

# **ELECTRONIC BENEFITS TRANSFER (“EBT”) AMENDMENT**

## **201610 EBT AMENDMENT – TSYS (ISO)**

This AMENDMENT (“AMENDMENT”) by and between FIRST NATIONAL BANK OF OMAHA (“BANK”), (“ISO”), and “MERCHANT,” the name of which is set out below, shall become effective on the date executed or approved by a duly authorized representative of BANK. BANK, ISO, and MERCHANT shall be collectively known hereafter as the "PARTIES."

WHEREAS VISA, MASTERCARD, DISCOVER, AMERICAN EXPRESS, ATM/Debit Networks, and the other financial service card organizations and their related international entities shall be collectively known as “CARD BRANDS”; and

WHEREAS, the PARTIES are parties to a Merchant Transaction Processing Agreement (together with its addenda, attachments, and schedules shall be hereinafter known as the "AGREEMENT"), under which the MERCHANT receives transaction processing and other services regarding credit and debit card sales transactions (“SALES”), subject to the terms and conditions more fully set out in AGREEMENT; and

WHEREAS, the PARTIES desire to amend the AGREEMENT to add electronic benefits transfer (“EBT”) Services.

NOW THEREFORE, in consideration of the mutual promises made herein, and other valuable consideration, receipt and sufficiency of which are hereby acknowledged, the PARTIES do hereby agree as follows:

### **1. GENERAL**

- 1.1 Capitalized terms that are not defined herein shall have the same meaning as when defined in the AGREEMENT.
- 1.2 The PARTIES agree to add EBT Services to the definition of SALES and SERVICES as defined in the AGREEMENT.

### **2. EBT SERVICES TERMS AND CONDITIONS**

- 2.1 **EBT Programs.** MERCHANT will participate in and BANK and/or ISO will provide access to the programs for debit card access to electronically distributed government benefits as agreed to between the parties from time to time (“EBT Programs”). Each EBT Program shall be treated as a CARD BRAND for purposes of the AGREEMENT and each debit card issued for access to government benefits issued under such EBT Programs shall be treated as a CARD under the AGREEMENT.
- 2.2 **MERCHANT Representations and Warranties.** MERCHANT hereby represents and warrants that it is qualified to participate in each EBT Program it has selected in accordance with all applicable laws, regulations, rules, and administrative guidelines related to such EBT Program, including without limitation any ATM/Debit Network rules, Quest rules, federal or state laws pertaining to delivery of services to EBT recipients and recipient confidentiality, the federal Civil Rights Act of 1964, Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, Clean Air Act, Clean Water Act, Energy Policy and Conservation Act, Immigration Reform and Control Act of 1986, and regulations issued by the Department of Agriculture, or any state, pertaining to the Food Stamp Program (“EBT RULES”). MERCHANT represents and warrants that it has obtained any and all consents, approvals, certifications or other evidence of authority, and has properly executed and delivered any and all applications, agreements or other documents necessary to participate to BANK and/or ISO to process and settle SALES on its behalf in each such EBT Program. MERCHANT shall cooperate with BANK and/or ISO in obtaining any further consents, approvals, certifications or other evidence of authority, and executing and delivering any further applications, agreements or other documents that may be required from time to time in connection with MERCHANT’s participation in each EBT Program and BANK’s and/or ISO’s provision of services hereunder.
- 2.3 **MERCHANT Obligations.**
  - a. At all times during the term of the AGREEMENT, MERCHANT shall remain a participant in good standing in each EBT Program selected hereunder.

- b. MERCHANT shall submit to ISO an EBT Information Sheet, attached hereto as SCHEDULE 1 and incorporated herein by this reference, for each MERCHANT location where EBT will be offered, as amended from time to time. The EBT Information Sheet must be received by ISO prior to the desired activation date.
- c. MERCHANT shall notify BANK and/or ISO at least thirty (30) days prior to the termination or withdrawal of its participation in any such EBT Program, or if such participation is terminated involuntarily and without prior notice to MERCHANT, immediately following such notice.
- d. MERCHANT shall pay to ISO the fees set forth herein in consideration of the services provided hereunder as amended from time to time.
- e. MERCHANT agrees to abide by the EBT RULES. MERCHANT will not take any action that would cause BANK or ISO to be in violation of any law, regulation, rule, or administrative guideline applicable to an EBT Program, including any EBT RULES. MERCHANT will accept EBT CARDS only for SALES and purchases permitted under the applicable EBT Program. Without limiting the foregoing, MERCHANT shall not resubmit any EBT transaction except as specifically permitted by rules related to such EBT Program. MERCHANT shall provide refunds with respect to EBT SALES in accordance with the EBT RULES and each EBT Program. In addition, if MERCHANT accepts EBT under the Food Stamp Program, MERCHANT shall deploy and identify its terminals consistent with Department of Agriculture and any state requirements.
- f. With respect to each EBT Program in which MERCHANT participates, MERCHANT shall comply with any obligations or duties imposed on financial institutions participating in such EBT Program under any agreement ("Processor Agreement") BANK or ISO has with a Processor and the Processor has with the administrator of the EBT Program ("EBT Provider") pursuant to which BANK's or ISO's Processor is authorized to process SALES for the EBT Program, and the EBT Provider shall have the right to directly enforce the terms and conditions of the Processor Agreement against MERCHANT in the event that MERCHANT breaches its obligations hereunder. MERCHANT shall not take any action that would cause BANK, ISO, or the Processor to be in violation of any Processor Agreement.
- g. MERCHANT shall obtain a telephone authorization of each EBT transaction in situations in which it is unable to obtain electronic response from the card authorization system for the EBT Program, if required by an EBT Program. If BANK processes manual sales drafts for MERCHANT, MERCHANT shall complete any such manual sales draft for an EBT Transaction in accordance with the requirements of the EBT Program.
- h. MERCHANT shall maintain records of EBT SALES as required by the EBT RULES and each EBT Program. MERCHANT shall not use or disclose any information concerning a customer for any purpose not directly connected with the performance of MERCHANT's duties under an EBT Program.
- i. MERCHANT shall not discriminate in the provision or denial of any EBT Transaction based on a customer's disability or handicap (if any), age, race, color, religion, sex, sexual preference, political belief, national origin, creed, marital status or veteran's status.
- j. MERCHANT shall provide to BANK, ISO, and any EBT Provider any information reasonably required by BANK, ISO, or the EBT Provider to assist BANK, ISO, or the EBT Provider in ensuring the integrity, security and successful performance of the EBT Network.
- k. MERCHANT shall, at its own expense, ensure that its employees receive appropriate training in the use of equipment and procedures with respect to each EBT Program in which MERCHANT participates.

2.4 BANK and ISO Representations and Warranties. BANK and ISO hereby represent and warrant that either BANK or ISO has contracted with a qualified Processor for each EBT Program and that it or the qualified Processor has obtained any and all authorizations, certifications or other evidence of authority, and has properly executed and delivered any and all applications, agreements or other documents necessary to participate in each such EBT Program.

- 2.5 BANK Obligations.
- a. BANK and ISO shall provide EBT services in accordance with the terms of this EBT AMENDMENT and the EBT RULES.
  - b. BANK and ISO shall have the authority, without any liability, to terminate or suspend the provision of services hereunder with respect to each EBT Program, at the direction of any federal, state or other authority with responsibility for oversight or implementation of such EBT Program, or upon BANK or ISO determination to terminate support for such EBT Program for all customers. If BANK or ISO is directed to terminate or suspend the provision of services hereunder with respect to an EBT Program, BANK or ISO may also terminate or suspend provision of services hereunder for any other EBT Program without liability.
- 2.6 Indemnification. In addition to MERCHANT's indemnification obligations set forth in the AGREEMENT, MERCHANT agrees to indemnify and hold harmless BANK and ISO from and against any and all claims or losses arising out of (i) any act or omission by MERCHANT in violation of any applicable federal, state or local law or regulation, or rule or administrative guideline related to an EBT Program, or any EBT RULES; (ii) any negligent or fraudulent act or omission or intentional misconduct by MERCHANT; (iii) any failure by MERCHANT to comply with any obligation or duty imposed on merchants participating in an EBT Program under a Processor Agreement; or (iv) any act or omission of MERCHANT that causes BANK or ISO to breach any undertaking under a Processor Agreement, including any performance standards thereunder.
- 2.7 Limitation Of Liability. In addition to the limitation of liability set forth in the AGREEMENT, MERCHANT agrees and acknowledges that neither BANK nor ISO shall have no liability to MERCHANT arising out of any act or omission by an EBT Provider. Without limiting the foregoing, BANK, ISO, and any Processor shall have no liability to Merchant for an EBT Provider's rejection, chargeback or other failure to fully process in the ordinary course and without penalty any adjustment based upon a restriction on EBT Provider's ability to process such adjustment to the account of a recipient of government benefits, regardless of whether the error being adjusted was caused in whole or in part by the Processor.

### **3. MISCELLANEOUS**

- 3.1 This AMENDMENT, together with the AGREEMENT and its other amendments, attachments, exhibits, and schedules, constitutes the entire AGREEMENT between the PARTIES as to transaction processing and ACH Services, and any other representations, inducements, promises, or agreements not contained herein shall be of no force and effect as to transaction processing.
- 3.2 Except as amended hereby, BANK, ISO, and MERCHANT reaffirm the obligations of each as they are contained in the AGREEMENT.

IN WITNESS WHEREOF, the PARTIES hereto have caused this AMENDMENT to be executed by their duly authorized representative, effective as of the date executed or approved by BANK.

**First National Bank of Omaha**

\_\_\_\_\_  
BANK Authorized Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
ISO Authorized Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**MERCHANT Name**

MID#: \_\_\_\_\_

Address

\_\_\_\_\_  
31 West Quincy Street

City, State, Zip Code

Click to Sign

55A7101A-2020-5687-191F-4CB65608E65C  
finance@westmont.il.gov

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Spencer Parket

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Treasurer

\_\_\_\_\_  
Title

**SCHEDULE 1**

**EBT INFORMATION SHEET**

I. MERCHANT INFORMATION

Name:

Address:

City:  County:

State:  Zip:

Phone:  Fax:

Merchant Number:

State-required number (FCS# or CA# or AO#):

II. EBT PROGRAMS

BANK and/or ISO shall provide MERCHANT access to, and permit MERCHANT to participate in, the EBT Programs as listed below.

(i) PLEASE INDICATE THE APPROPRIATE PROGRAM(S):

Check Program(s): Both Food Stamps & Cash Benefits  Food Stamps Only  Cash Benefits Only

If Cash Benefits: Purchase with Cash Back

Cash Back: Limit Amount: \$0.00

**FEES**

1. Setup Fee: \$  one time fee
2. Monthly EBT Fee: \$  per month
3. Authorization Fee: \$  per authorization
4. Transaction Fee: \$  per transaction

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