debit Transactions.

“Destination Point” means the location of a Payment Services Entity designated by Customer with respect to which Customer has requested Elavon to provide the Elavon Services and/or to which Customer has requested Elavon submit Transactions.

“Documentation” means Elavon standard written services description for the Elavon Services, as applicable, that is delivered to Customer under this Agreement, including user manuals and best practices guides, as may be amended by Elavon from time to time, but shall not include marketing materials, proposals, demonstrations and other promotional information.

“EFT Networks” means: (i) Interlink Network, Inc., Maestro U.S.A., Inc., STAR Networks, Inc., NYCE Payments Network, LLC, PULSE Network, LLC, ACCEL/Exchange Network, Alaska Option Services Corporation, Armed Forces Financial Network, Credit Union 24, Inc., NETS, Inc., and SHAZAM, Inc.; and (ii) any other organization or association that hereafter authorizes a Payment Services Entity to authorize, capture, and/or settle Transactions effected with Debit Cards, and any successor organization or association to any of the foregoing.

“Elavon” has the meaning given to it on the signature page to this Agreement.

“Elavon Indemnified Parties” has the meaning given to it in Section 14 of Section A of this Schedule A.

“Elavon Materials” means the specifications, Documentations, interfaces, APIs, nonpublic or proprietary marketing collateral, data import routines, sample code and materials provided to Customer to enable Customer to perform its obligations or exercise its rights under this Agreement, including integration to the Elavon Services.

“Elavon Services” means, individually and collectively, the services provided by Elavon to Customer pursuant to this

Agreement, including the Hosted Gateway Services, the Support Services, and any Additional Services.

“Franchisee” means an entity that is party to an agreement with Wyndham Hotel Group, LLC in which the Wyndham Hotel Group LLC provides a licensed privilege to operate a business using Franchisor’s trademarks.

“Hosted Gateway Services” means the services described on the signature page to the Agreement.

“Hosted System” means the Elavon proprietary switch technology, operating systems and software platform operated by Elavon for the Elavon Services.

“Initial Term” has the meaning given to it on the signature page to this Agreement.

“Intellectual Property Rights” means, collectively, worldwide patents, trade secrets, copyrights, trademarks, service marks, trade names and all other intellectual property rights and proprietary rights, including all rights or causes of action for infringement or misappropriation of any of the foregoing.

“Losses” has the meaning given to it in Section 14 of Section A of this Schedule A.

“Origination Point” means either: (i) the Customer central origination location that transmits data between the Customer and the Hosted System or (ii) if the Customer is integrated with the Elavon Services directly, the point-of-sale (POS), property management system (PMS), terminal central location, equipment or system from which the Customer transmits data to and/or receives data from the Hosted System.

“Payment Device” means a device or method used for the purpose of obtaining credit or debiting a designated account including a Credit Card, Debit Card, and any other financial transaction device or method, including a check (whether converted into electronic form or used as a source document for an electronic fund transfer), benefit card, stored value card, “smart” card or other device created to be used for the purpose of obtaining credit or debiting a designated account.

“Payment Network” means any Credit Card Association or network, EFT Network, electronic check or automated clearing house association, governmental agency or authority, and any other entity or association that issues or sponsors a Payment Device or operates a network on which a Payment Device is processed.

“Payment Network Regulations” means individually and collectively, as the context may dictate, all rules, operating regulations, guidelines, specifications and related or similar requirements of any Payment Network, and guidelines for

Transactions issued by Elavon from time to time, including, without limitation, all amendments, changes and revisions made thereto from time to time.

“Payment Services Entity” means any third party (which may include Elavon if Customer has engaged Elavon to provide Payment Device or Transaction processing services) that Customer has designated as a Destination Point for receipt of Transactions and to which Elavon is certified to submit transactions, including but not limited to, Transaction Processors, Payment Networks, third party service providers, program managers and other third parties associated with Payment Device acceptance or other programs of Customer.

“PCI SSC” has the meaning given to it in Section 4(b) of Section A of this Schedule A.

“Renewal Term” has the meaning given to it on the signature page to this Agreement.

“Security Requirements” means the applicable access control and data security requirements promulgated by Elavon, any Payment Network or by the PCI SSC, in each case as may be amended or supplemented from time to time.

“Service Web Site” means the internet web site(s) operated by Elavon and located at the URL designated by Elavon for Customer to access the Hosted Gateway Services (as that URL may be updated from time to time) and that constitutes a part of the Elavon Services.

“Support Services” means Elavon support services made available to Customer in support of the Hosted Gateway Services and the Service Web Site in accordance with the terms provided in Section C of this Schedule A.

“Suspension Triggering Event” has the meaning to it in Section 5 of Section A of this Schedule A.

“Term” has the meaning given to it on the signature page to this Agreement.

“Territory” has the meaning given to it on the signature page to this Agreement.

“Third Party Software” means any software products owned or licensed by a third party.

“Transaction” means any action between a Cardholder using a Payment Device and Customer that results in activity on the Cardholder’s account (e.g., a payment, purchase, refund or return).

“Transaction Processor” means service bureaus and other persons that provide transaction processing services, including authorization and/or settlement services, to Customer. The

authorization services may support processing of credit, debit, check or other types of transaction services as may be available through the Elavon Services. In order to provide Elavon Services with respect to a Transaction Processor designated by Customer for a Customer Location, Elavon must be certified with the selected Transaction Processor for the applicable Elavon Services.

“Transaction Receipt” means the paper or electronic record evidencing the purchase of goods or services from, or payment to, a Customer by a Cardholder using a Payment Device.

“Updates” means all updates, revisions, patches, fixes, new

releases and other improvements to or discontinuance of any Elavon Services or the Hosted System provided to Customer under this Agreement.

Section C - Support Services

1. Support Services. Elavon shall operate a technical support call center twenty four (24) hours per day, seven (7) days per week, three hundred sixty five (365) days per year (24x7x365).

APPENDIX A

SAFE-T SUITE SERVICES ADDENDUM TO HOSTED SERVICES AGREEMENT

THIS SAFE-T SUITE SERVICES ADDENDUM is entered into as of the Addendum Effective Date indicated below by and between Elavon, Inc. (“Elavon”) and the party identified as “Customer” below. This SAFE-T Suite Services Addendum is an addendum to and supplements that certain Hosted Services Agreement (the “Agreement”) entered into by and between Customer and Elavon and having an Effective Date of _____. This SAFE-T Suite Services Addendum is governed by and is part of the Agreement. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement (including Schedule A thereto).

This SAFE-T Suite Services Addendum consists of this signature page, the SAFE-T Suite Terms and Conditions and the relevant Exhibits specified below for each of the selected items, each of which is incorporated in full by this reference. The SAFE-T Suite Terms and Conditions and the Exhibits are available at <https://www.elavon.com/~media/Files/wyndham.pdf>.

Fees: The following Exhibit shall apply to Customer in connection with this SAFE-T Suite Services Addendum:

- Exhibit A (Fees)

SAFE-T Suite Services: Customer will be receiving each of the following Services:

- Tokenization Services
- Encryption Services

Encryption Services and Simplify Software and Support: Customer will be receiving each of the following items:

- Encryption Terminal Software Licensed from Elavon (*For this item, Exhibit C shall apply to Customer in connection with this SAFE-T Suite Services Addendum.*)
- Simplify License and Support (*For this item, Exhibit F shall apply to Customer in connection with this SAFE-T Suite Services Addendum.*)

Equipment Purchase: Customer is purchasing equipment as set forth below (“Equipment”) in accordance with the additional terms set forth in Exhibit E:

Terminal Type and Bundle Selection: Please select the applicable option:

Terminal Type	Number of Terminals*
<input type="checkbox"/> Ingenico iPP320	_____
<input type="checkbox"/> Ingenico iPP350	_____
<input type="checkbox"/> Lane3000	_____
<input type="checkbox"/> Lane5000	_____
<input type="checkbox"/> Move5000	_____
<input type="checkbox"/> Lane7000	_____
<input type="checkbox"/> Link2500	_____

***(minimum of 2 terminals is required; if the number of terminals is not specified, 2 terminals will be deemed to have been selected)**

Optional Additional Warranty Programs:

- Advanced Exchange Program – 3 Year

THIS SAFE-T SUITE SERVICES ADDENDUM, INCLUDING THE SAFE-T SUITE TERMS AND CONDITIONS AND EXHIBITS INCORPORATED HEREIN, IS THE COMPLETE AND ENTIRE UNDERSTANDING OF THE PARTIES REGARDING THE SUBJECT MATTER HEREOF AND SUPERSEDES ALL PRIOR WRITTEN OR ORAL AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS WITH RESPECT THERETO, INCLUDING, WITHOUT LIMITATION, ANY PURCHASE ORDER OR PROPOSAL.

[Signature page follows]

IN WITNESS WHEREOF, Customer has caused a duly authorized representative to execute this SAFE-T Suite Services Addendum on behalf of Customer as of the Addendum Effective Date, as provided below.

"CUSTOMER"

By: _____
(Signature)

Name: _____
(Printed Name)

Title: _____

Date: _____
("Addendum Effective Date")

TERMS AND CONDITIONS
TO
SAFE-T SUITE SERVICES ADDENDUM

1) **FEES.**

Customer shall pay the SAFE-T Suite Services Fees and all other fees set forth on the signature page to the this SAFE-T Suite Services Addendum, in the enrollment form, Exhibit A to this SAFE-T Suite Services Addendum, or any other pricing attachment to the Agreement.

2) **DESCRIPTION OF SAFE-T SUITE SERVICES.**

Subject to the terms and conditions of this SAFE-T Suite Services Addendum and the Agreement, Elavon shall provide Customer with its choice of the following SAFE-T Suite Services (as indicated on the signature page to this SAFE-T Suite Services Addendum):

a) **ENCRYPTION SERVICES**, which shall consist of decryption of Transaction Receipts properly encrypted by Customer using Elavon-approved software, encryption keys and Hardware (as defined below), all in accordance with the terms and conditions of this SAFE-T Suite Services Addendum and the Agreement (such services, the "Encryption Services"); and

b) **TOKENIZATION SERVICES**, which shall consist of a tokenization feature pursuant to which Elavon will provide Customer with randomized numerical tokens (each, a "Token") in substitution for Credit Card and Debit Card account numbers (each such number, a "Card Account Number"; such services, the "Tokenization Services"). More specifically, when a Card Account Number associated with a Transaction is transmitted from Customer to Elavon, Elavon will:

- i) generate a Token;
- ii) associate the Token with the Card Account Number; and
- iii) send the Token, instead of the Card Account Number, back to Customer in the Transaction authorization response message.

For so long as this SAFE-T Suite Services Addendum remains in effect, the Token, rather than the associated Card Account Number, may be submitted by Customer to Elavon to process additional Transactions to the Credit Card or Debit Card associated with such Token across all Customer locations. The Card Account Number associated with each Token generated by Elavon can be retrieved by Elavon, on Customer's written request, until the date that is three (3) years after the expiration or termination of this SAFE-T Suite Services Addendum (the "Token Validity Period"), provided that the retrieval of Card Account Numbers after the expiration or termination of this SAFE-T Suite Services

Addendum will be subject to additional terms and conditions and at an additional cost to Customer.

3) **CUSTOMER RESPONSIBILITIES.**

a) Customer shall cause the appropriate hardware, including POS Devices and any hardware provided by or on behalf of Elavon from time to time, to be readily available for use at all Customer locations that are the recipients or users of the SAFE-T Suite Services (the "Hardware"). "POS Device" means a terminal, software or other point of sale device at a Customer location that conforms to the requirements established from time to time by the applicable Payment Networks.

b) Customer acknowledges that Elavon does not store Credit Card or Debit Card expiration dates. In order to use a Token to process a Transaction, Customer must provide the Token (in lieu of a Card Account Number) together with the expiration date for the original Credit Card or Debit Card.

4) **DE-TOKENIZATION.**

Customer may request a reversal of the Tokenization process as follows:

a) To reverse the Tokenization process on an individual Token basis, Customer may access an Elavon web portal and, with appropriate authentication credentials, retrieve the Card Account Number associated with any Token.

b) To reverse the Tokenization process on a bulk basis (i.e., in excess of 100 Tokens at a time), an officer of Customer must make a request in writing to Elavon and provide Elavon with the Tokens for which Customer wishes to reverse the Tokenization process. Elavon will provide Customer's requesting officer with an encrypted file containing the Card Account Numbers associated with such Tokens within thirty (30) days of receiving the request. Customer acknowledges and agrees that additional terms and conditions may apply to reversal of Tokenization on a bulk basis.

5) **LIABILITY; WARRANTIES; DISCLAIMER.**

a) Elavon warrants that (i) the Encryption Services, Tokenization Services, Hardware and any licensed products (including any software) will substantially conform in all material respects to the terms and conditions of this SAFE-T Suite Services Addendum, the Agreement, and any other applicable specifications and/or documentation provided to Customer by Elavon; (ii) Elavon will use commercially reasonable efforts to render the Encryption Services and

TERMS AND CONDITIONS
TO
SAFE-T SUITE SERVICES ADDENDUM

Tokenization Services using personnel that have the knowledge, training, skills, experience, qualifications and resources necessary to provide and perform the Encryption Services and Tokenization Services in accordance with this SAFE-T Suite Services Addendum and the Agreement; and (iii) Elavon will use commercially reasonable efforts to render the Encryption Services and Tokenization Services in a prompt, diligent and professional manner consistent with the practices and professional standards used by, and consistent with levels of performance achieved by, well-managed operations performing services similar to the Encryption Services and Tokenization Services.

b) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS SAFE-T SUITE SERVICES ADDENDUM, CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE DISCLAIMER OF WARRANTIES CONTAINED IN SECTION 11 OF SCHEDULE A TO THE AGREEMENT AND THE LIMITATION OF LIABILITY CONTAINED IN SECTION 12 OF SCHEDULE A TO THE AGREEMENT SHALL APPLY WITH RESPECT TO THE SAFE-T SUITE SERVICES, THE HARDWARE AND ANY LICENSED PRODUCTS (INCLUDING ANY SOFTWARE), IF ANY, PROVIDED UNDER THIS SAFE-T SUITE SERVICES ADDENDUM AND THAT THE SAFE-T SUITE SERVICES, HARDWARE AND LICENSED PRODUCTS (INCLUDING ANY SOFTWARE), IF ANY, PROVIDED UNDER THIS SAFE-T SUITE SERVICES ADDENDUM ARE PROVIDED "AS IS". NOTWITHSTANDING THE FOREGOING, THE TERMS OF ANY EXPRESS LIMITATION OF LIABILITY OR DISCLAIMER OF WARRANTIES CONTAINED IN ANY SCHEDULE, EXHIBIT, OR ADDENDUM HERETO SHALL CONTROL WITH RESPECT TO THE SERVICES AND PRODUCTS (INCLUDING HARDWARE AND SOFTWARE), IF ANY, PROVIDED PURSUANT TO SUCH SCHEDULE, EXHIBIT, OR ADDENDUM.

6) **TERM AND TERMINATION.**

This SAFE-T Suite Services Addendum shall commence as of the Addendum Effective Date and continue until the expiration or termination of the Agreement, unless either party gives notice to the other party of its intent not to renew this SAFE-T Suite Services Addendum at least ninety (90) days prior to the expiration of the then-current Term of the Agreement. This SAFE-T Suite Services Addendum

may be terminated by either party for any reason that such party may terminate the Agreement. Customer may elect to terminate this Addendum or any service provided hereunder on ninety (90) days' prior written notice to Elavon, provided that in the event of such termination, Customer shall pay to Elavon the applicable early termination fee with respect to the terminated service or services, as set forth in Section 7(e) of Schedule A to the Agreement.

7) **TERRITORY.**

Except as specifically set forth in this SAFE-T Suite Services Addendum, Customer may use the SAFE-T Suite Services indicated on the signature page to this SAFE-T Suite Services Addendum in the Territory.

8) **DEFINITIONS.**

Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms on the signature page to the SAFE-T Suite Services Addendum or the Agreement (as defined therein).

EXHIBIT A TO SAFE-T SUITE SERVICES ADDENDUM

Fees

1. **Hosted Gateway and SAFE-T Suite Services Fees.** The fees payable by Customer for the Tokenization and/or Encryption Services (the “SAFE-T Suite Services Fees”) and Hosted Gateway Services are specified in this section.

a) **Customer Boarding and Validation Fees:**

- i) New Property Implementation Fee: \$125
- ii) Change of Service Fee: \$125

b) **Support Fees:**

- i) SAFE-T Suite Services, Hosted Gateway Services and Terminal Support Fixed Fee: \$20 per month

c) **Security Services Fees:**

Waived.

2. **Equipment Purchase Fees.**

(a) **Purchased Equipment and Software.** Customer has elected to purchase equipment and license software from Elavon with the following specifications at the following specified costs:

POS Devices and Related Software

POS Device Types Purchased:	# of POS Device Units Purchased:	POS Device Cost per Unit:	# of POS Devices to receive Encryption Terminal Application:	Encryption Terminal Application License Fees per POS Device:	Encryption Terminal Application Load and Key Injection Fees per POS Device:	# of POS Devices to receive Simplify Software:	Simplify License Fees per POS Device:	Shipping Cost per POS Device:	Total Cost per POS Device:
<i>ISC250</i>	Minimum of 2 units per property	\$391.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$541.00
<i>iPP320</i>	Minimum of 2 units per property	\$290.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$340.00
<i>Lane3000</i>	Minimum of 2 units per property	\$293.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$443.00
<i>Lane5000</i>	Minimum of 2 units per property	\$468.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$618.00
<i>Move5000</i>	Minimum of 1 units per property	\$476.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$626.00
<i>Lane7000</i>	Minimum of 2 units per property	\$617.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$726.00

Link2500	Minimum of 1 units per property	\$311.00	All Terminals will receive encryption	\$25.00	\$45.00	All Terminals will receive Simplify	\$50.00	\$30.00	\$461
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Assumptions:
1) Each equipment bundle includes: Hardware, Key Injection, Cabling, Power Supply, Commbox (if required), Voltage Encryption & Simplify One-Time License Fees & Deployment with standard 1 year Manufacturer Warranty
2) 3 year Advanced Exchange Program is optional and offered at an additional cost.

- (b) **Shipping.** The fee payable by Customer for shipment of POS Devices to the location or locations designated by Customer is Thirty Dollars (\$30.00) per POS Device. Customer is responsible for any and all additional costs associated with shipment of the Equipment to such designated location or locations. Provided that a POS Device is shipped using Elavon’s freight account, Elavon shall bear the risk of loss of such POS Device until the time of delivery to Customer; if the Customer directs Elavon to utilize any other shipping method, Customer expressly acknowledges and agrees that all risk of loss for the POS Device shall pass to Customer when the POS Device is tendered by Elavon or on Elavon’s behalf to the carrier for shipment to Customer.
- (c) **Warranty Terms.** If Customer has elected to receive the Premium Advanced Exchange Program and the Premium Repair Warranty Program for POS Devices purchased from Elavon, as indicated on the signature page to this SAFE-T Suite Services Addendum, the following fees apply:

Item	Advanced Exchange Program
Term	3 Year
POS Device Unit: ISC250	\$125.00
POS Device Unit: iPP320	\$100.00
POS Device Unit: Lane3000	\$407
POS Device Unit: Lane5000	\$420
POS Device Unit: Move5000	\$357
POS Device Unit: Lane7000	\$349
POS Device Unit: Link2500	\$318

- (d) **Additional Equipment and Software License Purchases.** In the event that Customer elects to purchase additional equipment or license additional instances of software from Elavon, Customer and Elavon shall execute a supplemental order form provided by Elavon.

EXHIBIT B TO SAFE-T SUITE SERVICES ADDENDUM

[Reserved. Intentionally left blank.]

EXHIBIT C TO SAFE-T SUITE SERVICES ADDENDUM

Elavon Software License Terms and Conditions

In the event Customer elects to obtain encryption keys and an encryption terminal application for encryption of card data from Elavon (the "Application"), this Exhibit C ("Elavon Software License Terms and Conditions") shall be attached to and be a part of the SAFE-T Suite Services Addendum.

General Terms and Conditions

- Sublicense.** Subject to the terms and conditions of the Agreement and the SAFE-T Suite Services Addendum (including, without limitation, this Exhibit C), and the payment of all applicable fees, Elavon hereby grants to Customer a limited, personal, non-exclusive, revocable, non-sublicensable (except as provided herein), and non-transferable sublicense for the term of the SAFE-T Suite Services Addendum to use the Application as installed on Customer's POS Devices distributed by Elavon solely to encrypt Transaction Receipts processed using such POS Devices. The foregoing license may be sublicensed by Customer to its Affiliates, provided that Customer will be responsible for the acts and omissions of such Affiliates as if the same were performed by Customer.
- Restrictions.** Except as set forth above, Customer shall have no right to copy, market, distribute (electronically or otherwise), sell, assign, pledge, lease, deliver, license, sublicense (except as provided herein), outsource, rent or otherwise transfer the Application to any third party or use the Application for service bureau, time-sharing, or other third-party use or to provide hosting, market by interactive cable or remote processing services to a third party. Customer shall not make or permit the making of any modifications, additions or enhancements to the Application. Customer shall not reverse engineer, decompile, disassemble, translate, modify, alter or create any derivative works based upon, or change, the Application, or any part thereof, or determine or attempt to determine any source code, algorithms, methods or techniques embodied in the Application, or part thereof, without the prior written consent of Elavon and its licensor. Customer agrees not to use the Application except as expressly licensed hereunder. Customer may not sell or transfer any POS Devices on which any Application or encryption keys are installed to any party unless Customer has first provided Elavon with prior written notice and (i) removed the Application and encryption keys from the POS Devices and (ii) destroyed the encryption keys in a manner compliant with then-current Payment Card Industry Data Security Standard (PCI-DSS) requirements. Elavon and/or its designated agent may monitor and audit Customer's use of the Application for purposes of verifying compliance with this Agreement and the SAFE-T Suite Services Addendum, including this Exhibit C.
- Reservation of Rights.** Customer acknowledges and accepts that, as between the parties: (i) all right, title and interest in and to the Application and all intellectual property rights associated with and in the Application shall at all times remain vested in Elavon and its supplier/licensors; and (ii) Customer shall acquire no rights, express or implied, in the Application, other than the limited sublicense granted herein. Customer shall not remove from the Application, or alter, any trademarks, trade names, logos, patent or copyright notices, proprietary notices, titles, legends or other notices or markings contained therein, or add any notices or markings to the Application, without the express written consent of Elavon and its licensor. The confidentiality obligations of Customer under the Agreement apply to the Application licensed hereunder and Customer shall limit access to the Application to only those employees and contractors of Customer with a need to access the Application to perform its services.
- Termination.** The license rights granted herein to the Application shall cease in the event (i) Customer sells or otherwise transfers a POS Device to any other unaffiliated party; (ii) Customer is no longer deemed an active customer using the Application to encrypt Transaction Receipts processed by Elavon; or (iii) Elavon is no longer authorized by its licensor to continue to use and/or sublicense the Application. Upon termination, all rights granted to Customer in any to the Application shall immediately cease and Customer shall discontinue any and all use of the Application and delete any copies of the Application on the POS Devices or within the control of Customer.
- Export and Import Regulations.** Customer acknowledges that the Application contains cryptographic features and is subject to United States and local country laws governing import, export, distribution and use. Customer is responsible for compliance by Customer with United States and local country laws and regulations and shall not export or transmit the Application (i) in violation of any export control laws of the United States or any other country, or (ii) to anyone on the

United States Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders.

6. **U.S. Government Restricted Rights.** If the Application is accessed or used by any agency or other part of the U.S. Government, the U.S. Government acknowledges that (i) the Application and accompanying materials constitute "commercial computer software" and "commercial computer software documentation" under paragraphs 252.227.14 and 252.227.7202 of the DoD Supplement to the Federal Acquisition Regulations ("DFARS") or any successor regulations, and the Government is acquiring only the usage rights specifically granted in this Agreement; (ii) the Application constitutes "restricted computer software" under paragraph 52.227 19 of the Federal Acquisition Regulations ("FAR") or any successor regulations and the government's usage rights are defined in this Agreement and the FAR.
7. **NO WARRANTIES; DISCLAIMERS.** THE APPLICATION IS PROVIDED ON AN "AS IS" BASIS IN ITS PRESENT STATE AND CONDITION. WITHOUT LIMITING ANY TERMS UNDER THE AGREEMENT OR THE SAFE-T SUITE SERVICES ADDENDUM, NEITHER ELAVON NOR ITS LICENSORS OR SUPPLIERS MAKES ANY WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, DISCLAIMS ANY AND ALL WARRANTIES WITH RESPECT TO THE APPLICATION, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, IMPLIED CONDITION OF SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. THE APPLICATION WILL BE CONSIDERED "ELAVON MATERIALS" FOR THE PURPOSES OF THE AGREEMENT.

Special Terms Applicable to Applications Sublicensed from Verifone, Inc.

In the event that Customer has received a sublicense to an Application provided by Verifone, Inc., the following additional terms and conditions shall apply:

- A. **Territory.** Notwithstanding anything in the SAFE-T Suite Services Addendum or elsewhere in the Agreement to the contrary, Customer may use the Application solely as installed on Customer's POS Devices located in the United States.
- B. **Limitation of Liability.** NOTWITHSTANDING ANYTHING IN THE AGREEMENT, INCLUDING THE SAFE-T SUITE SERVICES ADDENDUM, TO THE CONTRARY, IN NO EVENT SHALL ELAVON OR ITS LICENSORS, SUPPLIERS, OR AGENTS BE LIABLE FOR ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OR DATA, LOST PROFITS OR BUSINESS INTERRUPTION) BY OR ON BEHALF OF CUSTOMERS OR ANY CLAIMS BY ANY THIRD PARTIES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE PROVISION OR USE OF THE APPLICATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL ELAVON OR ITS LICENSORS, SUPPLIERS, OR AGENTS HAVE ANY OBLIGATION TO DEFEND OR INDEMNIFY CUSTOMER FOR ANY CLAIMS ARISING IN ANY WAY OUT OF THE PROVISION OR USE OF THE APPLICATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Special Terms Applicable to Applications Sublicensed from Voltage Security, Inc.

In the event that Customer has received a sublicense to an Application provided by Voltage Security, Inc., the following additional terms and conditions shall apply:

- A. **Territory.** Customer may use the Application solely as installed on Customer's POS Devices located in the Territory.
- B. **Limitation of Liability.** NOTWITHSTANDING ANYTHING IN THE AGREEMENT, INCLUDING THE SAFE-T SUITE SERVICES ADDENDUM, TO THE CONTRARY, IN NO EVENT SHALL ELAVON OR ITS LICENSORS, SUPPLIERS, OR AGENTS BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO,

PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OR DATA, LOST PROFITS OR BUSINESS INTERRUPTION) BY OR ON BEHALF OF CUSTOMER OR ANY CLAIMS BY ANY THIRD PARTIES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE PROVISION OR USE OF THE APPLICATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL ELAVON OR ITS LICENSORS, SUPPLIERS, OR AGENTS HAVE ANY OBLIGATION TO DEFEND OR INDEMNIFY CUSTOMER FOR ANY CLAIMS ARISING IN ANY WAY OUT OF THE PROVISION OR USE OF THE APPLICATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- C. **Third Party Beneficiary.** Voltage Security, Inc. is a designated third party beneficiary under this Exhibit C with the right to enforce all terms related to the Application under this Exhibit C directly against Customer. Governing law for any claim brought by the designated third party beneficiary shall be the law of the jurisdiction within the United States in which the claim is brought; provided, that if Customer is a government entity or institution, governing law for any such claim shall be that set forth in the Agreement.

EXHIBIT D TO SAFE-T SUITE SERVICES ADDENDUM
Leased Equipment Schedule

[RESERVED]

EXHIBIT E TO SAFE-T SUITE SERVICES ADDENDUM
Purchased Equipment Schedule

In the event Customer elects to purchase equipment from Elavon, this Exhibit E shall be a part of the SAFE-T Suite Services Addendum.

1. Equipment and Pricing.

- a) Purchased Equipment. Customer has elected to purchase the equipment set forth on the signature page to this SAFE-T Suite Services Addendum (the "Purchased Equipment") from Elavon pursuant to this SAFE-T Suite Services Addendum. The fees payable by Customer for the Purchased Equipment are set forth on Exhibit A to this SAFE-T Suite Services Addendum.
- b) Shipping. The fees payable by Customer for shipment of the Purchased Equipment to the location or locations designated by Customer are set forth in Section 3 of Exhibit A to this SAFE-T Suite Services Addendum. Provided that the Purchased Equipment is shipped using Elavon's freight account, Elavon shall bear the risk of loss of such Purchased Equipment until the time of delivery to Customer; if the Customer directs Elavon to utilize any other shipping method, Customer expressly acknowledges and agrees that all risk of loss for the Purchased Equipment shall pass to Customer when the Purchased Equipment is tendered by Elavon or on Elavon's behalf to the carrier for shipment to Customer.

- 2. Terminal Software and Encryption Keys.** If Customer has elected to receive Encryption Services or license software from Elavon in conjunction with this SAFE-T Suite Services Addendum (as indicated on the signature page to this SAFE-T Suite Services Addendum), the encryption keys and licensed software will be loaded onto Customer's POS Devices, and Customer shall pay the applicable fees detailed in Exhibit A to this SAFE-T Suite Services Addendum for any encryption keys or licensed software that Customer has elected to receive.

3. Warranty Terms.

OEM Warranty: Any standard warranties provided by the original equipment manufacturer ("OEM") of the Purchased Equipment are, to the fullest extent permitted by the OEM, passed through to Customer at no additional cost to Customer; and the OEM (and not Elavon) shall be responsible for honoring any such OEM warranty. With respect to any POS Device purchased from Elavon, Elavon and/or its equipment vendor will facilitate the OEM warranty service as follows:

Prior to returning any POS Device under an OEM warranty, Customer must first obtain a return merchandise authorization number ("RMA Number") from Elavon. Customer must then ship such POS Device to Elavon's equipment vendor at the address provided by Elavon, with reference to the RMA Number. Elavon's equipment vendor will either handle the OEM warranty issue itself or ship the POS Device to the OEM for further handling. Upon Elavon's equipment vendor either handling the warranty issue itself or receiving a repaired or replacement POS Device from the OEM, Elavon's equipment vendor will ship the repaired or replacement POS Device to Customer.

Customer will bear the risk of loss of any returned POS Device until the time of delivery to Elavon's equipment vendor with proper reference to the RMA Number. For any repaired or replacement POS Device shipped to Customer, the risk of loss will transfer to Customer at the time of delivery to Customer. In all cases, Customer shall be responsible for all shipping and handling costs associated with such OEM warranty service, including reimbursing Elavon for any shipping and handling costs paid by Elavon on Customer's behalf.

If Customer has selected additional warranty options for POS Devices purchased from Elavon, as indicated on the signature page to this SAFE-T Suite Services Addendum, the following terms shall apply, as applicable, limited only to such POS Devices purchased from Elavon (and specifically excluding any other peripheral equipment purchased from Elavon and all equipment purchased from a third party):

Premium Advanced Exchange Program:

The Premium Advanced Exchange Program provides the following services during the applicable warranty period, which shall commence on the date of shipment of the POS Device to Customer:

- i. In the event that a POS Device requires service, on Customer's request, Elavon will ship a like-model, refurbished POS Device to Customer for delivery the next business day (provided Customer's request is received

- prior to 6 p.m. Eastern time) at no additional cost to Customer. The refurbished POS Device will be configured and tested prior to shipment to Customer.
- ii. Customer will be provided with a call tag to enable Elavon to retrieve or cause the retrieval of Customer's POS Device requiring service. Customer must use the call tag promptly upon receipt. If Elavon does not receive the POS Device requiring service within thirty (30) days of the issuance of the call tag, Customer may be charged the cost of a new replacement POS Device.
 - iii. Elavon will retrieve or cause the retrieval of the POS Device requiring service at no additional cost to Customer.
 - iv. Elavon will bill Customer, and Customer will be responsible for paying Elavon, for the costs of repairing POS Devices retrieved by Elavon unless such repairs are covered by the OEM warranty or the Premium Repair Warranty Program.

With regard to the Premium Advanced Exchange Program: (a) Customer must initiate the exchange process with Elavon, and (b) Elavon will bear the risk of loss of the refurbished POS Device sent to Customer and the POS Device requiring service while such POS Devices are in the possession of Elavon or its freight carrier, and Customer shall bear the risk of loss at all other times.

Premium Repair Warranty Program:

The Premium Repair Warranty Program provides the following services during the warranty period, which shall commence on the date of shipment of the POS Device to Customer:

- i. All repair fees, service, and parts related to any repair of the POS Device, other than with respect to repairs attributable to misuse or abuse of the POS Device or cosmetic damage not affecting the performance of the POS Device.
- ii. Cleaning and testing of repaired POS Devices.

With regard to the Premium Repair Warranty Program: (a) Customer must obtain an RMA Number from Elavon in order to initiate the warranty process, and (b) Elavon will bear the risk of loss of the repaired POS Device while such POS Device is in the possession of Elavon or its freight carrier, and Customer shall bear the risk of loss at all other times.

For the avoidance of doubt, any and all warranties provided under this SAFE-T Suite Services Addendum, including this Exhibit E, shall not extend to any equipment, software or hardware purchased from any third party.

- 4. Miscellaneous Terms/Disclaimer.** This Exhibit E is supplemental to and forms a part of the SAFE-T Suite Services Addendum to the Agreement, the terms of which are fully applicable hereto.

IN THE EVENT OF ANY DEFECT, MALFUNCTION, ERROR, OR DAMAGE TO ANY PURCHASED EQUIPMENT PROVIDED HEREUNDER, ELAVON'S SOLE OBLIGATION SHALL BE THE PROVISION OF WARRANTY SERVICE PURSUANT TO THE WARRANTY OPTION (IF ANY) SELECTED BY CUSTOMER ON EXHIBIT A, AND CUSTOMER'S SOLE REMEDIES WITH RESPECT TO ELAVON SHALL BE THE RECEIPT OF WARRANTY SERVICE FROM ELAVON OR ITS DESIGNEE PURSUANT TO SUCH WARRANTY OPTION OR UNDER THE MANUFACTURER'S WARRANTY. ELAVON SHALL HAVE NO LIABILITY TO CUSTOMER FOR COSTS, LOSSES, OR DAMAGES OF ANY KIND OR NATURE, WHETHER DIRECT, INDIRECT, CONSEQUENTIAL OR OTHERWISE, WITH RESPECT TO ANY SUCH DEFECT, MALFUNCTION, ERROR, OR DAMAGE.

EXHIBIT F TO SAFE-T SUITE SERVICES ADDENDUM

Simplify Software License

In the event Customer elects to license the Simplify Software from Elavon, this Exhibit F (“Simplify Software License”) shall be attached to and shall be a part of the SAFE-T Suite Services Addendum.

Section A – Terms and Conditions

1. **Definitions.** Capitalized terms used in this Exhibit F (the “Simplify License”) and not otherwise defined shall have the meanings ascribed to them in the glossary set forth in Section B of this Simplify License.
2. **License Grant and Permitted Use.**
 - a) Elavon hereby grants to Customer a non-exclusive, non-sublicensable, non-assignable, limited license in the Territory to use and allow Authorized Users to use the Simplify Software as installed on terminals owned or otherwise controlled by Customer and to install, use, and allow Authorized User to use any subsequent Releases of such Simplify Software provided to Customer from time to time, solely for Customer’s internal business purposes to process data in accordance with the Documentation. This Simplify License permits Customer to use the Simplify Software only on the number of POS Devices set forth on the signature page to the SAFE-T Suite Services Addendum. Customer is not permitted to use the Simplify Software to service any other POS Devices unless permitted by Elavon in writing. Customer is not authorized to make copies of the Simplify Software.
 - b) Elavon hereby grants to Customer a non-exclusive, non-sublicensable, non-assignable, limited license to use and to allow Authorized Users to use the Documentation solely in connection with access to and the use of the Simplify Software pursuant to this Simplify License. Customer shall have the right to make a reasonable number of copies of the Documentation, at no additional charge, solely for Customer’s own internal business purposes in connection with access to and use of the Simplify Software under this Simplify License; provided, however, that all proprietary markings of Elavon must be affixed and retained by Customer on any such copies.
 - c) Except as provided in this Simplify License, Customer shall not: (i) copy, re-sell, reproduce, transfer, rent, lease, pledge, sublicense, distribute or republish in any form or by any means or allow another to use or access the Licensed Materials, or any portion thereof, including, without limitation, to provide outsourcing, service bureau, hosting services or training to third parties; (ii) alter, modify or otherwise prepare derivative works of the Licensed Materials; (iii) reverse engineer, disassemble or decompile the Simplify Software, or any part thereof; (iv) remove, change or obliterate the copyright, trade secret or other proprietary protection legends or notices which appear on or in the Licensed Materials; or (v) combine any Licensed Materials with any unauthorized third party software. Customer will not access or use, and it will not permit any Authorized Users to access or use, the Licensed Materials or proprietary materials disclosed to Customer for the purpose of creating, in whole or in part, a system that is functionally competitive with the Simplify Software. Customer shall promptly notify Elavon of and shall otherwise cooperate with Elavon in preventing any unauthorized access to, or use or copying of, the Licensed Materials by Authorized Users or any other third party.
 - d) All rights not expressly granted to Customer under this Simplify License are reserved by Elavon.
3. **Delivery and Installation.**
 - a) All installation of the Simplify Software, other than installation of Releases (as described below) must be conducted by or at the direction of Elavon.
 - b) Delivery of the Simplify Software by Elavon shall be deemed to have occurred when a POS Device with the Simplify Software installed is tendered by Elavon or on Elavon’s behalf to a carrier for shipment to the Customer. Elavon will deliver one (1) copy of the Documentation to Customer in a format determined by Elavon.

4. Limited Warranties; Disclaimers.

- a) Elavon warrants as follows:
 - i) During the Warranty Period, the Simplify Software will include the functionality described in and will perform substantially in accordance with the Documentation in all material respects, provided that the Simplify Software is used in accordance with the terms of this Simplify License and the Documentation. In the event the Simplify Software does not perform as warranted during the Warranty Period and Elavon is unable to remedy such nonconformity within a reasonable time after receiving written notice thereof, Elavon shall, as Customer's sole and exclusive remedy, refund to Customer the fees paid hereunder for the Licensed Materials, upon the return of the Licensed Materials by Customer.
 - ii) Elavon shall use commercially reasonable measures to screen the Simplify Software to avoid introducing any computer virus that is designed (A) to permit unauthorized access or use by third parties to the Simplify Software, (B) to damage, erase or delay access to the Simplify Software, or (C) to perform any other similar actions. Elavon shall not insert any code or other device into any Simplify Software that would have the effect of disabling, damaging, erasing, delaying or otherwise shutting down all or any portion of the Simplify Software.
 - iii) The Simplify Software Support Services (as defined below) will be performed in a professional and workmanlike manner. Elavon shall have and maintain sufficient resources to perform the Simplify Software Support Services in accordance with this Simplify License.
- b) Limitations. Elavon's obligations under Section 4(a) of this Simplify License shall not apply: (i) to any modifications, alterations or customizations developed by or on behalf of Customer; (ii) if the Licensed Materials are not used on the equipment specified or in accordance with the Documentation; (iii) if the Licensed Materials have been installed, implemented, customized, modified, enhanced or altered by any third party (except any third party utilized by Elavon to provide services under this Simplify License); (iv) if Customer is not using the most recent Release of the Licensed Materials; or (v) to any error or defect caused by Customer, an Authorized User or any third party (except any third party utilized by Elavon to provide services under this Simplify License) or third party software.

5. Simplify Software Support Services; Releases.

- a) Simplify Software Support Services. During the term of this Simplify License, Elavon shall provide Customer with the following support services (the "Simplify Software Support Services"):
 - i) Providing Customer with solutions to any known material problem relating to each installation of the Simplify Software in a timely manner as such solutions become known to Elavon;
 - ii) Using commercially reasonable efforts to supply timely corrections for problems reported to Elavon by Customer that Elavon can reproduce in a currently supported version of the Simplify Software;
 - iii) Furnishing a reasonable level of telephone support, as determined by Elavon, in the form of counsel and advice on use and maintenance of the Simplify Software; and
 - iv) Providing Customer with new Releases of the Simplify Software as provided herein.
- b) Simplify Software Support Services Fees. For so long as this Simplify Software License remains in effect, Customer shall pay the fees for the Simplify Software Support Services set forth on Exhibit A to the SAFE-T Suite Services Addendum (the "Simplify Software Support Services Fees"). Customer understands and agrees that Simplify Software Support Services Fees shall not include fees for professional services, if any, associated with delivery and installation of any new Release of Simplify Software or modification of the then-current Major Release of Simplify Software then in use by Customer, which shall be agreed in writing by Customer and Elavon.
- c) New Releases; Notice of Releases. Customer shall be entitled to receive all new Releases of the Simplify Software, including Major Releases, provided that Customer complies with the terms set forth in this Simplify License, including, without limitation, the payment of all Simplify Software Support Services Fees in full when due. Whenever commercially reasonable, Elavon will provide Customer with fourteen (14) days' advance notice of a new Release; provided however, when a Release is published on a shorter timeframe based on emergency or exigent circumstances, Elavon may provide shorter notice. Customer must ensure that Releases are installed and implemented within fourteen (14) days of becoming available to Customer. Elavon shall not be responsible for any updates, upgrades or changes to Customer's computer systems that may be necessary in conjunction with delivery, installation or use of any new Release of the Simplify Software.

- d) Supported Releases. During the term of this Simplify License, Elavon will provide Simplify Software Support Services for the (i) then-current Major Release of the Simplify Software and, (ii) for no more than twelve (12) months following the commercial launch of the then-current Major Release, the immediately prior Major Release of the Simplify Software; provided that Customer complies with the terms and conditions of this Simplify License and the Documentation, including, without limitation, payment obligations.
- e) Unsupported Releases. If Customer elects to continue using a Release that is two (2) or more Major Releases back (an “Unsupported Release”), Elavon will have no further obligation to provide Simplify Software Support Services for that Unsupported Release; provided, that Customer shall not thereby be relieved of its obligation to pay the Simplify Software Support Services Fees. Elavon, in its sole discretion, may elect to provide Simplify Software Support Services for Unsupported Releases at an additional charge to be mutually determined by the parties in writing, but Elavon shall have no obligation to do so. Whether or not Elavon elects to provide Simplify Software Support Services for an Unsupported Release, Elavon shall have no responsibility or liability for the compliance or non-compliance of any such Unsupported Release with industry standards, laws or Payment Network Regulations.

6. Responsibilities of Customer.

- a) Customer Data. Customer acknowledges the Simplify Software does not verify accuracy of information or format of any data or information input by Customer.
- b) Customer Telecommunications. Customer shall be responsible for ensuring that its telecommunications connectivity, and any such connectivity provided by any third party on behalf of Customer, is properly certified and maintained and complies with applicable industry rules and regulations, including Payment Network Regulations.
- c) Customer Systems and Equipment. Customer shall be responsible for ensuring that the systems and equipment, including, without limitation, any POS Devices and any systems or equipment of third-party vendors used by Customer, remain certified and compatible with the most recent Release of the Simplify Software. Elavon shall not be responsible for any updates, upgrades, or changes to Customer’s systems or equipment, including, without limitation, the POS Device or any third-party systems or equipment, that may be necessary in conjunction with delivery, installation or use of the Simplify Software. Failure of the Customer’s systems or equipment, including, without limitation, the POS Device, or any third-party systems, to remain certified or to be compatible and function with the most recent Release of the Simplify Software as regulated and/or required shall excuse Elavon from any and all liability under this Simplify License and in connection with any other services that Elavon may be providing to Customer for the failure of the Simplify Software to perform in accordance with the Documentation.
- d) ELAVON DOES NOT GUARANTEE THE ACCURACY, COMPLETENESS OR ADEQUACY OF ANY DATA OR OTHER INFORMATION PROVIDED OR MADE AVAILABLE BY CUSTOMER OR ITS AUTHORIZED USERS, AND ELAVON WILL NOT BE LIABLE FOR ANY ERROR, OMISSION, DEFECT, DEFICIENCY, OR NONCONFORMITY IN THE DATA OR RESULTS FROM USING THE LICENSED MATERIALS, EXCEPT TO THE EXTENT DIRECTLY CAUSED BY A FAILURE OF THE LICENSED MATERIALS TO PERFORM IN ACCORDANCE WITH THE DOCUMENTATION.
- e) Compliance by Customer’s Authorized Users. Customer is responsible for compliance by each of its Authorized Users with the terms and conditions of this Simplify License and is responsible and liable for all access and use by Authorized Users and acts or omissions of Authorized Users under this Simplify License.

7. Fees and Payment. Customer shall pay Elavon the Simplify Software Support Services Fees and such other fees for the Simplify Software (collectively, the “Simplify Software Fees”) set forth on the signature page to the SAFE-T Suite Services Addendum and Exhibit A to the SAFE-T Suite Services Addendum or otherwise agreed by the parties in writing. All Simplify Software Fees are non-refundable, except as otherwise provided in this Simplify License or the SAFE-T Suite Services Addendum.

8. Ownership and Reservation of Rights. Elavon retains all right, title and interest, including, without limitation, all Intellectual Property Rights, in and to the Licensed Materials, Elavon Confidential Information and all Customizations. No rights in the Licensed Materials, Elavon Confidential Information or Customizations are granted to Customer other than those limited license rights expressly set forth in this Simplify License. In the event any right, title or interest in and to any Licensed Materials or to any

Customizations developed by Customer or Elavon is deemed to vest in Customer, Customer hereby assigns and agrees to assign to Elavon all worldwide right, title, and interest in and to such Licensed Materials and to any Customizations, including all Intellectual Property Rights therein.

9. Indemnification.

- a) Infringement Indemnification by Elavon. Elavon will defend (or at its option, settle), indemnify, and hold harmless Customer, against any third-party lawsuit or proceeding brought against the Indemnified Party by a third party based on a claim that the Licensed Materials or Customer's use of the Licensed Materials infringes an Intellectual Property Right of any third party enforceable in the Territory (an "Infringement Claim"); provided that Customer follows the indemnification procedures set forth in this Section. Indemnification for any Infringement Claim under this Section 9(a) shall be limited to the payment of final award of damages assessed against Customer resulting from such claim in a final judgment by a court of competent jurisdiction, including awarded costs, or any amount in settlement or compromise authorized by Elavon in writing.
- b) Exclusions. This indemnification is limited to the Licensed Materials as delivered to the Customer. Elavon shall have no obligations under Section 9(a), including, without limitation, defense or indemnification obligations in the event of any of the following: (i) access to or use of the Licensed Materials other than as specified under this Simplify License and the related Documentation; (ii) failure or refusal by Customer to install, implement or use the current Release; (iii) the claim arises from or relates to a modification to the Licensed Materials not performed by Elavon or created by Elavon at the direction of Customer; (iv) combination or use of the Licensed Materials with non-Elavon products, data, materials, or services (whether or not such products, data, materials, or services are provided to Customer by Elavon); or (v) any other acts of Customer in violation of this Agreement.
- c) IP Remedies. If Elavon is enjoined or reasonably believes that it is likely to be enjoined from providing the Simplify Software as a result of a claim that is covered by Section 9(a) Elavon will use commercially reasonable efforts to either (i) procure the rights necessary for Customer to continue to use the Simplify Software in accordance with the SAFE-T Suite Services Addendum, or (ii) replace the Simplify Software with other non-infringing work product or modify the Simplify Software to make it not infringing while retaining substantially similar functionality. If Elavon determines in good faith that the remedies set forth in clauses (i) and (ii) above are not commercially feasible after using its commercially reasonable efforts, Elavon may require Customer to discontinue use of the Simplify Software and terminate this Simplify License and the licenses granted pursuant to it. If Elavon elects to exercise its rights under the preceding sentence, Elavon will (1) use commercially reasonable efforts to provide not less than thirty (30) days' prior written notice of the discontinuation or termination, to the extent more immediate discontinuation or termination is not required by an injunction or other circumstances and (2) promptly reimburse to Customer, after the effective date of discontinuation or termination, a pro rata portion of any prepaid Simplify License Fees and Simplify Support Services Fees paid by Customer for the Simplify Software.
- d) THIS SECTION SETS FORTH THE EXCLUSIVE REMEDY OF CUSTOMER AND THE SOLE AND COMPLETE LIABILITY OF ELAVON WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT OR MISAPPROPRIATION.

- 10. Export Control Notice.** Customer acknowledges that the Licensed Materials are being delivered to Customer in the United States and are, therefore, subject to United States export control laws. Customer shall not export, re-export, directly or indirectly, the Licensed Materials from the United States without Elavon's prior written authorization and agrees to comply with applicable United States and foreign export control laws, including, by way of example, the United States Commerce Department's Export Administration Regulations, the International Traffic in Arms regulations and any regulations or licenses administered by the Department of the Treasury's Office of Foreign Assets Control.

Section B – Glossary

Authorized User means any individual that Customer permits to access and use the Simplify Software for Customer's ordinary business purposes.

Customizations means any works of authorship, work product, and any invention, process, method, development, design, schematic, or technical information, whether patentable or not, including, without

limitation, documentation, software or enhancement, improvements, alterations, or derivatives of the Simplify Software or the Licensed Materials developed by Elavon, either alone or jointly with others, in connection with the provision of Simplify Software Support Services.

Documentation means the specifications and written services description for the Simplify Software that are delivered to Customer under this Simplify License, including user manuals, all as may be amended by Elavon from time to time. Documentation shall not include marketing materials, proposals, demonstrations and other promotional information.

Licensed Materials means one installed copy of the executable code (i.e. object code) of the Simplify Software on Customer POS Devices and a copy of the Documentation reasonably necessary for a user to operate the Simplify Software and any copies of the foregoing.

Major Release means any additional or replacement code or Documentation provided by Elavon that adds major new capabilities or functionality to the Licensed Materials, as designated by a change in the number to the left of the decimal point in the version number (e.g., from version 1.0 to 2.0). Major Release does not include new or additional modules of Licensed Materials, which must be licensed separated from Elavon.

Minor Release means any additional or replacement code or Documentation provided by Elavon that does not add major new capabilities or functionality and that is made generally available by Elavon to its customers using the applicable Major Release of the Licensed Materials, as designated by a change in the number to the right of the decimal point in the version number (e.g., from version 1.1 to version 1.2).

Release means Major Releases, Minor Releases and Revisions, collectively.

Revision means any product temporary fix, error corrections, work-around, or other maintenance correction made available by Elavon to its customers, as designated by a change in the number to the right of the second decimal point in the version number (e.g., from 1.1.1 to 1.1.2).

Simplify Software means the installed version of the software application referred to and marketed as the Simplify software, including any Releases made available by Elavon to Customer under this Simplify License.

Simplify Software Fees means the applicable fees for the Licensed Materials, Simplify Software, Simplify Software Support Services, and any other services or products, as set forth on the signature page to the SAFE-T Suite Services Addendum and in Exhibit A to the SAFE-T Suite Services Addendum.

Simplify Software Support Services means the support services provided by Elavon to Customer as set forth in Exhibit A to the SAFE-T Suite Services Addendum.

Unsupported Release has the meaning given to it in Section 5(e) of this Simplify License.

Warranty Period means the period beginning on the Addendum Effective Date and ending on the earlier of ninety (90) days from the Addendum Effective Date or the date of Customer's first use in a production environment of a POS Device on which the Simplify Software is installed.