

SALES REPRESENTATION AGREEMENT

This Sales Representation Agreement (herein and after referred to as Agreement) is entered into and made this ____ day of _____, in the year 2004, by and between Century Bankcard Services, a California corporation (the "Company") and the person(s) and/or entity(ies) signing below herein "Representative" (Company and Representative collectively sometimes herein the "Parties", as same are identified on the signature pages hereof).

RECITALS

WHEREAS, Company provides processing and related services and equipment (collectively, the "Services") pertaining to VISA and MasterCard financial transactions as a registered Independent Sales Organization ("ISO") on behalf of one or more financial institutions (collectively, "Bank");

WHEREAS, it has been agreed that Representative be appointed as Company's non-exclusive, independent Representative for marketing the Services.

WHEREAS, Representative is to be compensated for approved and accepted sales made by Representative.

NOW, THEREFORE, in consideration of the premises and mutual promises in this Agreement, the parties agree as follows:

1. DEFINITIONS

- (a) **Account**. Account shall mean a commercial checking account maintained by a Merchant for collecting funds and the debiting of fees and charges pursuant to the within Agreement.
- (b) **Agreement**. Agreement means this document.
- (c) **Authorization**. Authorization means a computerized function or a direct phone call to a designated location or number to examine an individual transaction to obtain approval information from or on behalf of the Card Issuer (whether or not the request results in an approved transaction).
- (d) **Charge Card or Card**. Charge Card or Card means a valid credit or debit card issued by a Card Issuer under license from Visa U.S.A., Inc., Visa International, Inc. or MasterCard International, Inc. or any other Card Issuers accepted by Merchants under that certain separate agreement between such Merchants and Company.
- (e) **Chargeback**. Chargeback shall mean the procedure by which a sales draft or other item, or portion thereof, is returned requiring payment or charge against a reserve or deposit.
- (f) **Company**. Company shall mean the ISO shown on the signature page hereof.
- (g) **Equipment**. Equipment shall mean the equipment used to process charge card sales and which are supplied directly by Company or a vendor approved by Company.
- (h) **Independent Contractor**. Independent contractor shall mean a person who is not an employee under rules and regulations issued by the Internal Revenue Service and other applicable governmental agencies or entities.
- (i) **ISO**. ISO shall mean an independent sales organization or similar association, which is engaged in the business of obtaining applications from Merchants for processing charge card applications and/or providing the Services.
- (j) **Merchant**. Merchant shall mean that person or entity engaged in commercial activities, which uses charge card processing and/or related services.
- (k) **Processing Bank**. The Processing Bank shall mean the financial institution selected by Company for processing of the subject transactions.
- (l) **Rules and Regulations**. Rules and Regulations shall mean the rules, regulations, procedures and guidelines established by the applicable National Charge Card Associations as amended

from time to time and are available for inspection at the offices of Company upon prior request.

- (m) **Sale.** The term "Sale", as used in this Agreement, shall mean applications received by Company from customers within the Territory which are approved and accepted by Company and upon which billings are made and payment is actually received during the term hereof.
- (n) **Representative.** The term "Representative", as used in this Agreement, shall mean the named party hereto as well as his/her Representatives or sub-Representatives and employees (sometimes "Representative/Representative") as well as any entity formed or to be formed on Representative's behalf if not already a party hereto. Representative is and shall remain at all times an independent contractor with respect to Representative's relationship to Company.
- (o) **Services.** Services shall mean the services and equipment provided, or contemplated to be provided, to Merchants by or on behalf of Company.

2. DUTIES OF REPRESENTATIVE

- (a) Representative shall, during the term of this Agreement on a non-exclusive basis, market and sell the Services for Company in accordance with the terms and conditions of this Agreement and as otherwise directed by Company consistent herewith. Representative shall fully and faithfully comply with all Rules and Regulations, guidelines and price lists and policies established by Company, as amended from time to time in marketing the Services.
- (b) Service. Representative shall provide all training, follow-up, support and service reasonably required by customers in the use of the Services, and shall perform such additional Services as shall be set out from time to time in any service guidelines established by Company. Representative agrees to conform to and abide by all the applicable rules and procedures including those detailed in the documents provided as Exhibit 2.
- (c) Equipment and Products. Any Equipment and/or products sold, rented, leased or otherwise provided to a Merchant by Representative for use in processing charge card transactions shall be, and remain, compatible in all respects with Company's Equipment and systems.
- (d) Delivery of Documents and Funds. Promptly upon receipt of any applications or other documents, or funds, whether in the form of cash, checks, money orders or otherwise from a merchant, Representative shall deliver such documents and/or funds to Company unless Company shall direct in writing that such documents or funds be sent to another.
- (e) Information. Upon receipt of any information regarding any disputes, claims or problems relating to any Merchant with respect to the Services, Equipment and Products or a Merchant's business practice, character or other matters affecting a Merchant's relationship with Company, the Processing Bank, the National Charge Card Associations or the ability to comply with the terms of such relationships including any violations or suspected violations of the Rules, Representative must immediately notify Company of such information both orally and in writing.

3. DUTIES OF COMPANY

- (a) Compensation. During the term hereof, Company agrees to pay the Representative the compensation set forth on Exhibit 2 attached hereto, as may be amended by Company from time to time in writing, pertaining to all sales of services and/or products covered by this Agreement made by Representative. Except as may be otherwise set forth on Exhibit 2, all Compensation payable shall be based on the net amount of the Sale after deducting returns and chargebacks.

Payment to Representative shall generally be made, and it is Company's objective to make payment, within twenty-five (25) days following the close of the month for which the Compensation applies. Furthermore, Company shall have a right of offset with respect to All penalties and/or fines assessed by Charge Card Associations, losses due to

Misinformation with respect to Merchants, fees and charges payable to Company by Representative, or other sums for which Representative may be liable under this Agreement or under any agreement between or among the parties.

4. NON-DISCLOSURE

- (a) Non-Disclosure Agreement and Proprietary Information. Representative recognizes and acknowledges that the information, business practices, business list of Company's customers (including Merchants), and any other trade secret or other confidential information relating to Company's business as it may exist from time to time whether or not specifically designated as "confidential" have independent value, and are special and unique assets of Company and its business. Therefore, Representative agrees as follows:
- (i) Representative will hold in strictest confidence and not disclose, reproduce, publish, communicate to others or use in any manner whatsoever, whether during or subsequent to Representative's engagement, without the express written authorization of the Board of Directors of Company, any information, business customer lists, trade secrets or other confidential matters relating to any aspect of Company's business or customers including Merchants, except when such disclosure or use may be required in connection with Representative's work by and for the benefit of Company.
 - (ii) Upon request, or at the time of leaving the Service of Company without request, Representative shall promptly deliver to Company, and not keep or deliver to anyone else, any and all notes, memoranda, documents and, in general, any and all material relating to Company's business.
- (b) Breach. In the event of a breach or threatened breach by Representative of the provisions hereof, Company shall be entitled to an injunction obtainable from any applicable Court (irrespective of any right of arbitration hereunder) which, in addition to any other appropriate relief, includes:
- (i) Restraining Representative from disclosing, in whole or in part, any information as described above, or from rendering any services, whether as a consultant or otherwise, to any person, firm, corporation, association or other entity to whom such information, in whole or in part, has been disclosed or is threatened to be disclosed; and
 - (ii) Requiring Representative to immediately deliver to Company all information, documents, notes, memoranda and any other discoveries or other material as described above upon Representative's cessation of services on Company's behalf. Nothing herein shall be construed as prohibiting Company from pursuing other remedies available to Company for such breach or threatened breach, including the recovery of damages from Representative.

5. TERM; TERMINATION; RIGHTS ON TERMINATION

- (a) Term. Unless otherwise terminated in accordance with the provisions of this Agreement, the initial term ("Term") of this Agreement shall be for one (1) year from the date set out in the preamble to this Agreement. Notwithstanding the foregoing, if none of the provisions of this section are applicable, then this Agreement shall renew automatically for an additional one (1) year term on each anniversary date of this Agreement.

The obligations of Representative with respect to maintaining the confidentiality of Company information, etc. and prohibitions against using Company's name, trademarks, logos, service marks, etc. shall continue irrespective of expiration of any such term.

- (b) Termination. This Agreement may be terminated prior to completion of the Term in any one of the following ways:
- (i) The death or disability of Representative.
 - (ii) Insolvency of Representative.

(iii) Upon mutual agreement of the parties hereto.

(iv) By Company in the event that at any time after the first ninety (90) days hereof, there is a successive ninety (90) day period of decline in the number of total merchant locations being processed through Company through Representative.

(v) By Company immediately and without right to cure in the event Company, in its opinion, believes Representative has breached the terms hereof or of any agreement related hereto including but not limited to the Code of Ethics.

(vi) By Company without cause after thirty (30) calendar days written notice to Representative.

If Representative fails to submit a minimum of ten (10) Approved Merchants Applications per month for two successive months.

(c) Effect of Termination. Upon termination of this Agreement, Representative shall be entitled to receive only the compensation earned under this Agreement to the date of termination in accordance with herewith. Following the date of termination, all rights to provide Services to Merchants shall remain with Company and Representative shall undertake no act, directly or indirectly, which is intended to or which actually results in any disruption, or potential disruption, in the relationship between or among Merchant, Company and/or Processing Bank.

(d) Payment of Compensations Earned Post-Term, Post-Term Non-Competition and Participation by Representative in Certain Sales of Portfolio. Except as otherwise herein provided, following the term hereof, so long as Representative's ownership has not changed, Company will continue to pay compensation to Representative otherwise due under this Agreement with respect to Merchants enlisted by Representative on Company's behalf. Such payment shall be subject to receipt of funds and shall be in accordance with rates then in effect. However after one (1) year, Company shall not be obligated to pay Representative for any month in which Representative's earnings fall below \$100.

In consideration thereof, during the period in which such compensations are paid, Representative shall refrain, directly and indirectly, from having any dealings whatsoever with Merchant customers of Company and/or the Processing Bank including but not limited to those enlisted through the previous efforts of Representative including its predecessors, if any. In lieu of such periodic payments, Company may elect to make a lump sum payment to Representative calculated in the same manner as set forth below with respect to a sale of the portfolio of Merchants enlisted by Representative on Company's behalf in which event such payment shall be in consideration of a five (5) year covenant not to compete with respect to Merchant customers of Company and/or the Processing Bank including, but not limited to, those enlisted through the prior efforts of Representative (including its predecessors, if any) within those geographic areas in which Company does business.

In addition, if at any time during the period of Representative's representation of Company, Company effects a sale or upon Representative's written request, Merchants enlisted by Representative on Company's behalf, Company may elect to pay to Representative a minimum amount of twelve (12), but not to exceed twenty (20) months of "average monthly compensation". "Average monthly compensations" for these purposes shall mean the average net compensations payable to Representative for the last six (6) month period prior to the consummation of such portfolio sale or request. Factors affecting the multiple will include account quality, credit worthiness, method of processing and length of time the account has been processing with Company.

In the event of a sale of Company or interest therein, it is the intent of Company that this Agreement or the obligations hereof be assumed by or otherwise transferred to the purchaser or some affiliate as of the date of such sale.

6. INDEPENDENT CONTRACTOR RELATIONSHIP BETWEEN THE PARTIES

(a) Independent Contractor. During the term of this Agreement, Representative shall be an Independent Contractor, and not an employee, of Company; shall not be subject to

instruction by Company on how to achieve compliance with required standards; shall independently set working hours; shall provide own office and staff; shall not be reimbursed business or travel expenses; shall furnish all tools/equipment for performance hereunder; shall realize a profit or loss based solely on Representative's own performance; shall not be required to render services exclusively to Company except those pertaining to charge card processing and related services including equipment leasing, rental or sale pertaining to services to Merchants; shall independently obtain and pay for all insurance; and shall not at any time be entitled to unemployment insurance or other fringe benefits upon any policy of Company. Representative shall therefore be independent of Company's direct control and shall not in any manner bind or Representative that Representative is authorized to bind Company either by Representative's acts or words, either directly or indirectly. Representative is not required to perform any services hereunder however to the extent services are so performed, Representative shall be bound by the terms of this Agreement and will be so compensated herewith.

Despite the independent nature of Representative's relationship with Company, Representative shall maintain offices bearing signs, emblems and other insignia, including a telephone number, identifying such office as an office affiliated with Company, however subject to the terms and requirements of this Agreement. Company shall be entitled to examine, inspect and approve offices of Representative.

- (b) Representations. Representative shall not orally or in writing represent Representative to be an employee of Company but may represent that Representative is an independent Representative, Independent Contractor or other suitable title indicating Representative is involved in marketing Services for Company. Representative shall not duplicate, photocopy, or otherwise utilize trademarks, service marks, names, logos and the like pertaining to Company or any of the National Charge Card Associations on letterhead, stationery, business cards (which must be specifically approved by Company in advance of use in any event) or other materials except as same may be set forth on pre-printed and properly authorized promotional, advertising, marketing or related materials distributed by Company or the National Charge Card Associations. Representative recognizes that the Company name, logo and acronym (in the context of credit card processing and related services), have independent value to Company, and may be utilized by Representative only while engaged in business on behalf of Company.

Nothing herein shall constitute an agreement, license or authorization for Representative or others to use such terms, trade names, service marks or symbols owned by or associated with Company beyond the term hereof or in any undertaking for the benefit of or on behalf of any person or entity other than Company. Furthermore, authorization by Company of use of any name, acronym, trade or service mark or other right to utilize materials in favor of Representative is deemed personal as to such Representative and does not confer upon others, whether deemed by Representative to be its employees or subcontractors, any license, grant of permission, or other right to use as to same. Representative shall require each of its Representatives, sub-representatives and employees to execute such written documentation in order to require compliance by such persons in all respects with the obligations of this Agreement including but not limited to those set forth in the Code of Ethics.

- (c) Expenses. Representative acknowledges that Representative is solely and exclusively responsible for his/her costs and expenses incurred in performing the Services and shall furthermore be exclusively responsible for any and all applicable payroll, self-employment and/or other taxes incurred relating thereto.

7. REPRESENTATIONS OF REPRESENTATIVE

(a) Representations. Representative hereby represents and warrants to Company as follows:

- (i) Except as previously disclosed to Company in writing, Representative is not subject to any restriction or non-competition covenant in favor of a former employer or any other entity;
- (ii) Representative has the authority to execute for him/herself and on behalf of any entity, and full legal right and power to enter into this Agreement and entry into the Agreement does not constitute violation or breach of the terms of any agreement to which Representative is a party;
- (iii) All information provided by the Representative at, prior to, or following the date of

this Agreement, is true, correct and complete and not misleading in any respect whatsoever;

- (iv) Representative shall not contract with or otherwise deal directly or indirectly with Merchants other than in connection with the services or products hereunder;
- (v) In enlisting Merchants on Company's behalf, Representative shall not violate any prior or existing agreement between Representative and any third party or otherwise utilize any unfair, deceptive or illegal trade practice;
- (vi) Representative shall not contract or otherwise deal directly with the National Charge Card Associations;
- (vii) Representative shall comply, and ensure compliance by all employees, Representatives and others under Representative's control, of the Code of Ethics which is hereby incorporated by reference herein;
- (viii) Representative shall keep legible and comprehensive records with respect to all activities on Company's behalf;
- (ix) Neither Representative nor any employee or Representative thereof has been convicted of any felony or crime involving moral turpitude; and
- (ix) Each of the representations set forth above and as elsewhere herein set forth are also hereby incorporated herein by reference.

8. INDEMNIFICATION

- (a) Representative. Representative hereby agrees to defend, indemnify and hold harmless Company from and against any loss, cost or damage (including reasonable attorneys' fees and court costs) incurred by Company as a result of or arising from Representative's actual or alleged misrepresentations, failure to comply with the terms of this Agreement or any applicable rule, regulation or law as well as Representative's trademark or service mark infringement, willful misconduct, negligent performance of his/her or its obligations hereunder or violation of any applicable rule, regulation or procedure imposed upon Company and/or others acting through it or on its behalf. In addition, Representative shall also indemnify Company from and against any costs or expense, including but not limited to chargebacks, associated with leasing or other activities.

Indemnification may include but not be limited to the payment or reimbursement to Company or others of fines, penalties, and fees including registration fees. The indemnification obligation hereunder shall continue indefinitely subsequent to the termination of this Agreement for actions arising from or out of events occurring during the term of this Agreement. Company shall be entitled to offset against sums otherwise due to become due Representative, all such sums incurred or reasonably believed to be incurred for which Representative is or may be liable hereunder or otherwise.

- (b) Company. Company hereby agrees to indemnify and hold harmless Representative from and against loss, cost or damage (including reasonable attorneys' fees and court costs) incurred by Representative solely as a result of Company's failure to comply with the terms of this Agreement, or Company's willful misconduct or negligent performance of its obligations hereunder.
- (c) Limitation of Liability. Representative hereby agrees that it has waived against Company, and all those acting on behalf of and/or through Company, including but not limited to its owners, officers, directors and employees, any and all claims, affirmative demands, and causes of action howsoever characterized, seeking any indirect, special, or consequential damages, including lost profits, whether based upon a claim or action of contract, warranty, negligence, or other tort or breach of any statutory duty.

9. MISCELLANEOUS

- (a) Notices. All notices required hereunder shall be in writing and delivered in person or by certified or registered mail, return receipt requested, postage prepaid. Such notice shall be addressed as shown on the signature page hereof. All notices shall be deemed given when

delivered in person or upon depositing said notice in the United States mail with proper postage affixed thereto in compliance herewith.

- (b) Amendment. Except as otherwise provided herein, this Agreement and the Exhibits hereto may not be amended, altered or modified except by written authorization executed by all signatories hereto.
- (c) Benefit and Assignment. This Agreement shall inure to the benefit of the parties and their respective heirs, successors and representatives. If Representative is an individual or partnership, with respect to any entity hereafter formed, Representative see to it that the terms and provisions hereof are formally adopted by such entity subject only to approval of such entity by Company, and application to Company with all relevant facts, after which the assignment, if approved, shall then be effective. The rights and obligations hereunder may not be assigned by Representative without the prior written consent of Company and nothing in this Agreement shall be deemed to confer upon Representative the right to subcontract or sublicense any privilege or right hereunder whether or not Representative attempts to do so through its affiliates, employees, subcontractors, or other independent contractors. It is understood and agreed that it is and shall be the obligation of Representative to advise any and all employees, representatives, and/or sub-licensees of Representative that they comply with all terms and conditions hereof and that their retention by Representative is subject to prior approval by Company.
- (d) Arbitration. In the event of a dispute solely between Company and Representative arising out of or in any way relating to this Agreement, such dispute shall be submitted to and heard by the Los Angeles offices of the American Arbitration Association in Los Angeles, California, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. With respect to such arbitration, the parties intend to be accorded rights of discovery and therefore hereby incorporate by reference the provisions of CCP 1283.05, "Depositions for Discovery".
- (d) Jury Trial Waiver. As material consideration hereunder and whether or not the parties engage in arbitration pursuant to this Agreement, the parties mutually agree, now and for the future, for themselves and their successors, and waive any and all right or obligation to have any dispute between or among them, heard by jury.
- (e) Governing Law. This Agreement shall be exclusively governed by, construed and interpreted under the laws of the State of California (without reference to its conflicts of laws rules) and venue shall exclusively be and remain in Los Angeles County, California. Nothing contained herein shall prevent Company from initiating proceedings in any other jurisdiction in order to obtain injunctive relief or to otherwise prevent breach, or further breach, of the terms hereof and such initiation shall not constitute a waiver of Company to require action in the locale otherwise herein provided.
- (f) Entire Agreement. This Agreement, including the attached exhibits or schedules, constitutes the entire agreement between the parties and supersedes all prior agreements with respect to the subject hereof.

Agreed as of the date shown above by the parties whose names follow:

Print Name of Representative Office

Century Bankcard Services

Print mailing Address of Representative

By: _____

Title: _____

City State Zip

By: _____

Print Name and Title of Signatory

SALES REPRESENTATION AGREEMENT

EXHIBIT 1

1. Code of Ethics for Representatives
2. Background Investigation Authorization
3. Photos (Drivers License Social Security Card)
4. W-9

SALES REPRESENTATION AGREEMENT

ACKNOWLEDGMENT AND CODE OF ETHICS FOR SALES PERSONNEL

As a Representative/Representative of Company, certain responsibilities apply with respect to your conduct. You are required to read and abide by the contents and guidelines in this Code of Ethics. The terms of Company's form Independent Representative's Agreement are hereby incorporated by reference and you shall be deemed to have reviewed and confirmed same by execution hereof. You shall also execute such further documents as may be requested of you.

It is important that in your dealings with others, you are to impart an ethical and professional image to your benefit as well as the benefit of the Processing Bank ("Bank") and the National Charge Card Associations. Company and the Bank place great emphasis on the goodwill and integrity inherent to the bankcard industry.

1. DISCLOSURE OF INFORMATION

A. Disclosure to prospective customers

1. You are required to present yourself as an independent Representative of Company. It is expressly forbidden to use any other business name in the solicitation of a merchant's bankcard processing or other related business on Company's behalf.

2. You are required to inform prospective merchants that customer service will be provided by Company.

3. You are required to inform prospective merchants that the contractual agreement is between the merchant and the Bank and that Company will provide various customer services incident thereto.

B. Disclosure of Bank

1. You are required to ensure that all information contained in documents presented or to be presented to Bank by you or with your involvement are complete and accurate to the best of your knowledge.

2. Withholding or altering material information in an effort to circumvent any of Bank's policies is **STRICTLY FORBIDDEN**.

NOTE: Material information is defined as including any information which, if disclosed, may have an effect on the assessment of the application with regard to the current Merchant Processing Application Guidelines. Any information pertaining to mail order/telephone order transactions is deemed to be material however minimal the activity.

II. REPRESENTATIVE/REPRESENTATIVE'S USE OF MATERIALS

A. All correspondence, supplies, materials or oral solicitations to prospective merchants must clearly reflect Company's name. Representative/Representative will not use any of the program marks on any materials unless first approved by Company in writing and Bank's name is prominently displayed adjacent to the National Charge Card Association's marks. All marketing materials with the Bank name displayed must first be approved by Bank.

B. No Representative/Representative may improperly state or infer in any correspondence, supplies, materials and/or oral solicitations directed to merchants or prospective merchants that any other Representative or Representative/Representative's or group's materials are defective, being replaced, are invalid or should be destroyed.

III. PAYMENTS FROM MERCHANTS

A. It may be necessary for Representative/Representative to accept payments from prospective merchants for various fees, set up expenses, and down payments for equipment. Cash should not be accepted and all checks shall be made payable solely to Company.

B. It is expressly forbidden for Representatives/Representatives to accept cash, or checks payable to themselves or any other name or sales organization other than Company.

IV. UNDERSTANDINGS

A. It is expressly understood that Representatives/Representatives have no authority to bind Processing Bank contractually in any way.

B. It is expressly understood that Representatives/Representatives must present themselves in a professional manner in all dealings with merchants and prospective merchants.

C. It is expressly understood that Representatives/Representatives must direct all correspondence through Company. Representative/Representatives must not, under any circumstances, contact Bank or National Charge Card Associations directly.

As previously stated, you are under an obligation to uphold the integrity and reputation of Company, Bank, and the National Charge Card Associations.

Failure to faithfully abide by this Code of Ethics, or with any other applicable agreement or standard, may result in the termination of your relationship with Company.

I hereby acknowledge the above, including the terms and conditions set forth in the Independent Representative's Agreement which I warrant I have received and reviewed. I understand that I am obligated to protect Company's information and conduct myself in accordance with that Agreement and this Code of Ethics notwithstanding the fact that certain financial terms may have been deleted from the agreement provided to me.

_____ Dated: _____
Signature: Representative/Independent Representative