



sproutPOS Terms and Conditions Appendix

This sproutPOS terms and conditions appendix (the “**Appendix**”) supplements the Merchant’s application for the Bambora services (the “**Application**”) and the Bambora Terms and Conditions of Service (the “**Agreement**”) entered into by and between Bambora, Inc. (“**Bambora**”) and Merchant, and shall govern Merchant’s use of the sproutPOS Services (as further described below), except to the extent a term in this Appendix conflicts with a corresponding term in the Agreement, in which case the term in this Appendix shall control only with respect to the obligations of the parties hereunder. This Appendix shall be of no force or effect until the Merchant has entered into the Agreement. Any terms not otherwise defined in this Appendix shall have the meanings assigned to them in the Agreement.

1. Description of Service. The sproutPOS Device (as defined below) allows Merchants in Canada to process Europay MasterCard Visa (EMV) chip and payment identification number (PIN) credit and debit cards, swiped cards, and contactless Transactions utilizing near field communications (NFC) at the point of sale (the “**sproutPOS Services**”). Merchant’s use of the sproutPOS Services requires the following: (a) Merchant’s rental and/or purchase of a sproutPOS Device, as further described in Section 2 of this Appendix; (b) a Bluetooth-capable mobile handset for each sproutPOS Device; (c) download of the applicable applications provided by Bambora for iPad, iPhone, or Android; (d) a Bambora processing account in good standing; (e) acceptance of the First Data Program Guide as found in Section 19 of the Agreement (the “**First Data Agreement**”); and (f) any other requirements or specifications identified by Bambora from time to time upon notice to Merchant.

2. sproutPOS Device.

2.1 A “**sproutPOS Device**” means a portable payment terminal that uses point-to-point encryption and tokenization to transmit Customer card data. If Merchant elects to rent a sproutPOS Device (as indicated on the Application), Merchant shall rent a sproutPOS Device on a month-to-month period (each such period a “**Rental Month**”). During each Rental Month during the term of this Appendix, Merchant shall pay Bambora the rental fee indicated on the Application in accordance with Section 3.2 of this Appendix. If Merchant elects to purchase a sproutPOS Device (as indicated on Application), Merchant shall pay Bambora the one-time purchase fee indicated on the Application in accordance with Section 3.2 of this Appendix.

2.2 Merchant agrees to keep a sproutPOS Device at the address(es) indicated and shall not move the sproutPOS Device from such address(es) without Bambora prior written consent or as otherwise expressly provided herein. Merchant agrees and acknowledges that Bambora retains title to any sproutPOS Device and that Merchant’s sole right is use of a sproutPOS Device during the term of this Appendix. Merchant shall not assign its rights or create a security interest in or lease or sublease any sproutPOS Device without Bambora’s prior written consent (any such assignment, delegation, lien, lease or sublease shall be void).

2.3 Bambora shall provide Merchant with information to detect if a sproutPOS Device has been tampered with or damaged. Notwithstanding the forgoing, Merchant shall be solely responsible for the security of any sproutPOS Device and shall not tamper with or modify any sproutPOS Device, unless otherwise expressly directed by Bambora. Merchant is responsible for any loss,



theft, damage, or expense to any rented sproutPOS Device and shall reimburse Bambora for any costs related to fixing or replacing a sproutPOS Device.

2.4 Merchant shall allow Bambora and/or its third party designee the right to inspect, examine, or repair a sproutPOS Device at any time during the term of this Appendix (which may include access to Merchant's premises), and if a sproutPOS Device is not compliant with Bambora's standards and specifics, Bambora (or the Merchant at Bambora's request) may, at the Merchant's expense, make modifications, updates, or repairs to the sproutPOS Device, or require Merchant to rent and/or purchase a new sproutPOS Device. In addition, Merchant agrees Bambora and/or its third party designee may recall a sproutPOS Device at any time during the term of this Appendix. If a sproutPOS Device is recalled during the term of this Appendix, Bambora and/or a third party will provide Merchant instructions on returning a recalled sproutPOS Device, and Bambora and/or its third party designee will send Merchant a replacement sproutPOS Device for any sproutPOS Device recalled.

2.5 Upon the termination of this Appendix, Merchant shall, at Merchant's sole expense, ship any rented and/or purchased sproutPOS Device back to Bambora. If Bambora does not receive any sproutPOS Device within three (3) weeks following the termination of this Appendix or any sproutPOS Device is damaged upon Bambora's receipt, then Merchant shall pay Bambora for the full purchase price of any non-returned or damaged sproutPOS Device and Bambora reserves the right to debit the Merchant's Bank Account or invoice Merchant for such costs as further described in Section 3 of this Appendix.

3. Merchant's Rights and Obligations.

3.1 The fees for a sproutPOS Device, any other fees applicable to the sproutPOS Services (collectively the "**sproutPOS Fees**") shall be included on Merchant's monthly statement. Merchant shall review the sproutPOS Fees and make any objections to any monthly statement that includes the sproutPOS Fees in accordance with Section 5.3 of the Agreement.

3.2 Merchant authorizes Bambora to debit the Bank Account for the sproutPOS Fees in accordance with Section 5.2 of the Agreement. If Bambora is unable to debit the Bank Account for the sproutPOS Fees, Merchant agrees Bambora reserves the right to invoice Merchant in accordance with Section 5.2 of the Agreement.

3.3 Merchant acknowledges and agrees that the sproutPOS Services and any sproutPOS Device can only be used to process Transactions in Canada.

3.4 Merchant acknowledges and agrees that a sproutPOS Device and the sproutPOS Services are only available with Bambora First Data Canada processing and that a Merchant must at all times during the term of this Appendix have a valid and effective First Data Agreement in order to receive the sproutPOS Services.

4. Bambora's Rights and Obligations.



4.1 During the term of this Appendix, Bambora grants Merchant a non-exclusive, non-transferable, non-assignable, and revocable limited right to use the sproutPOS Services trademarks and any marketing materials related thereto (collectively the “**sproutPOS IP**”) solely in connection with the sproutPOS Services hereunder. Merchant acknowledges that the sproutPOS IP is owned and licensed solely exclusively by Bambora, and Merchant agrees to use the sproutPOS IP only in the form provided by Bambora. Merchant shall not remove, cover, or modify at proprietary rights notice or legend on any sproutPOS IP, and shall return any sproutPOS IP upon the termination of this Appendix.

4.2 THE SPROUTPOS SERVICES AND THE SPROUTPOS DEVICES ARE PROVIDED “AS IS” AND WITHOUT WARRANTY OF ANY KIND. BAMBORA EXPRESSLY DISCLAIMS ALL WARRANTIES AND/OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY OR SATISFACTORY QUALITY, FITNESS FOR ANY SPECIAL OR GENERAL PURPOSE, NON INFRINGEMENT AND TITLE. WITHOUT LIMITING THE FOREGOING, BAMBORA DOES NOT WARRANT THAT THE SPROUTPOS SERVICES AND/OR SPROUTPOS DEVICE WILL MEET MERCHANT’S NEEDS, THAT THE OPERATION OF THE SPROUTPOS SERVICES AND/OR THE SPROUTPOS DEVICE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL DEFECTS WILL BE CORRECTED.

5. Limitation of Liability. The aggregate liability of Bambora under this Appendix shall be limited to direct damages only and to an amount equal the net amount of sproutPOS Fees realized by Bambora under this Appendix during the trailing six (6) month period prior to the date on which such liability first arose.

6. Term and Termination. The term of this Appendix will commence on the date the Merchant requests the sproutPOS Services and signs the Application, and shall terminate at any time upon thirty (30) days advance notice by Merchant. Merchant acknowledges and agrees that Bambora shall be entitled to immediately suspend or terminate the sproutPOS Services at any time upon notice to Merchant. This Appendix shall also automatically terminate in the event the Agreement and/or the First Data Agreement terminates or expires for any reason.

7. Amendments. Bambora reserves the right to amend or modify this Appendix. In the event of an amendment or modification, Bambora will notify Merchant of such updated version. If Merchant does not wish to agree to the updated version, Merchant will have the right to terminate this Appendix by giving Bambora notice of Merchant’s desire to terminate, provided Merchant provides Bambora with notice of termination within thirty (30) calendar days of the date of such notice of an updated version of the Appendix from Bambora. If Merchant does not terminate the Appendix within such thirty (30) calendar day period, Merchant will be deemed to have accepted the updated version of the Appendix effective as of the end of that thirty (30) calendar day period, and the prior version of the Appendix will be superseded by the updated version of the Appendix.

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