

Direct Company Authorization Agreement

THIS AGREEMENT, made this _____ day of _____, _____, between _____
_____ (COMPANY), and INTERCEPT CORPORATION (IC).

Definitions:

The terms stated below shall have the following meaning:

IC	Intercept Corporation
COMPANY	Company noted above
TRANSACTION	Company's Employee or Company's Customer
ISO	Independent Sales Organization
ACH	Automated Clearing House: the system through which electronic funds are Transferred
NACHA	National Automated Clearing House Association: the governing body which defines the Rules and Regulations and file formats required to transfer money via the ACH system
BANK	A depository financial institution including, but not limited to a commercial bank, savings bank or credit union
CREDIT	Transfer of money to an account/deposit
DEBIT	Transfer of money from an account/withdrawal

I. Services Provided

- 1.0 Company desires to utilize the services of IC to transfer funds electronically via the Automated Clearing House (ACH) pursuant to the terms of this Agreement and the rules of the National Automated Clearing House Association (NACHA), laws of the State of North Dakota, FiSCA Code of Conduct in Offering Access to Credit, and applicable federal rules and regulations for various purposes including, but not limited to providing direct deposit of payroll for Company's employees (Transactee's), transfers of funds for flexible benefits plans, tax impounding or any other reason Company may desire to transfer funds electronically through the ACH.
- 1.1 It is understood that Company will create all files directing where and when (within the time schedules set by IC, see section 2.4 of this Agreement), all funds will be transferred. Upon the request of Company, IC may modify files received and on occasion, IC has the right to create files initiating credit/debit entries to make adjustments which have been requested by Company or whenever IC deems it necessary to do so.
- 1.2 COMPANY UNDERSTANDS THAT ALL FUNDS TO BE TRANSFERRED WHETHER PAYROLL, FLEX BENEFITS, ACCOUNTS RECEIVABLE OR FOR ANY OTHER PURPOSE MUST BE COLLATERALLY FUNDED AND FULLY GUARANTEED BY COMPANY. COMPANY UNDERSTANDS AND AGREES THAT IT WILL NOTIFY ITS TRANSACTIONEEES OF THIS AGREEMENT WITH IC WHEN APPLICABLE.

II. Automated Transfers

- 2.0 Company warrants to IC that Company will have sufficient funds on hand to honor all transfer instructions received and processed by IC in the Company's bank account as disclosed herewithin and authorized by IC to electronically transfer from.
- 2.1 IC may refuse to follow Company's transfer instructions if IC reasonably and in good faith believes that Company's bank account balance is insufficient to fund the dollar amount of the payment instructions, IC reasonably believes that Company, Company's customer, or Company's Transactionee Bank will return, reverse or otherwise dishonor the debit to Company's, Company's customer, or Company's Transactionee's bank, or for any other reason IC deems reasonable.
- 2.2 If any amount transferred from or to Company, Company's Transactionee or customer's account is dishonored or returned for any reason, including, but not limited to insufficient funds, account closed, unable to locate account, unauthorized transfer, or is reversed by Company, Company's Transactionee and/or Transactionee's Bank, IC may;

- a. Reverse any corresponding transfers issued to Company, Company's Transactee, Company's customer or any other party without liability to Company, or Company's Transactee or any other party;
 - b. Require Company to wire transfer to IC by no later than 2:00 PM Central Time the day Company was notified of said return;
 - c. Re-submit the item and Company will be charged a late fee as provided herewithin and/or later supplemented;
 - d. The parties stipulate and agree that IC will not suffer any losses because of this Agreement and because of the services it will provide Company, Company's customers and/or Company's Transactee. Therefore, in the event that because of the actions or inactions of the Company, Company's customers and/or Company's Transactee, IC has incurred a loss, Company hereby agree to reimburse and pay IC for any and all losses including all costs, attorney's fees, and Company agrees that IC may reimburse itself for all losses, costs, and attorney's fees by electronically transferring said amounts from the accounts of Company.
- 2.3 IC may reverse any transfer of funds if the transfer was not properly funded or honored by Company, Company's customers and/or Company's Transactee without any liability to IC and should IC suffer any loss, Company shall be liable to IC for all damages/losses incurred including costs, attorney's fees, and other expenses and Company hereby authorizes IC to transfer funds from said accounts to reimburse IC for all said losses.
- 2.4 The processing time limitations that are applicable to this agreement can be found on the following website when relevant: www.intercepteft.com.

III. Liability and Indemnification

- 3.0 COMPANY AGREES TO INDEMNIFY AND HOLD IC HARMLESS FROM ANY AND ALL CLAIMS OF ANY PERSONS WHATSOEVER ARISING OUT OF IC'S PROCESSING ACTIVITIES FOR COMPANY OR COMPANY'S EMPLOYEE/CUSTOMER UNDER THE TERMS OF THIS AGREEMENT. SUCH CLAIMS MAY INCLUDE, BUT ARE NOT LIMITED TO, CLAIMS OF COMPANY'S CUSTOMER'S, EMPLOYEES, OR OTHER TRANSACTEES CONTENDING THAT THE TRANSFER WAS UNAUTHORIZED, STOP PAYMENT ORDER WAS ISSUED, ACCOUNT CONTAINS INSUFFICIENT FUNDS, AND ANY OTHER CLAIMS ASSERTED BY SAID CUSTOMER OR TRANSACTEE OR TAXING AUTHORITIES WHOSE CREDITS MAY HAVE BEEN REVERSED OR BANKS WHO MAY HAVE SUFFERED DAMAGE OR LOSS BECAUSE OF INSUFFICIENT FUNDS OF COMPANY. COMPANY UNDERSTANDS AND AGREES THAT IC HAS NO DIRECT FINANCIAL INTEREST IN THE DEBITS AND CREDITS PROVIDED, PURSUANT TO THIS AGREEMENT, IS PROVIDING A SERVICE TO COMPANY FOR A FEE. ALL RISK OF LOSS AND LIABILITY TO ANY PERSON OR ORGANIZATION ARISING OUT OF THE SERVICES FURNISHED HEREUNDER SHALL BE THAT OF COMPANY AND TPA AND NOT IC.
- 3.1 Company shall have no right to cancel or amend any entry after its receipt by IC. At Company's request, IC shall use reasonable efforts to cancel or amend an entry prior to transmittal to the ACH but shall have no liability if such cancellation is not effected.
- 3.2 IC is not responsible for the actions of Company or others with respect to the amount, accuracy, timeliness of transmittals or authorization of entries received from Company. The acts of any other person or organization including, without limitation, banks or other financial institutions, or transmissions facilities, shall not be deemed the acts of IC. Company shall hold IC harmless from any transfers IC makes upon the direction of Company when such direction is without proper authority and/or in error.

- 3.3 IC's liability to Company or any other person shall in no event exceed the charges made by IC for the effected transaction. In no event shall IC be liable for consequential, special or punitive damages or loss of profits.
- 3.4 To the extent that IC's ability to provide the equipment, facilities or personnel is delayed, reduced, or interrupted by a force beyond IC's control, including, but not limited to, acts of God, public enemy, inclement weather, interruption of communications systems, physical damage to IC's premises, labor disputes, orders or directives of any governmental or quasi-governmental authority, IC shall not be required to perform its obligations under this Agreement or be liable to Company or Company's Transactee's for any failure to perform.
- 3.5 **Confidentiality:** Each party acknowledges and agrees that it may obtain certain confidential information from the other in the course hereof. Such information includes, but is not limited to, pricing and technical information, operating procedures, and other information pertaining to the business and customers of each party ("Confidential Information"). Such Confidential Information does not include: (a) information that is publicly available; (b) information received from a third party not in violation of any confidentiality obligation; (c) information already known by the receiving party at the time of the disclosure; and (d) independently developed information. Each party agrees: (i) to maintain the confidentiality of the other's Confidential Information, using efforts no less protective than such party uses in the protection of its own information; (ii) not to disclose such information to any third party, except auditors and regulators, or as otherwise required by law; (iii) not to use such information for any purpose whatsoever other than its performance hereunder; and (iv) to return all Confidential Information to the other party upon request. The parties stipulate and agree that it is not confidential information regarding whether Company, or Company's Transactee, transfer of funds through IC has been returned, reversed, allegedly unauthorized, or otherwise contested. Parties agree to follow and abide by the laws of the State of North Dakota, NACHA, ACH, and all other applicable federal laws and in addition, comply with IC's settlement bank privacy policy.
- 3.6 **Relationship of Parties:** The parties hereunder intend that their relationship to be that of independent contractors. In no event shall either party be deemed an agent, employee, partner or joint venturer of the other or have the power or authority to bind the other in any way. Nothing herein shall be construed to grant Company, Company's customers or Company's Transactee's, or any other person any right title, interest or license in or to IC's name, trademarks, or other proprietary information, and Company, Company's Transactee shall not use such name, trademarks or information without IC's prior written consent.
- 3.7 **Third Parties:** This Agreement is solely for the benefit of the undersigned and may not be relied upon or enforced by any third party.
- 3.8 Company warrants and represents they have fully complied with all rules, regulations and laws regarding cafeteria plans/flexible benefit plans/ERISA plans and that they are fully compliant with said laws. Company further stipulate and agree that they have provided Company's customer and Company's Transactee with a toll free telephone number, name, address, and contact person should any dispute or claim arise, Company has further advised Company's customers and Transactees that if their dispute remains unsatisfied, they may contact IC. Company has provided Company's Transactees with IC's name, address, and toll free telephone number. Company stipulates and agrees that they are responsible and liable for any failure to have any authorization of the transfers as contemplated hereunder. Company further stipulates and agrees when applicable, that Company is responsible for the administration of any flexible benefit plan/cafeeteria plan/ERISA plans compliance and taxation laws, rules and regulations regarding the same and that IC is only providing electronic means to transfer funds and nothing more.

IV. Fees

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- 4.0 When applicable, IC will charge Company for all services rendered hereunder, and all other costs, expenses or losses IC may incur in processing items for Company and/or TPA and the fees as set forth in attached Schedule "A". Company agrees that late fees may be charged from time to time and upon IC providing Company with five (5) days prior notice regarding any late fee charge. In the event that Company is billed through another party for services provided and IC has an agreement with said company, hereinafter referred to as "ISO", IC will charge ISO for processing Company's transactions as agreed upon with ISO. If ISO fails to pay for services provided to Company for any reason, IC will then charge Company for all services rendered at the same rate IC was charging ISO.
- 4.1 Company authorize IC to electronically collect all sums of money due IC from Company pursuant to terms and conditions of this Agreement immediately when due and from Company's bank account as stated in section 5.10 below.

V. Miscellaneous

- 5.0 **Entire Agreement:** This Agreement and the Authorization for Debit and Credit Electronic Funds Transfers constitutes the entire Agreement between Company and IC and correctly describes the parties mutual understanding of this Agreement. Any and all oral or written agreements, representations or understandings between the parties entered into or made prior to or made contemporaneously with the effective date of this Agreement have been incorporated into this Agreement or were revoked, released or terminated before the effective date of this Agreement. No modifications, deletions, additions, nor amendments to this Agreement shall be binding on IC unless the same are reduced to writing and the writing is signed by IC. All of the terms of this Agreement are subject to the approval of IC and unless IC has executed this Agreement, such approval has neither been obtained nor granted.
- 5.1 **Document Execution:** The parties to this Agreement agree to execute whatever documents are reasonably necessary to carry out the terms and effect of this Agreement.
- 5.2 **Governing Law:** This Agreement shall be governed by the laws of the State of North Dakota; NACHA; and applicable Federal law including, but not limited to, regulations of the Board of Governors of the Federal Reserve System and operating circulars of the Federal Reserve System Banks; Electronic Funds Transfer Act of 1978 and amendments; North Dakota's adoption of Uniform Commercial Code – Funds Transfer Act; North Dakota Century Code Section 41-04.1; Foreign Assets Control Regulations, and any and all other applicable laws, rules and regulations. Parties to this agreement also stipulate and agree disputes regarding this Agreement shall be venued and filed and are subject to the exclusive jurisdiction of the United States Federal District Court, for the Southeast Division of the State of North Dakota, Fargo, North Dakota or the District Court for Cass County, Fargo, North Dakota.
- 5.3 **Default:**
- a. Company: Any failure by the Company to observe any term or condition of this Agreement, to provide IC with honored funds, or otherwise, shall allow IC to immediately terminate this Agreement and fax notice of such termination of Agreement to Company. IC shall provide Company with notice of termination either by telephone or fax followed up by written correspondence to be issued within ten (10) days of the date thereof.
 - b. IC: In the event that IC fails to comply with any term or condition of this Agreement, Company may terminate this Agreement upon five (5) days written notice faxed to IC with the five (5) days notice of termination of Agreement commencing upon IC's actual receipt of the notice of termination.
- 5.4 **Non-Default Termination of Agreement:** Any time while this Agreement is in effect during which time neither party is in breach of this Agreement, any party to this Agreement may terminate this Agreement upon fifteen (15) days notice of termination to be faxed to either party and followed up by written correspondence. Upon termination of this Agreement, Company's representations, obligations and duties shall survive termination of this Agreement and Company shall still indemnify and hold IC harmless and shall be liable to IC for all sums of monies due and payable hereunder to IC.



5.5 **Term of this Agreement:** The term of the Agreement will be for five (5) years from the date of this Agreement or unless this Agreement is subsequently supplemented or replaced. This Agreement will automatically renew for subsequent successive periods of one (1) year each thereafter, unless either party provides the other party written notice of termination fifteen (15) days prior to the end of any succeeding term of this Agreement.

5.6 **Electronic Funds Transfer (15 U.S.C. § 1693):** Company acknowledges that it has been fully advised by its financial institutions and represents and warrants that all of the parties having funds, pursuant to this Agreement, debited and/or credited to or from their financial accounts, are fully advised of and aware

of their rights and remedies pursuant to the Electronic Funds Transfer Act found at 15 U.S.C. § 1693, et al., including, but not limited to the right to receive documentation, right to stop payment, or pre-authorized transfers, charges for electronic funds transfers or the right to make such transfers and that Company is in full compliance with such act.

5.7 **Authorization:** Company represents that all debit and credit entries have been authorized and that an authorization agreement is of record. Company will indemnify and hold IC harmless for any failure by Company to have authorization agreements of record. Company stipulates and agrees if applicable, that they believe Company has fully complied with all applicable laws regarding ERISA benefits (flex benefit plans) and hereby indemnify and hold IC harmless from any and all liabilities that may arise from Company's failure to properly manage, obtain authorization, fund, or otherwise operate and institute a flexible benefit plan.

5.8 **Apparent Authority:** Company stipulates that any action that IC takes hereunder is pursuant to apparent authority of Company, and its agents, assigns, officers, directors, employees. In the event that Company's agent, assigns, officers, directors, employees do not have the authority to contract with IC for the debit or the credit process provided by IC, Company hereby holds IC harmless from such actions and agrees to indemnify IC for such action pursuant to this Agreement. Company stipulates and agrees that Company and not IC is liable for such actions.

5.9 **Limitation of Action:** Company, Company's customers and/or Company's Transactee will have 60 days from the transaction date to notify IC in writing, of any discrepancies, errors or problems with a transaction processed. This will include but not limited to, errors in amounts, erroneous transactions, or other transactions processed. TPA and/or Company must notify IC telephonically and in writing of any said discrepancies, errors or problems with a particular processed transaction and provide IC with the following information:

- a. Company transaction processed under with Fed Tax ID Number;
- b. The name, account number and ABA number on the transaction in question;
- c. The dollar amount of the transaction in question;
- d. Description of the error and explanation of the error;

IC will inform Company of the results of its investigation within 30 days and will correct any error promptly. If IC needs more time, IC may take up to 45 days to investigate any complaint. For transfers initiated outside the United States or transfers resulting from point of sale or debit/access cards, the time periods for resolving errors will be 45 days and 90 days respectively.

5.10 **Account Authorization:** Company authorizes IC to initiate electronic debit and or credit entries to and from the bank account disclosed below. Company understands that adjustment entries may be made to this account to insure an accurate and balanced accounting of all transactions. This authorization will remain in effect until Company cancels authorization in writing.

Bank Account

Bank Name _____



Bank Routing Number (nine digits) _____

Bank Account Number _____

Account Type (checking or savings) _____

Bank's Telephone Number _____

5.11 Company Financial Reporting: Company agrees to provide IC within 30 days of demand, updated financial information regarding Company including but not limited to Company's most recent and current balance sheet, income statement, and, if requested, tax return.

5.12 Change in Ownership: Company agrees to provide IC with notice of any change in ownership at least 10 days prior to change of ownership. Company shall provide IC with all information regarding change of ownership. If Company is not a publicly held corporation, Company will provide IC with name, address, social security number, date of birth and balance sheet for each owner of the Company. If Company is a publicly held corporation, Company shall provide IC with name, address and information regarding corporate entity acquiring stock or assets of Company. If change in ownership results in the creation of a new entity, Company shall provide IC with all information regarding new entity and Company's certificate of authority to transact business, taxpayer identification and related information.

VI. ACH Security Procedures

6.0 Authorized Representative: The Company agrees to designate Authorized Representatives to act on the Company's behalf, which shall have the authority to authorize all actions necessary in the preparation and generation of the Company's entries. The Company agrees that IC shall not be under a duty to inquire as to the authority or propriety of any instructions given to IC by the Company or any of the Company's Authorized Representatives and IC shall be entitled to rely upon all ACH instructions conveyed to IC.

IC shall be entitled to act upon the instructions of any person whom is the Company's Authorized Representative, whether or not the Company has authorized such instructions. IC shall not be liable for any loss, cost, expense or other liability arising out of any such instructions.

6.1 Compliance With OFAC: The Company further agrees to be in compliance with the Office of Foreign Assets Control Department (OFAC) including verification that Company shall not transact business with individuals appearing on the OFAC specifically designated individuals and corporate entities/nationals and blocked persons list (SDN), Cuban and North Korean citizens, individuals currently residing in Cuba or North Korea, companies located in North Korea or Cuba, and governmental entities or officials of Libya, Iraq, North Korea, Cuba, Sudan, Serbia, and the Federal Republic of Yugoslavia.

6.2 Passwords: The Company agrees that IC may send notices and other communications, including IDs, USER IDs, AND PASSWORD(S) to the current address shown in IC's records, whether or not that address includes a designation for delivery to the attention of any particular individual. The Company further agrees that IC will not be responsible or liable to the Company in any way if information is intercepted by an unauthorized person, either in TRANSIT or at the Company's place of business unless the interception was caused by IC's breach of reasonable security measures under the circumstances. The Company agrees to: (1) keep the Company's PASSWORD(S) secure and strictly confidential, providing it only to Authorized Representatives on the Company's account(s); (2) instruct each person to whom the Company gives PASSWORD(S) that he or she is not to disclose it to any unauthorized person; and (3) immediately notify IC to get a new PASSWORD assigned if the Company believes a PASSWORD may have become known to an unauthorized person.

INTERCEPT WILL HAVE NO LIABILITY TO THE COMPANY FOR ANY UNAUTHORIZED PAYMENT OR TRANSFER MADE USING THE COMPANY'S PASSWORDS THAT OCCUR BEFORE THE COMPANY HAS NOTIFIED IC OF POSSIBLE UNAUTHORIZED USE AND IC HAS HAD A REASONABLE OPPORTUNITY TO ACT ON THAT NOTICE WITHIN A REASONABLE TIME. IC may suspend or cancel the Company's PASSWORD(S) even without receiving such notice from the Company if IC suspects a PASSWORD is being used in an unauthorized or fraudulent manner.

COMPANY

INTERCEPT CORPORATION

Signature of Authorized Agent

Signature of Authorized Agent

Name Printed

Name Printed

Title

Title

Federal Tax ID Number

Rev 05/2008

