

## **INDEPENDENT CONTRACTOR AGREEMENT**

This **INDEPENDENT CONTRACTOR AGREEMENT** (hereinafter “Agreement”) is made by and between Versatile Merchant Solutions, LLC. (hereinafter “VMS, LLC” and (Agent Address) (hereinafter referred to as “Independent Contractor” or, collectively, with VMS, LLC as the “parties”) based upon the following recitals:

### **RECITALS:**

**WHEREAS**, VMS, LLC is a Limited Liability Company organized and existing under the laws of the State of Virginia with its principal place of business located at 2820 Waterford Lake Dr., Midlothian, VA. 23139. VMS, LLC is engaged in the business of, among other things, marketing various card processing products and services to merchants across the United States; and

**WHEREAS**, VMS, LLC has entered into agreements with credit and debit card processors, member banks, and/or their registered VMS, LLCs (both individually and collectively, the “Sponsor”), and promotes and markets, among other things, the MasterCard International, Inc. network (“MasterCard”), the VISA U.S.A. network (“VISA”), the American Express network (“American Express”) and the Discover network (“Discover”) (collectively or individually referred to as the “Bank Card System”) to merchants and provides various other services in connection with the merchant accounts it generates (hereinafter “the Program”); and

**WHEREAS**, under the aforesaid agreements, VMS, LLC solicits merchants and causes merchants to contract through Sponsor for credit card processing products and services (“Merchant Card Services”); and

**WHEREAS**, Independent Contractor has its principal place of business located at (Agent Address) ; and

**WHEREAS**, Independent Contractor desires to perform marketing services for VMS, LLC, including soliciting merchants and causing merchants to contract for Merchant Card Services.

**NOW THEREFORE**, in consideration of the mutual promises and commitments contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**1. Obligations of Independent Contractor.** On a non-exclusive basis, Independent Contractor will use its best efforts to solicit prospective merchants on behalf of VMS, LLC to execute agreements for Merchant Card Services. Independent Contractor agrees not to market and sell card processing services to merchants for, or on behalf of, any other companies engaged in businesses similar to that of VMS, LLC. In addition, it is agreed that:

**1.1** Any and all marketing or promotional materials disseminated and/or published by Independent Contractor must be approved by VMS, LLC in advance of Independent Contractor’s dissemination of the materials.

**1.2** Independent Contractor covenants and agrees to market and sell the Program and/or the card processing services offered by VMS, LLC only to bona fide and lawful businesses, and not to merchants engaged in a business that violates federal, state or local laws. Further, Independent Contractor agrees not to submit any applications to VMS, LLC which are incomplete or misleading in any manner. Independent Contractor will promptly notify VMS, LLC in writing of any adverse information that Independent Contractor receives relating to a merchant, including but not limited to information regarding a merchant's financial condition, use of the Program for any purpose other than payment for the bona fide sale of goods and services, changes in merchant's method of doing business or types of goods or services, or information that would have a material effect on merchant's ability to conform to the terms of its merchant agreement.

**1.3** Independent Contractor shall use only the form of merchant agreement that has been approved by Sponsor for use with the Program. Independent Contractor will not make any changes or modifications to any merchant agreement without the prior written consent of Sponsor.

**1.4** Independent Contractor acknowledges that it is not registered with Visa as an independent sales organization or with MasterCard as a merchant service provider, and therefore it must market processing services under the Sponsor's brand. In addition, Independent Contractor is not authorized to represent that it sells Visa and/or MasterCard processing services, which includes but is not limited to, the use of the Visa and/or MasterCard logos or the brand Visa and/or MasterCard. Independent Contractor shall not use any trademark of Visa or MasterCard or any other card issuer, such as debit networks, on business cards, letterhead or stationery. When soliciting merchants, Independent Contractor may not present itself to prospective merchants under any trade name other than the Sponsor's trade name.

**1.5** Any Leads or Appointments provided to the Independent Contractor in exchange for a reduced commission by VMS, LLC shall be only Solicited for products & solutions offered by VMS, LLC. Independent contractor, its heirs, or affiliates may not offer the lead, or appointment, products or solutions of a similar nature to the products and solutions offered by VMS, LLC for a period of 36 months from the date the last lead or appointment was given.

**1.6** Independent Contractor further agrees to complete and submit to VMS, LLC a registration application setting forth Independent Contractor's full name, current address, social security number, date of birth, telephone and facsimile numbers, or email address, or comparable company information (hereinafter a "Registration Application"). Independent Contractor understands and agrees that, under this Agreement, only Independent Contractor may solicit prospective merchants on behalf of VMS, LLC (hereinafter the "Services"). Under no circumstances may Independent Contractor contract with any other person to perform the Services for or on behalf of Independent Contractor. Independent Contractor understands and agrees that any person whom Independent Contractor desires to provide assistance to Independent Contractor in performing the aforesaid Services must execute an Independent Contractor Agreement with

VMS, LLC and submit a Registration Application to VMS, LLC.

## **2. Additional Terms.**

**2.1** This Agreement is made subject to the operating rules and regulations promulgated by VMS, LLC, the Sponsor, and the Bank Card System (hereinafter the “Rules”). Independent Contractor acknowledges that it has received and understands the Rules and agrees to be bound by all applicable Rules, including, but not limited to, (i) any amendments and modifications to the Rules made from time to time, and (ii) the Rules pertaining to member service providers and independent sales organizations. Independent Contractor acknowledges that VMS, LLC and/or Sponsor may refuse to contract with or may terminate an existing contract with any merchant, for any or no reason in its discretion, including the failure to comply with the Program, the Bank Card System and/or the Rules.

**2.2** Independent Contractor authorizes the VMS, LLC and Sponsor to investigate individual credit bureau and criminal background reports on each of Independent Contractor’s principals and sales persons, which shall include any persons individually or collectively, directly or indirectly, owning 10% or more of Independent Contractor, any officer or director of Independent Contractor, and any person actively participating in the control of Independent Contractor’s business.

## **3. Expenses and Compensation.**

**3.1** Independent Contractor shall be responsible for payment of all expenses relating to its performance of this Agreement including but not limited to any and all marketing, travel, insurance, licensing, and tax liabilities of Independent Contractor. VMS, LLC shall have no obligation whatsoever to reimburse Independent Contractor for any expenses incurred by Independent Contractor in connection with this Agreement.

**3.2** VMS, LLC agrees to pay Independent Contractor a commission based upon the attached Sales Compensation.

**3.3** VMS, LLC may at any time sell or merge its business or its merchant portfolio. In such event, Independent Contractor will continue to be paid compensation by the successor company in accordance with the terms of this Agreement or a buyout will be negotiated at that time.

**3.4** In the event Independent Contractor obtains leads or appointments from VMS the Independent Contractor will be charged for said leads in the form of a reduced commission as described in the attached Sales Compensation.

## **4. Term of Agreement, Renewal and Termination**

**4.1** The initial term of this Agreement shall be one (1) year. Thereafter, this Agreement shall be automatically renewed for successive one-year periods, unless terminated by VMS, LLC or Independent Contractor in writing no later than thirty (30) days prior to the end of the initial or applicable renewal term, and such termination shall be effective as of the end of the then current term.

**4.2** Notwithstanding the foregoing, VMS, LLC or Independent Contractor may terminate

this Agreement for any material breach of the other party's duties and obligations under this Agreement, in the event that the other party fails to cure such breach within thirty (30) days after written notice thereof.

**4.3** In addition, this Agreement shall terminate immediately upon the occurrence of any one (1) of the following events:

(a) Termination of VMS, LLC's agreements with Sponsor, or its participation in the Program;

(b) Independent Contractor's conviction of a crime.

(c) VMS, LLC becoming aware of information that Independent Contractor or its employees, VMS, LLCs or representatives are employed in practices that involve elements of criminal activity, fraud or conduct that may be deemed to be potentially injurious to VMS, LLC, Sponsor and/or the Bank Card System.

(d) Independent Contractor (i) becomes insolvent; (ii) fails to pay its debts or perform its obligations in the ordinary course of business as they mature; (iii) becomes the subject of any voluntary or involuntary proceeding in bankruptcy, liquidation, dissolution, receivership, attachment or composition for the benefit of creditors.

**4.4** Upon termination of this Agreement for any reason, Independent Contractor shall return all equipment and marketing materials provided to it by VMS, LLC, and discontinue using any marketing or promotional materials identifying VMS, LLC and/or Sponsor, or containing any trade name, trademark, service mark, or logotype associated with bank cards (hereinafter the "Marks").

**4.5** Independent Contractor acknowledges and agrees that MasterCard, VISA, American Express and Discover are the owners of their respective Marks. Independent Contractor agrees that it shall not contest the ownership of any Mark. If Independent Contractor breaches any of the Rules, VMS, LLC may immediately and without advance notice prohibit Independent Contractor from performing any service or activity relating to the use of the Marks and the operation of the Programs.

## **5. Ownership/Non-Solicitation of Merchants.**

**5.1** Independent Contractor acknowledges and confirms that the relationship created with each Independent Contractor Merchant shall be owned, as between VMS, LLC and Independent Contractor, exclusively by VMS, LLC (subject in all respects to the Sponsor's rights under the Program), and Independent Contractor will act solely in the capacity of a service representative to Independent Contractor Merchants, as directed by VMS, LLC. During the period from the date of this Agreement to and including the fifth (5<sup>th</sup>) anniversary of the date of the termination of this Agreement, Independent Contractor shall not, directly or indirectly, through any other person or entity, on behalf of itself or any other person or entity, in any capacity whatsoever, without the prior written consent of VMS, LLC, (i) cause or induce any Independent Contractor Merchant to do business with any competitor of VMS, LLC or of Sponsor, or to cease doing business with, reduce business with, or divert business from VMS, LLC or Sponsor, or (ii) in any way interfere with the relationship between any of the Independent Contractor Merchants, on

the one hand, and VMS, LLC and/or Sponsor, on the other hand, or attempt to do any of the foregoing.

**5.2** So long as this Agreement has not been terminated in accordance with paragraphs 1 through 17 herein, Independent Contractor will continue to receive residual income each month as determined under paragraph 3.2 above in connection with the Independent Contractor Merchants actively solicited and referred to VMS, LLC under this Agreement; provided that Independent Contractor receives a minimum of \$250 per month in residual income in connection with the card processing that is the subject of the Independent Contractor Merchants. In the event Independent Contractor receives less than \$250 in monthly residual Independent Contractor must submit at least 1 new approved merchant per month to continue to receive residual income each month.

**6. Relationship of the Parties.** This Agreement does not create a relationship of that of principal and VMS, LLC. Except as otherwise expressly provided in this Agreement, no party is to be considered to be the VMS, LLC or legal representative of the other. It is expressly agreed to and understood that VMS, LLC and Independent Contractor are, in all respects, independent parties to a contract. For all intents and purposes, the relationship created hereunder is an independent contractor relationship. The parties understand and agree that each is an independent contractor engaged in the operation of its own respective business, that neither party shall be considered to be the employer or employee of the other party for any purpose and that VMS, LLC does not exercise supervision or control over Independent Contractor other than as set forth in this Agreement. Independent Contractor is not entitled to workers' compensation insurance, unemployment compensation insurance, pension or profit sharing or other benefits or rights of any kind or nature. Nothing in this Agreement or the course of dealing of the parties shall be construed to constitute the parties hereto as partners, joint ventures or as VMS, LLCs or employees of one another or as authorizing either party to obligate the other in any manner. Independent Contractor shall not attempt to (1) bind VMS, LLC to any contract or agreement, (2) incur any obligation on behalf of VMS, LLC, (3) release, assign or transfer any agreement, claim, security or any other asset of VMS, LLC, (4) borrow or lend any money in the name of VMS, LLC, or (5) submit to any claim or liability related to merchant agreements or allow judgment to be taken or confessed against VMS, LLC.

**7. Indemnification.**

(a) Independent Contractor agrees to indemnify, defend, and hold harmless VMS, LLC,

its Sponsor, employees, and VMS, LLCs from and against any loss, liability, damage, penalty or expense (including attorneys' fees and cost of defense) they may suffer or incur as a result of (i) any failure by Independent Contractor or any employee, sales person, or VMS, LLC of Independent Contractor to comply with the terms of this Agreement or the Rules; (ii) any warranty or representation made by Independent Contractor to VMS, LLC being false or misleading; or (iii) any representation or warranty made by Independent Contractor or any employee or VMS, LLC of Independent Contractor to any third person other than as specifically authorized by this Agreement.

(b) VMS, LLC agrees to indemnify, defend and hold harmless Independent Contractor, its employees and VMS, LLCs from and against any loss, liability, damage, penalty or expense (including attorneys' fees and cost of defense) they may suffer or incur as a result of any failure

by VMS, LLC or any employee or designated VMS, LLC to comply with the terms of this Agreement. VMS, LLC shall have no liability to provide indemnification hereunder to the extent any loss; liability, damage, penalty or expense (including attorneys' fees and cost of defense) is caused or contributed to by Independent Contractor or any employee or VMS, LLC of Independent Contractor.

(c) Each party shall promptly notify the other of any claim or threat of claim of which such party becomes aware and that may give rise to a request for indemnification under this paragraph 7.

**8. Amendments.** No provision of this Agreement, may be amended, modified, or waived except by a written agreement signed by VMS, LLC and Independent Contractor.

**9. Waiver.** No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other party, whether express or implied, shall not constitute a consent to, waiver or, or excuse of any different or subsequent breach.

**10. Confidentiality.** The parties expressly acknowledge that the data and other information to which the parties and their employees and VMS, LLCs have access in connection with the negotiation, performance and administration of this Agreement have commercial value and are proprietary to the respective parties and the Independent Contractor Merchants. The parties each agree that it will not use for its own purposes, will not disclose to any third party, and will retain in strictest confidence all information and data belonging to or relating to the business of the other (including without limitation the terms of this Agreement), and that each party will safeguard such information and data by using the same degree of care and discretion that it uses to protect its own confidential information. All information relating to Independent Contractor Merchants is confidential information of VMS, LLC. No party will be obligated to maintain the confidentiality of information of the other party: i) if it is required to reveal such information in performing its obligations under this Agreement, ii) that is or becomes within the public domain through no act of the disclosing party in breach of this Agreement, iii) was in the possession of the disclosing party prior to its disclosure under this Agreement, and the disclosing party can prove that, iv) received from another source that has no restriction on use or disclosure, or v) is required to be disclosed by state or federal law.

**11. Non-Competition.** During the term of this Agreement and for a period of twelve (12) months after this Agreement is terminated, Independent Contractor agrees not to engage in any business substantially similar to that of VMS, LLC or Sponsor and/or attempt to clone or model VMS, LLC's or Sponsor's technology and proprietary system, including its application and approval systems, risk management, customer service and settlement procedures. Further, Independent Contractor agrees not to attempt to transact any business with any of VMS, LLC's and/or Sponsor's financial institutions, card processors, business contacts, contractual privies, partners, customers, investors, contractors, affiliates, principals, and/or any other affiliates enrolled in similar businesses, or engage in any business substantially similar to VMS, LLC and/or Sponsor. Independent Contractor agrees that the terms of the aforesaid covenant is reasonable and understands that due to the competitive nature of the business and the need for confidentiality and non-competition, this covenant is necessitated.

**12. Remedies.** In the event of a breach of paragraph 5, 10 or 11, the parties agree that the non-breaching party will suffer irreparable harm, and that the amount of monetary damages would be impossible to calculate. Thus, the non-breaching party will be entitled to injunctive relief in addition to any other rights to which the non-breaching party may be entitled, without the necessity of proof of actual damages.

**13. Third Party Beneficiary.** The parties hereto acknowledge that the Sponsor, as disclosed to Independent Contractor by VMS, LLC, is an intended third party beneficiary of this Agreement, and in the event of a breach of this Agreement by Independent Contractor, Sponsor shall have the right to enforce the rights of VMS, LLC hereunder. Independent Contractor authorizes VMS, LLC to provide payment instructions to Sponsor with respect to the payment of commissions due to Independent Contractor from VMS, LLC under Section 3 of this Agreement, and acknowledges that commissions so paid by Sponsor are being paid directly to Independent Contractor from amounts otherwise due from Sponsor to VMS, LLC as a convenience only, and are not a separate obligation of Sponsor to Independent Contractor. In no event shall Sponsor be responsible for inaccurate instructions provided to it.

**14. Notices.** All notices, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given when (a) delivered by hand, (b) sent by facsimile (with receipt confirmed), or (c) when received by the addressee, if sent by Express Mail, Federal Express or other express delivery service (receipt requested), to each at the appropriate addresses, set forth below (or to such other addresses, facsimile numbers as a party may designate by notice to the other party):

(a) **If to VMS, LLC:**  
2820 Waterford Lake Drive, Suite 206, Midlothian, VA. 23112

(b) **If to Independent Contractor: (Agent Address)**

**15. Severability.** The invalidity of any paragraph or subparagraph hereof shall not affect the validity of any other paragraph or subparagraph hereof. If any provisions of this Agreement, as applied to either party or to any circumstances, are adjudged by a court to be invalid or unenforceable, the same will in no way affect any other provision of this Agreement, the application of such provision in any other circumstances or the validity or enforceability of this Agreement. If any such provision, or any part thereof, is held to be unenforceable because of the duration of such provision or the area covered thereby, the parties agree that the court making such determination will have the power to reduce the words or phrases, and in its reduced form such provision will then be enforceable and will be enforced.

**16. Section Headings.** The section headings contained in this Agreement are for convenient reference only and shall not in any way affect the meaning or interpretation of this Agreement.

**17. Entire Agreement, Governing Law, Jurisdiction Venue and Attorney's Fees.** This Agreement embodies the entire understanding and agreement of the parties with respect to the subject matter hereof. Jurisdiction and venue for any claim or cause of action arising under this Agreement shall be exclusively in the state courts of Virginia located in the County of Chesterfield in which case this Agreement shall be governed by and construed in accordance with

the laws of the State of Virginia. If either party is determined to have breached this Agreement then the non-defaulting party shall not be entitled to recover expenses incurred in enforcing the provisions of this Agreement, including attorneys' fees and costs.





## Sales Compensation

- **ReversePOS Tablet**
  - **4X Monthly POS Cost. Payable upon successful funding**
  - **3x Monthly POS Cost on VMS provided leads. Payable upon successful funding**
- **Build lasting income - 25% of the monthly Merchant Account Profit, separate from Funding amount referenced above, earned on each account paid monthly. Receivable after first 10 funded accounts on accounts 11 and up.**

### Requirements:

1. All Bonuses are paid to the Agent each Thursday by ACH.
2. Lead Program: *In the event Independent Contractor obtains leads or appointments from VMS the Independent Contractor will be charged for said leads in the form of a reduced commission as described above.*
3. Alternate Funding: If the sale is not approved initially VMS may, at its sole discretion, finance the sale in-house. In these cases the Agent will receive only the First month's payment upon the payment clearing the client's bank (7-10 Business days)
4. *Profit sharing payable the first Thursday of each month. January is paid in March, February is paid in April,.*

Accepted by (Print): \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_



## **AUTHORIZATION For BACKGROUND INVESTIGATION/**

### **AGENT CREDIT REPORT**

An Investigation Report, Background Investigation, and/or Consumer Credit Report may be made in connection with the application for registration. With this form the applicant authorizes Versatile Merchant Solutions (VMS), their authorized Agent, or any credit bureau or credit reporting agency contracted by VMS or any representatives of VMS, to investigate the references given to VMS by applicant and to access the file of any credit reporting agency.

Under the law, you have the right to receive a copy of your credit report directly from the credit bureau free of charge.

The information provided is my true and complete legal name and all information is true and correct to the best of my knowledge:

**I authorize all agencies, bureaus, employers, and individuals to provide any applicable knowledge or information they have concerning this background investigation:**

**PLEASE PROVIDE COPY OF DRIVER LICENSE BELOW:**



## Sales Partner Compliance

Versatile Merchant Solutions feels it is important to clarify Visa/MasterCard industry wide regulations regarding marketing collateral. The following list outlines the general compliance requirements, but it is not meant to be a comprehensive list.

All Marketing materials and practices used to solicit merchants must be in the registered ISO's name ONLY. Soliciting merchants is defined as quoting merchant processing rates and fees, describing card processing services, and/or implying that the unregistered Sales Partner provides or offers card processing services. Unregistered Sales Partners can only refer merchants to a registered ISO/MSP of Visa or MasterCard.

In order to be considered as a registered Independent Sales Organization (ISO) with Visa or a Member Service Provider (MSP) with MasterCard, you must register directly with MasterCard and Visa. If you are registered with Visa and MasterCard, please provide us with a letter from your registering institution stating you are a registered ISO/MSP. If you are not a registered ISO/MSP, you cannot market using your company's name, or logo. You must only use Versatile Merchant Solutions's name and logo on marketing sources including but not limited to the following:

- Marketing Materials (such as slicks, brochures, bi-folds, tri-folds, etc) for products/services
- Merchant Agreements
- Stationery (i.e. business cards, letterheads, fax coversheets, etc)
- Promotional products
- TV/Radio/Print Advertisements
- Web sites
- Telephone communications and Voice Mails
- Automated Dialer/Announcing Devices (ADAD)

No mention of Global Payments and/or HSBC Bank (including but not limited to logos, names, fonts, colors, brand imagery, or any "facts" relating to Global Payments and/or HSBC Bank) may appear on any marketing collateral except in the mandatory endorsement statement. The following endorsement statement must conspicuously appear on any marketing collateral advertising or soliciting for merchant services or displaying the Visa/MasterCard logos:

**"All merchant accounts are referred to and processing services provided by Versatile Merchant Solutions, a registered ISO/MSP of HSBC Bank USA, National Association, Buffalo, NY"**

The endorsement statement must be included per the following:

- The statement must appear on the bottom of ALL marketing collateral. If Visa/MasterCard card logos are shown, the statement must appear at the bottom of the page on which the logos appear.
- This phrase must be consistently in 8 or 10 point font and may not make use of any italics, underlining, bolding or other font effects
- If Discover and/or American Express logos are displayed on your marketing collateral, the following must be added to the above endorsement statement: American Express and Discover require separate approval.

## Website Compliance



Please note that in order to help all of our sales representatives maintain compliance with the Visa/MasterCard regulations regarding the advertisement of card processing services on the Internet, Versatile Merchant Solutions strongly suggests that you follow the guidelines below.

If you decide to build your own website, all of the Visa/MasterCard compliance regulations must be met in addition to the following:

- The following endorsement statement must appear at the bottom of the website's homepage, "about us" page and any website pages displaying Visa/MasterCard logos and/or text or advertising for merchant services

**"All merchant accounts are referred to and processing services provided by Versatile Merchant Solutions, a registered ISO/MSP of HSBC Bank USA, National Association, Buffalo, NY"**

- Credit card logos cannot appear on your website unless you accept those credit cards as a form of payment and may not appear on any page advertising for merchant processing services unless the above requirement is met.

### **Stationery, Promotional Products and Business Card Compliance**

If you decide to create your own stationery, promotional material or business cards, all of the Visa/MasterCard compliance regulations must be met in addition to the following:

- The names/logos/fonts/colors/imagery/etc of Global Payments, HSBC Bank, Visa, MasterCard, American Express, and/or Discover may not be used in any promotional products, business cards or stationery (including but not limited to letterhead, fax coversheets, etc).
- The endorsement statement may not appear on promotional products, business cards or stationery (including but not limited to letterhead, fax coversheets, etc).
- Business cards used in merchant solicitation may only display Versatile Merchant Solutions's name and logo and may not be co-branded with non-merchant services related business types

In addition to the above Visa/MasterCard marketing regulations, there exist legal restrictions or prohibitions on some forms of advertising, notably, but not limited to, fax advertising, email solicitation, and automated dialers/announcing devices (ADAD). While the above mentioned Visa/MasterCard regulations still apply, Versatile Merchant Solutions has an obligation to notify our Sales Partners of the importance for you to familiarize yourselves with the various laws surrounding the use of Automated Dialers. These laws vary in scope and severity based on jurisdictional differences.

We have summarized the laws and regulations of each of the states pertaining to the making of business-to-business sales calls utilizing automated dialing and announcing devices ("ADAD"). It is extremely important that you have the ability to segment your files to ensure compliance. **Remember**, your organizations or you personally will be held liable for non-compliance.

ADAD's are regulated federally for calls to consumers. However, there are no federal restrictions on their use for commercial calls. Furthermore, many states have enacted regulatory frameworks which seek both to protect residents (often businesses and consumers) from the annoyance of ADAD calls and to prevent ADAD-generated calls from impeding telephone service.

VMS recommends that you seek legal advice pertaining to the operation of any ADAD equipment. This document is not intended as a replacement of sound legal advice and the use of ADAD equipment is entirely your decision and responsibility.



## **Automated Dialer and Announcing Device (ADAD) Compliance**

- In the following states, ADAD-delivered business-to-business sales calls are **expressly forbidden** (whether according to criminal statutes or civil regulations): **Arkansas** (criminal), **Maryland** (criminal), **Mississippi** (civil), **North Carolina** (civil), **Washington** (civil) and **Wyoming** (criminal).
- The following states **allow business-to-business ADAD calls without restriction**: **Alabama, Alaska, Arizona, Connecticut, Delaware, Florida, Georgia, Hawaii, Kansas, Louisiana, Missouri, Ohio, Oregon, South Carolina, South Dakota, Texas, Vermont, Virginia** and **West Virginia**.
- Several states impose **various time, place and manner restrictions**. These types of restrictions tend to limit the hours during which ADAD calls can be made (typically between 9 a.m. and 9 p.m.), require a short period of time after hang-up for the call to be disconnected (the range tends to be between five and thirty seconds) and mandate that the name and contact information of the business for whom the call is being made be provided at the start of the call. The states with **some combination of these fairly manageable ADAD regulations** are the following: **Idaho, Maine, Massachusetts, Nebraska, Nevada, New York** and **Rhode Island**.
- Two states require that the **operator of ADAD equipment register, or obtain a permit**, from the state. These states are: **New Hampshire** and **Tennessee**.

A number of states have imposed fairly onerous restrictions upon those businesses that attempt to solicit sales through the use of business-to-business ADAD calls. Some of these states require that live operators introduce the recorded call, that ADAD calls can only be made to businesses with whom the caller has a prior relationship or has otherwise consented to receive ADAD calls, and that the ADAD equipment only operate while it is attended.

- The following states require that a **live operator introduce an ADAD call**, or otherwise be available during the call: **California, Indiana** and **Iowa**.
- Three states require that ADAD calls must be **introduced by a live operator unless the recipient has previously consented to receiving such calls**: **New Jersey, North Dakota** and **Oklahoma**.
- A number of states only allow ADAD calls to be made if there is a **prior business relationship between the recipient and the caller**: **Colorado** (provided the recipient has also consented to the ADAD calls), **District of Columbia, Illinois, New Mexico** and **Utah**.
- **Express consent** is required to be given by the recipient before ADAD calls can be made to businesses in the following states: **Michigan, Minnesota, Montana**, and **Wisconsin**.
- One state requires that ADAD **equipment be attended**: **Kentucky**.

## **Fax Advertising Compliance**

The Telephone Consumer Protection Act (TCPA) and FCC rules generally prohibit most unsolicited fax advertisements. It is unlawful to send unsolicited facsimile advertisements to both businesses and residences.



For more information please visit: <http://www.fcc.gov/cgb/consumerfacts/unwantedfaxes.html>

## **Email Solicitation Compliance**

Law governing email solicitations are very similar to fax solicitation. It is prohibited to have deceptive subject lines; you must include a valid physical address, and must provide an opt-out method.

For more information please visit: <http://www.ftc.gov/bcp/edu/pubs/business/ecommerce/bus61.shtm>

**NOTE:** Any costs associated with any legal actions involving Versatile Merchant Solutions as a party or defendant will be deducted from the residual income of the agent and may result in a material breach of the Agent/ISO agreement.

If you currently have or are actively using non-compliant marketing initiatives, please immediately cease these practices. Discard all non-compliant marketing materials and reorder as necessary. Versatile Merchant Solutions's logos are available upon request. Failure to comply with the stated regulations will result in termination of your agent agreement with VMS and/or could result in substantial fines from MasterCard and Visa and/or result in criminal and/or civil charges. **All marketing initiatives must be submitted to and approved by Versatile Merchant Solutions's compliance auditor prior to usage or production.** Please allow ten business days for approval or recommendations of changes. Revised collateral must be resubmitted for final approval.

## **Agent Merchant Accounts**

It is a policy of Versatile Merchant Solutions not to provide a merchant account to bill for any Bankcard related goods or services.

## **Social Media Policy**

VMS respects our Sales Partners' right to self expression and encourages the use of social media to forge networks and maintain a strong public brand image for the company. We simply ask that you keep the following in mind:

- Make it clear that what you write is your opinion, not Versatile Merchant Solutions.
- Use discretion in choosing topics you feel you have the ability to discuss with full knowledge
- Making discriminatory, harassing, libelous or slanderous comments about VMS and/or employees, merchants, sales partners or competitors will not be tolerated.
- Should VMS deem something you post to be lewd, incendiary, or harmful to the reputation of VMS, our employees, merchants, sales partners or competitors, we reserve the right to ask you to remove your post.
- Our joint commitment to integrity in all our social media interactions is an important part of maintaining VMS's solid reputation. Think before you post.



## **Independent Sales Representative**

### **CODE OF ETHICS**

I agree to the following code of ethics and hereby indemnify and hold Versatile Merchant Solutions harmless from any damages, liability, or expenses for any violations of this code of ethics by me or any sub-representative I may employ:

- No false promises or claims that are not indicated on the Merchant Processing Agreement or Lease / Equipment finance Agreement will be made;
- We will not make promises of payment for prior lease obligations or fee obligations for previous processing obligations in order to induce the applicant to sign an Agreement, unless those payments are actually made on the merchant's behalf;
- I will always provide merchants with all pages of the Agreement upon receipt of their signature;
- All fees will be disclosed to the merchant prior to obtaining signature;
- I will not have the merchant sign any pages of the any agreement that have not been completely filled out;
- I will not submit any Agreements to Versatile Merchant Solutions that have been altered after the customer has executed the same, without written authorization from the merchant;
- I will abide by all Federal, State and Local laws, Visa/MasterCard Rules and Regulations, regulatory agencies, and Member Bank and Versatile Merchant Solutions policies and procedures;
- I will not accept monies from any merchant for services that I have not invoiced or provided;
- I will not initiate any transactions in a merchant's credit card equipment other than test transactions.

I acknowledge receipt and understanding of the above stated compliance and code of ethics agreement.