

MERCHANT PROCESSING APPLICATION AND AGREEMENT AMENDMENT



Agent & ISO Program by CAYAN

Free Equipment Use Program

This AMENDMENT (the "**Amendment**") to that certain MERCHANT PROCESSING APPLICATION AND AGREEMENT (the "**MPA**") and the incorporated MERCHANT SERVICES PROGRAM TERMS AND CONDITIONS (the "**Program Guide**") provided to the Merchant listed below in connection with the MPA is made and entered into as of the date it is last executed by the parties below (the "**Amendment Date**"), by and between the Merchant listed below (the "**Merchant**"), and Cayan LLC, a Delaware limited liability company (the "**Company**") with its principal place of business at One Federal Street, 2nd Floor, Boston, MA 02110.

MERCHANT INFORMATION				
Merchant DBA Business Name				MID
Shipping Address	Street			
	City	State	ZIP	
Date of Original MPA				

The Company and Merchant wish to modify certain terms of the MPA and Program Guide as described hereunder. Section references and capitalized terms used in this Amendment but not otherwise defined will have the meanings ascribed to them in the MPA and Program Guide.

The Company has established a program (the "**Program**") designed to give Merchants the opportunity for participating merchants to exchange its current credit card processing Equipment with the Equipment listed below (the "**Terminal**") subject to the terms and conditions of this Amendment.

NOW, THEREFORE, in consideration for your acceptance and the delivery of the Terminal as described herein, you agree to the following modifications to the MPA and Program Guide:

SERVICE FEE SCHEDULE MODIFICATIONS				
Annual Fee		Per Batch Fee		Debit Access Fee

EQUIPMENT INFORMATION			
Terminal Type	Qty	Free PIN Pad? *	
Ingenico ICT220		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Verifone VX520 DC EMV		<input type="checkbox"/> Yes	<input type="checkbox"/> No

* In order to qualify for a free PIN pad, Merchant must have a \$5.00 Debit Access Fee

By signing below, the parties agree (i) to the terms and conditions of this Amendment, consisting of this cover sheet with the additional fees and modifications described above and the additional terms and conditions attached hereto as Exhibit A, and (ii) that all other terms and conditions of the MPA and Program Guide remain in full force and effect.

MERCHANT: _____

COMPANY: Cayan LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A: Additional Terms and Conditions

1. Use of Terminal.

(a) Merchant hereby acknowledges that it has entered into a written MPA with the Company and Company's sponsoring bank for the processing of debit and/or credit cards. Merchant further acknowledges that the MPA is currently in full force and effect and Merchant is not in breach of any of the terms or conditions of the MPA.

(b) Upon execution of this Amendment, the Terminal will be added to the Equipment under the MPA and Program Guide, subject to the terms and conditions of this Amendment. Shipping and handling charges may apply. In some circumstances, in exchange for the Terminal, Merchant may be required to return to the Company any equipment currently used by Merchant as designated by the Company.

(c) Merchant acknowledges and agrees that the Terminal is owned by the Company, and that Merchant shall use the Terminal solely in the conduct of its business, in a manner and for the use contemplated by the manufacturer thereof, and in compliance with all laws, rules, and regulations of every governmental authority or card association having jurisdiction over the Terminal or Merchant. Merchant hereby agrees to use all Terminal with reasonable care to prevent excessive wear and tear and/or damage to Terminal. In no event shall Merchant permit the Terminal to be used and/or possessed by any persons other than the named Merchant without prior consent of the Company. Further, it is agreed that Merchant will not make or allow to be made any alterations or additions, whether temporary or permanent in nature, to the Terminal. The Company will not be responsible for loss or damage due to alterations to, additions to, misuse of, improper use of and/or improper maintenance of Terminal. In the event of any failure of the Terminal of any nature whatsoever, Merchant shall at its own expense immediately return it to the Company's premises. Merchant shall be responsible for any use taxes on the Terminal, if any.

2. Delivery; Maintenance and Repair; Return of Equipment.

Merchant shall be solely responsible, at its own expense, for (i) the delivery of the Terminal to Merchant, and (ii) the packing and delivery of the Terminal back to the Company's premises during the Company's regular business hours, upon expiration or termination of the Use Term, in good repair, condition and working order, ordinary wear and tear excepted. In the event the Terminal is not returned to the Company within ten (10) calendar days following the termination of this Amendment, or, upon its return to the Company, is not in good repair, condition and working order, ordinary wear and tear excepted, Merchant shall be obligated to pay the Company for the replacement or repair expenses that the Company incurs in bringing such Equipment up to such status, in an amount not to exceed Four Hundred Ninety Nine Dollars (\$499). The Company shall deduct any sums due it hereunder utilizing the ACH process from Merchant's checking account.

3. Term.

Use of the Terminal shall begin on the Amendment Date and will continue until terminated; provided, however, that the term of this Amendment will terminate automatically upon the termination of the MPA or upon return of the Equipment.

4. WARRANTIES; LIMITATION OF LIABILITY

(a) EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN, THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDITION OR PERFORMANCE OF THE TERMINAL, ITS MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR WITH RESPECT TO PATENT INFRINGEMENT OR THE LIKE.

(b) THE COMPANY SHALL HAVE NO LIABILITY TO MERCHANT FOR ANY CLAIM, LOSS, OR DAMAGE OF ANY KIND OR NATURE WHATSOEVER, ARISING OUT OF OR IN CONNECTION WITH (i) THE DEFICIENCY OR INADEQUACY OF THE TERMINAL FOR ANY PURPOSE, WHETHER OR NOT KNOWN OR DISCLOSED TO THE COMPANY, (ii) ANY DEFICIENCY OR DEFECT IN THE EQUIPMENT, (iii) THE USE OR PERFORMANCE OF THE TERMINAL (iv) ANY INTERRUPTION OR LOSS OF SERVICE OR USE OF THE TERMINAL, OR (v) ANY OR OTHER LOSS, DAMAGE, OR INJURY TO MERCHANT OR MERCHANT'S PROPERTY OR BUSINESS, INCLUDING INCIDENTAL, SPECIAL, LOSS OF BUSINESS, OR OTHER CONSEQUENTIAL LOSS OR DAMAGES WHETHER OR NOT RESULTING FROM ANY OF THE FOREGOING.

5. Conflicts.

This Amendment, together with all exhibits attached hereto, constitutes the entire agreement among the parties regarding the terms described herein, and supersedes all prior and contemporaneous agreements and undertakings between the parties with respect thereto. Except as expressly stated in this Amendment, the MPA and Program Guide shall remain in full force and effect. In the event of any conflict between the provisions of this Amendment and the MPA or Program Guide, the terms of this Amendment shall control.

6. Counterparts.

For the convenience of the parties, this Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile signatures and other electronic copies of original signatures shall be considered original signatures for purposes of this Agreement.

7. Miscellaneous.

By signing this Amendment, the undersigned signatory, signing on behalf of Merchant, represents and warrants that (i) the information on the cover sheet of this Amendment is true, complete, and accurate; (ii) he or she has read and understood the provisions of this Amendment and agrees to be bound by it; and (iii) execution and delivery of this Amendment is made by the authorized signor of Merchant or authorized designee and has been authorized by all required corporate action. The invalidity or unenforceability of any provision hereof shall not affect, modify, or impair the validity and enforceability of all other provisions hereof. No failure or delay by either party in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder. This Amendment shall be construed under the laws of the Commonwealth of Massachusetts without giving effect to its conflict of laws rules.