

ATM Operator Application & Agreement

AGENT / ISO NAME: _____ Processor _____ Terminal ID _____

New Merchant, Change of Terminal ID, Change of Cash Provider, Change of ATM Owner
(SELECT ONE)

THIS AGREEMENT is by and between The Bancorp Bank (Sponsor Bank, Bank) located at 6100 S Old Village Place Ste. 200 Sioux Falls, SD 57108, the Agent of the Sponsor Bank identified above, the Merchant and the ATM Operator(s)*.

NOW THEREFORE, in consideration of the mutual promises, covenants and obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Merchant, ATM Operator(s), Agent, and Sponsor Bank hereby agree as follows:

1. **Merchant** agrees to complete and sign Section A of this Agreement and provide customers with an ("ATM") automated teller machine at that location.
2. **Agent /ISO** agrees to provide processing services and other services as provided for in the Merchant Agreement, to provide to the Sponsor Bank a completed ATM Operator Agreement and to collect all fees associated with the processing of this Agreement.
3. The **ATM Operator/Owner** agrees they completed Section B, with true and factual information and they **OWN** the ATM.
4. **ATM Operator/Cash Owner** agrees they completed Section C, with true and factual information and they **OWN the cash** in the ATM.
5. **Sponsor Bank** agrees to sponsor the ISO to each appropriate network and complete ATM Operator Due Diligence.

1. **Application (Page 1 of 2) Merchants and ATM Operators signing this page agree to the terms on page 2**

SECTION A – Merchant / Location Information					
1. Full Legal Name of Business (Location of the ATM)		DBA (Name of the Business if other than Legal Name)		Location Telephone #	
2. Terminal Location – Address		City		State	ZIP
3. Location Owner Signature (Please read page 2)		Date	Please Print Name Clearly		Merchant Certification I OWN this ATM <input type="checkbox"/> , I do not OWN this ATM <input type="checkbox"/> I put CASH in this ATM, I do not put CASH in this ATM <input type="checkbox"/>
SECTION B – ATM Owner Information – ATM Operator* (If ATM Owner and ATM Cash Provider are different \$100.00 will be charged to process this application)					
4. Who owns this ATM? ISO <input type="checkbox"/> , complete Section A, this line 4, and sign line 8 Merchant <input type="checkbox"/> , Third Party <input type="checkbox"/> Complete all of Section B		Business Name		How is the business organized? Corp <input type="checkbox"/> , Partnership <input type="checkbox"/> , LLC <input type="checkbox"/> , Nonprofit <input type="checkbox"/> , Tribal <input type="checkbox"/> , Sole Proprietor <input type="checkbox"/>	
5. Business Tax Identification #	Business Street Address		Business City		State Zip
6. ATM Owner First Name **		Owner Last Name		% Ownership of Terminal	Date of Birth
7. Current Home Address		City		State	Zip
8. ATM Owner Signature*** (Please read page 2)		Print Full Name Clearly		Date	Are you on parole or on probation? Yes or No Have you ever been convicted of a Felony? Yes or No
SECTION C – ATM CASH Owner Information – ATM Operator* (If ATM Owner and ATM Cash Provider are different \$100.00 will be charged to process this application)					
9. Who owns the CASH in this ATM? ISO <input type="checkbox"/> , Funding Bank <input type="checkbox"/> , complete Section A, this line 4, and sign line 8 Merchant <input type="checkbox"/> , Third Party <input type="checkbox"/> Complete all of Section C		Business Name		How is the company organized? Corp <input type="checkbox"/> , Partnership <input type="checkbox"/> , LLC <input type="checkbox"/> , Nonprofit <input type="checkbox"/> , Tribal <input type="checkbox"/> , Sole Proprietor <input type="checkbox"/>	
10. Business Tax Identification #	Business Street Address		Business City		State Zip
11. ATM CASH Owner First Name **		Owner Last Name		% Ownership of Cash	Date of Birth
12. Current Home Address		City		State	Zip
13. ATM CASH Owner Signature*** (Please read page 2)		Print Full Name Clearly		Date	Are you on parole or on probation? Yes or No Have you ever been convicted of a Felony? Yes or No
*ATM Operator is defined as any company or individual that OWNS or PLACES CASH in an ATM. MasterCard and VISA Operating Rules and the BANK require identification and due diligence on all ATM Operator(s).					
**OWNER means any principal that owns more than 10% of the business. If more than one person owns more than 10%, copy this page and complete Sections B or C as appropriate.					
***Important information about permission to obtain credit report/background investigation – Bank sponsors the transactions being processed by this ATM and it is owned, leased, operated or you own the cash in the ATM. You are, therefore, a bank customer. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information on bank customers. For that reason, a consumer credit report and criminal background investigation will be completed in connection with this application. Applicant authorizes Bank or its agents to obtain and investigate information or data obtained from this Application. You have the right, upon written request, to a complete and accurate disclosure of the nature and scope of the investigation requested. The above-signed applicants' represents that all information contained in this Application for Sponsorship, and any other documentation supplied thereto, is true and correct.					
This Application and Agreement will be sent to Merchant Underwriting Inc. Payment information is included at the bottom of the following page <u>Incomplete or illegible applications will be returned, and will be subject to an additional charge!</u> <u>Please note ATM activation will be delayed until the merchant is approved.</u>					

2. ATM Operator(s) warrants to Parties as follows:

- a. All representations made are true, accurate and complete.
- b. This Agreement is valid, binding, and enforceable against the ATM Operator(s) in accordance with its terms.
- c. ATM Operator(s) lawfully operates, is validly existing, and is in good standing under the laws of the State where licensed or registered and is authorized to do business in each State in which the nature of Merchant and ATM Operator(s) activities make such authorization necessary or required.
- d. That ATM Operator(s) have the full power and authority to execute and deliver this Agreement and perform all of its obligations hereunder.
- e. **ATM Operator(s) have never been convicted of a Felony.**
- f. ATM Operator(s) acknowledges that this Agreement only constitutes acknowledgment of the offer made by the Parties on behalf of and contingent upon the approval of bank and such agreement is not binding until approved by Bank.
- g. All notices shall be in writing, acknowledged in writing, and mailed first class mail.

3. Indemnification – ATM Operator(s) agree to hold harmless and indemnify Sponsor Bank from any direct or contingent liabilities, claims, damages, losses or expenses, including reasonable attorneys' fees, judgments and decrees, arising from any claim, demand or suit against Sponsor Bank, as a result of any misrepresentation, breach of warranty or non-fulfillment of any section of this Agreement by ATM Operator(s). ATM Operator(s) further agrees to indemnify, defend and hold Parties harmless against claims, liabilities, damages, losses and expenses (including reasonable attorneys' fees) arising out of claims of third parties, including without limitation, Cardholders, Systems, other member banks or processors, which in any way result from:

- a. ATM Operator's breach of this Agreement or any warranty or representation made to Parties;
- b. Any damage or loss caused by negligence, fraud, dishonesty or willful behavior by ATM Operator(s) or ATM Operator employees;
- c. Any contention, whether well-founded, baseless or otherwise, that ATM Operator(s) violated the law or any Network rule or regulation; or
- d. Any claim for injury, direct or indirect, to persons or property from any alleged or actual tort or breach of the peace in connection with ATM Operator(s) attempted and/or actual recovery of any Bank Card.
- e. Any claim for property damage, violations of rights, or contact, patent, property rights, arising from the execution of this agreement, purchase, delivery, installation, operation, ownership, maintenance, use, malfunction, interruption in service, compliance, national or state laws.
- f. The Indemnifications provided for in this Section 3, shall survive termination of this Agreement.

4. Assignment

- a. ATM Operator may not assign any rights or duties created by this Agreement without Sponsor Bank's express written consent.
- b. A transfer of control of majority interest in the ATM Operator, or a change of ATM Operator(s) will render this agreement null and void.
- c. Data changes, by way of example only, business name change, business telephone and/or address change, or any banking information shall be submitted, in writing to the Parties under the terms provided in this Agreement.
- d. Sponsor Bank may assign this Agreement. ATM Operator will be notified within 90 days of assignment.

5. Application Processing Fee - \$50.00- To include cost of application processing, identity, credit, background, criminal and OFAC checks & verifications. In addition to any other due diligence required by the Bank and Networks of which Bank is a member. A \$10.00 processing fee will be required for second locations or where the ISO is the only ATM Operator.

6. Compliance with Laws, Rules and Regulations - ATM Operator (s) represent that they are familiar with the requirements of all applicable consumer protection laws and agree that they will comply in all material respects with all such laws and regulations, and all the rules and regulations promulgated by the networks, including, but not limited to, Plus Systems, Inc, and Cirrus, Inc. and all other Rules and Regulatory Authorities which govern the specific markets where Merchant or ATM Operator terminal(s) are located and understand they will be terminated for non compliance and that ATM may be shut down for non-compliance with any rules or regulation.

7. Governing Law and Jurisdiction - This Agreement shall be governed by, and interpreted, in accordance with the laws of the State of Delaware notwithstanding its choice of law provisions.

8. Acknowledgment of Regulatory and other Constraints - The parties hereto acknowledge that Merchant, ATM Operator and Bank are subject to the rules, regulations, orders, and requirements that may be imposed by any Regulatory Authority. The Parties expressly agree that in the event of conflict between the terms and conditions of this Agreement and the terms and conditions of any Rule or Regulation of any Regulatory Authority, the Rule or Regulation shall control.

9. Arbitration - In the event of any dispute between Merchant or ATM Operator relating to this Agreement, or their performances hereunder, Merchant or ATM Operator agrees that such dispute shall be resolved by means of arbitration in accordance with the commercial arbitration rules of the American Arbitration Association ("AAA"). The arbitrator shall be limited to awarding compensatory damages and shall have no authority to award punitive, exemplary or similar type damages. Judgment of the arbitrator shall be non-binding, and any Party may appeal the judgment of the arbitrators to the Superior Court of the State of Delaware.

10. Equipment – ATM Operator/Owner - Section B of Application covenants and agrees as follows:

- a. Equipment provided under this Agreement is placed in service with the assurance that the equipment has not been altered or subject to unauthorized modifications or tampering at the time placed into service and is in compliance with all system standards; and
- b. Scrip terminals will be activated and operated **only** in compliance with the regulations of each Network. Incorrect activation, programming changes, or any other attempt on the part of the Merchant, ISO or ATM Operator to fraudulently receive fees will result in (i) full repayment of all fees collected, from the date the terminal was activated, (ii) a possible fine from Network(s) of \$5,000 per terminal, and (iii) immediate cancellation of this Agreement.

11. ATM Cash Owner – Section C of Application Terms, conditions, and fees for placing Cash in ATM are outside this Agreement. Cash Owner is responsible if cash is stolen, lost, or destroyed and they shall keep sufficient amounts of cash in the ATM. A clear record of account withdrawals/ ISO settlement may be required to show cash was obtained solely from their resources and no third party. If the Merchant is the CASH OWNER, they may NOT use Third Parties to obtain and place cash in an ATM.

Merchant Agrees:

- a. During the term of Agreement, the ATM may not be moved.
- b. No warranties of transactions, applicability, performance, or income were provided.
- c. They are the owner of the premises; hold a valid lease, or a right to conduct business for a greater length of time of this Agreement.
- d. If Merchant moves from this location, ISO will be notified 60 days before the move and this Agreement will be modified to apply to the new location.
- e. To provide a clean, safe place for cardholders to use ATM, mindful of cameras, street windows, or other hazards where the card or PIN could be compromised.
- f. To maintain an adequate inventory of supplies.
- g. To cooperate in providing good service on the ATM, but shall not allow anyone other than authorized personnel to perform service, open, repair without ISOs prior written consent.
- h. Not to provide assistance to a cardholder with entering a PIN number, touch a card or money withdrawn from the ATM and will only instruct cardholder to contact issuing bank if they have a problems using the ATM, or to contact the Acquirer, or the Acquirer's Agent at the telephone number located on the ATM which details Sponsor Bank information.

ISO – Agent Certification

To the best of my knowledge, the information provided herewith was obtained from the Merchant (or in the case of a corporation the manager or corporate officer) and represents the merchant owner, the individual or company that owns the ATM and the individual or company that owns the cash in the ATM.

This information, INCLUDING THE TERMINAL NUMBER, is identical to the information provided to the Sponsor Bank report for the Network Quarterly Certification. If any information changes on this Agreement, I agree that I will immediately provide an updated ATM Operator Agreement.

NAME OF THE ISO _____

SIGNATURE OF ISO _____

DATE _____

TERMINAL ID _____

Payment Option #1- Mail check payable to 'Merchant Underwriting' at PO Box 187, Santa Paula, CA 93061.

or
Payment Option #2- Charge to Credit Card: Number _____ - _____ - _____ Expires ____/____ Sign here to authorize charge: _____

Payment Amount Selection: Card Type (circle one): VISA MC \$_____ USD is authorized to be charged to my credit card by Merchant Underwriting Inc.

[] \$50 If Merchant or Third Party is an ATM Operator - or -

[] \$100 If there are two different entities on application (ie: cash loader different than owner) and both are requiring new due diligence.

[] \$10 if both ATM and CASH is owned by the ISO or if this is a 2nd location for an individual who has previously had due diligence completed by Merchant Underwriting.

\$_____ Total Charge

Incomplete or illegible applications will be returned, and will be subject to an additional charge!

Please note ATM activation will be delayed until the merchant is approved.

This document is confidential to The Bancorp Bank. Use of any part is strictly prohibitive and will be considered an infringement of Proprietary Financial Documents and Materials.

Merchant Underwriting
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(866) 577-4333 phone
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