

YARDI® BREEZE TERMS OF USE

Revision May 18, 2018b

WELCOME TO YARDI® BREEZE, the innovative, powerful property management software platform provided to you by Yardi Systems, Inc. and its affiliated entities (collectively, "Yardi").

- 1. BY USING THE YARDI® BREEZE SOFTWARE AND ANY OF ITS FEATURES, SERVICES, ADD-ON PRODUCTS, OR DOCUMENTATION (COLLECTIVELY, "YARDI BREEZE"), YOU AND ANYONE YOU ALLOW TO MANAGE PROPERTIES ON YOUR BEHALF OR ON BEHALF OF YOUR BUSINESS OR A PROPERTY OWNER (INDIVIDUALLY AND COLLECTIVELY SOMETIMES REFERRED TO AS "YOU", "YOUR", OR "CLIENT") AGREE TO BE LEGALLY BOUND BY THE MOST CURRENT VERSION OF THESE TERMS OF USE (THE "TERMS" OR "TERMS OF USE"), WHICH MAY BE UPDATED BY YARDI FROM TIME TO TIME AND ACCESSIBLE AT [YARDI® BREEZE TERMS OF USE](#) (AND ALSO ON THE "COMPANY SETTINGS" SCREEN WITH-IN YARDI BREEZE). IF YOU DO NOT AGREE TO THE MOST CURRENT VERSION OF THESE TERMS, YOU MAY NOT USE (OR MUST STOP USING) YARDI BREEZE.**

2. License, Restrictions, and Access.

- a. License.** When you purchase and register to use Yardi Breeze, you have a non-exclusive, non-transferable (except as expressly provided in these Terms), limited license to access and use Yardi Breeze solely for the purpose of managing residential or commercial properties during the Initial Term or any subsequent Term.
- b. Restrictions.** We hope you love using Yardi Breeze as much as we enjoyed creating it! Other than managing residential or commercial properties, you are prohibited by these Terms from sharing (except as expressly provided by these Terms), renting, leasing, selling, transferring, sublicensing, assigning, time sharing, or making publicly available, your access to Yardi Breeze, including but not limited to your log-in credentials. You are also prohibited from using Yardi Breeze for any purpose other than managing residential or commercial properties including but not limited to: reverse engineering, decompiling or otherwise attempting to discover source code, studying, examining, benchmarking, scraping, modifying, reproducing, copying, making derivative works from, distributing, publishing, promoting service bureau services, publicly displaying or training, or demonstrating Yardi Breeze. And if you are a property management software company or any other competitor of Yardi, you should know that accessing, using, or licensing Yardi Breeze for any reason whatsoever is strictly prohibited—so don't do it!
- c. Access to the Yardi Network.** Depending on the Yardi Breeze features and services you use, you may have direct or indirect access to the Yardi network including servers owned, leased and maintained by Yardi (sometimes called the "Yardi Cloud"). Yardi will use commercially reasonable efforts to keep the Yardi Cloud up and running 24-hours a day, seven days a week, excluding down-time for maintenance, repairs, and other necessary activities. By using Yardi Breeze, you are prohibited from knowingly or negligently doing anything to disrupt, damage, interfere with, or otherwise adversely affect the Yardi Cloud including but not limited to introducing, transmitting or disseminating viruses, corrupted files, malware, or any other harmful or malicious software or programs.

3. Pricing and Payment.

- a. Pricing.** Yardi Breeze is priced at \$1.00 per unit per month, with the following minimum charges:
 - \$100 per month for 1 to 100 residential units, for a minimum annual total of \$1,200.
 - \$200 per month for 1 to 200 commercial units or any combination of residential and commercial units, for a minimum annual total of \$2,400If you manage 101 or more residential units, or 201 or more commercial units or a mix of commercial and residential units, you are simply charged for the total number of units you manage at \$1.00 per unit per month. For example:
 - 101 residential units x \$1.00 per unit per month = \$101 per month, for an annual total of \$1,212.
 - 201 or more commercial units or any combination of residential and commercial units x \$1.00 per unit per month = \$201 per month, for an annual total of \$2,412.

You can increase or decrease the number of units at any time. Your monthly charges will be based on the actual unit count and unit types you managed in each month of your Initial Term or subsequent Term. To quickly calculate the cost for the number and types of units you manage, please visit the Yardi Breeze pricing calculator at <https://www.yardibreeze.com/pricing/>.

There are no hidden charges for licensing and using Yardi Breeze.

If you register for certain additional features, products and services (such as tenant screening) these will cost extra, and tenants who use the Yardi Breeze payment processing services will be responsible for the applicable Fees as defined in the PAYMENT PROCESSING TERMS section of these Terms.

- b. Cancelling Yardi Breeze.** If you cancel on or before the 30th day of your Initial Term, you will not be charged for your use of Yardi Breeze, but you will still be responsible for any charges you may have incurred for supplemental services, such as tenant screening. **To cancel Yardi Breeze within the first 30 days of your Initial Term, you must contact a Yardi Breeze representative by calling (800) 866-1144.**

If you do not cancel Yardi Breeze within the first 30 days, you will continue to have access to Yardi Breeze for the remainder of your Initial Term or subsequent Term. If you continue to maintain properties in Yardi Breeze until the end of your Initial Term or subsequent Term, you will continue to be charged each month based on the actual unit count and unit types in your portfolio, subject to the monthly minimums. If you remove all properties from Yardi Breeze, you will be charged \$100 for each month remaining in your Initial Term or subsequent Term as a lump sum, which will constitute a pre-payment and be credited against the actual unit count and unit types in your portfolio, subject to the monthly minimums, should you start using Yardi Breeze during the remainder of the Initial Term or subsequent Term to which the lump sum charge applied.

If you cancel Yardi Breeze, you are solely responsible for exporting any data you or anyone acting on your behalf entered into Yardi Breeze before your access to Yardi Breeze expires after your 30-day trial period, your Initial Term, or your subsequent Term, as applicable. Upon cancelling, your access to Yardi Breeze will permanently end after the 30th day (if you cancel within the first 30 days) or at the end of your Initial Term or subsequent Term, and for safety and security reasons all property management related data that you, your tenants, or anyone else

acting on your behalf entered into Yardi Breeze will be permanently deleted. If you wish to save any of your property management data, you MUST do so before your access expires.

- c. **Billing and Payment.** If you cancel Yardi Breeze within the first 30 days of your Initial Term, you will not be charged. Thereafter, you will be charged at the end of each month during your Initial Term or subsequent Term. The amount you owe for your use of Yardi Breeze is due and payable on the last day of each month of your Initial Term or subsequent Term, and will be automatically charged to the credit card you provided during the registration process. **BY SIGNING UP FOR YARDI BREEZE AND PROVIDING YOUR CREDIT CARD, YOU WARRANT AND AGREE THAT YOU ARE AUTHORIZED TO USE THE CREDIT CARD YOU PROVIDE AND THAT YOU AUTHORIZE YARDI BREEZE TO CHARGE THAT CARD EACH MONTH AS DESCRIBED IN SECTION 3.a. OF THESE TERMS AND FOR ANY OTHER SUPPLEMENTAL FEATURES, PRODUCTS AND SERVICES FOR WHICH YOU REGISTER, PLUS ANY APPLICABLE TAXES, DURING THE INITIAL TERM AND ANY SUBSEQUENT TERM.**

To cancel these automatic payments or to change or update the credit card you authorize to be charged, you must contact a Yardi Breeze representative by calling (800) 866-1144.

- d. **Failure to Pay.** If for any reason your payment is declined, returned, or otherwise cannot be processed, your access to Yardi Breeze will be suspended. This means you will not be able to access Yardi Breeze to manage your units. To restore your access to Yardi Breeze, you must bring your account into good standing. If after 45 calendar days payment is not made in full, your Yardi Breeze account will be permanently closed, and for safety and security reasons all property management related data that you, your tenants, or anyone else acting on your behalf entered into Yardi Breeze will be permanently deleted. **Any disputes about a failure to pay or to request that access to Yardi Breeze be restored until a dispute is resolved MUST be sent in writing within 30 days from the date your access to Yardi Breeze was suspended to:**

Yardi Breeze
Attn: Legal Department
430 S. Fairview Avenue
Santa Barbara CA 93117

If you submit a dispute within 30 days of a payment that became due, your access to Yardi Breeze may be temporarily restored, in Yardi's sole discretion, until the dispute is fully addressed. If a dispute is ongoing, your property management data will not be permanently deleted during that time regardless of whether your access is temporarily restored while the dispute is addressed.

4. **Term and Termination.**

- a. **Each Term.** Your right to access Yardi Breeze in accordance with these Terms will begin when you first register Yardi Breeze (the "Effective Date"), and will continue for one year from the Effective Date (the "Initial Term"). If you continue to use Yardi Breeze beyond the Initial Term, a new one-year term will automatically begin, and after that new one-year term ends another new one-year term will begin, and so on (each a subsequent "Term").
- b. **Termination.** Except for cancellations within the first 30 days of your Effective Date, you may terminate your Yardi Breeze license at any time before the end of your Initial Term or Term, but you are responsible for the monthly charges for Yardi Breeze for each month remaining in the Initial Term or Term in which you terminate Yardi Breeze. **To terminate your Yardi Breeze license, you must contact a Yardi Breeze representative by calling (800) 866-1144 or send a notice of termination in writing to:**

Yardi Breeze
Attn: Terminations
430 S. Fairview Avenue
Santa Barbara CA 93117

At the end of your Initial Term or subsequent Term in which you terminate Yardi Breeze, your access to Yardi Breeze will end and for safety and security reasons all property management related data that you, your tenants, or anyone else acting on your behalf entered into Yardi Breeze will be permanently deleted. **If you wish to save any of your property management data, you MUST do so before the end of the Initial Term or Term in which you terminate.**

- c. **Survival.** Your obligations under these Terms in Sections 2, 3, and 4 and any other obligations you have to protect information that does not belong to you and to remit payments, fees or charges that are your responsibility under these Terms continue even after you cancel or terminate Yardi Breeze.

5. **Getting Started and Training.**

- a. **Getting Started.** Yardi Breeze is intended to allow small to mid-sized residential and commercial property owners and managers to set up properties, units and tenants quickly and offers an array of powerful property management features such as marketing and leasing, rent collection, maintenance, accounting, owner statements, and CAM reconciliation. For more information about getting started, visit www.yardibreeze.com. If you are already a registered Yardi Breeze user, you also have access to built-in live chat support during most business hours (times will vary depending on where you are located). Please look for the "Chat With Us" icon within Yardi Breeze.
- b. **Training.** When you purchase Yardi Breeze, you will also have access to a variety of on-screen tours and tutorials in addition to the built-in live chat support. Access to these resources is available within Yardi Breeze.

6. **Authorized Users and Passwords.**

- a. **Authorized Users.** You agree that you will not allow anyone to log into Yardi Breeze for any purpose that is inconsistent with or in any way prohibited by these Terms. Only you or the individuals you have expressly authorized to manage properties on your behalf are authorized to access and use Yardi Breeze, but you cannot sublicense access to Yardi Breeze to other property managers.
- b. **Passwords.** You should always observe good password security practices in all your on-line activity, including when using Yardi Breeze. It is your sole and exclusive responsibility to protect your password. Although Yardi will make a reasonable effort to work with you to restore a backup

of data that is lost or corrupted because your password was obtained and used by an unauthorized party, under no circumstances shall Yardi be liable to you or anyone for any reason whatsoever, including for any data loss, corruption, or misuse, arising from the misuse of your password by anyone under any circumstance.

7. Property and Tenant Data Ownership, Protection, and Limitation of Liability.

- a. **Data Ownership.** Property and tenant data is owned by you and hosted by Yardi Breeze in the Yardi Cloud at no additional charge. If at any time you would like a copy of your current property and tenant data, you can export it in the form of reports using standard Yardi Breeze tools. However, as set forth in these Terms, for safety and security reasons all property management related data that you, your tenants, or anyone else acting on your behalf entered into Yardi Breeze will be permanently deleted if you cancel or terminate Yardi Breeze. **IT IS YOUR SOLE RESPONSIBILITY TO ENSURE THAT ANY DATA YOU WISH TO PRESERVE IS COPIED AND EXPORTED BEFORE YOUR ACCESS TO YARDI BREEZE ENDS AND ANY DATA IS PERMANENTLY DELETED IN ACCORDANCE WITH THESE TERMS.**
- b. **Data Protection.** Yardi takes the protection of your data seriously, and agrees to use firewalls and other commercially reasonable technology generally used in the industry to prevent unauthorized third-party access to the Yardi Cloud where your property and tenant data is stored. Yardi also agrees to use commercially reasonable encryption technology generally used in the industry to protect the transmission of sensitive tenant data and to encrypt highly sensitive tenant data that is at rest in the Yardi Cloud.
- c. **LIMITATION OF LIABILITY.** NOTWITHSTANDING THE FOREGOING, YARDI SHALL NOT BE LIABLE TO YOU IF: (A) ITS USE OF FIREWALLS AND OTHER TECHNOLOGY FAILS TO PREVENT UNAUTHORIZED THIRD-PARTY ACCESS TO CLIENT DATA; OR (B) ITS USE OF ENCRYPTION TECHNOLOGY FAILS TO PREVENT UNAUTHORIZED THIRD-PARTIES FROM ACCESSING SENSITIVE TENANT INFORMATION DURING TRANSMISSION OR FROM ACCESSING HIGHLY SENSITIVE TENANT INFORMATION AT REST IN THE YARDI CLOUD. NOTHING IN THESE TERMS SHALL CONSTITUTE A REPRESENTATION OR WARRANTY BY YARDI THAT CLIENT DATA TRANSMISSION OR STORAGE WILL BE INACCESSIBLE TO UNAUTHORIZED THIRD PARTIES.

8. Confidentiality, Exceptions, Obligations to Disclose, and the Return of Confidential Information.

- a. **Confidentiality.** "Confidential Information" means the property and tenant data that you manage using Yardi Breeze, and all Yardi and Yardi Breeze patent, copyright, trade secret, and other proprietary information of any kind. You and Yardi agree not to disclose the other's Confidential Information to any unauthorized third party, except as described below.
- b. **Confidentiality Exceptions.** Confidential Information is not protected from disclosure if the information: (1) is no longer confidential (through no fault of the party that would like to disclose it); (2) was already in the possession of the party that would like to disclose it, provided it was obtained properly and without any violation of any other confidentiality requirements that apply; or (3) was independently developed by the party that wants to disclose it without having used, referred to, or relied on the other party's Confidential Information.
- c. **Obligations to Disclose.** From time to time, Yardi may receive a legal request from a third party in the form of a subpoena, search warrant, or other legal process (collectively, a "Disclosure Demand") demanding that Yardi disclose certain Confidential Information that belongs to you and that is in Yardi Cloud. When this happens, Yardi will notify you that it has received the Disclosure Demand unless Yardi is legally prohibited from doing so (such as if a court orders Yardi to surrender data without notifying you, which can sometimes happen in criminal or other sensitive investigations). If you receive a Disclosure Demand notice from Yardi, you can either take no action in which case Yardi will comply with the Disclosure Demand in whatever way it is legally required to do so, or you can take steps, at your own expense, to prevent Yardi from complying with the Disclosure Demand. Taking steps to prevent Yardi from complying with a Disclosure Demand will almost certainly require that you get competent legal advice, which Yardi cannot provide.
- d. **Return of Confidential Information.** Your Confidential Information is and shall at all times remain yours, and Yardi's Confidential Information is and shall at times remain Yardi's. These Terms do not grant or imply any license or other rights to you or to Yardi of the other's Confidential Information, except as expressly set forth in these Terms. Upon the end of your Term, you have five business days to return to Yardi any Yardi Confidential Information you may have, if any. For safety and security reasons, all property management related data that you, your tenants, or anyone else acting on your behalf entered into Yardi Breeze during the time you used Yardi Breeze will be permanently deleted when your access to Yardi Breeze ends. IT IS YOUR SOLE RESPONSIBILITY TO ENSURE THAT ANY CONFIDENTIAL INFORMATION THAT BELONGS TO YOU, SUCH AS PROPERTY MANAGEMENT DATA, IS EXPORTED BEFORE YOUR ACCESS TO YARDI BREEZE ENDS, as Yardi will have no obligation to return this data to you or to preserve or retain it after your access ends for any reason (except as may be ordered by a court or other authority of competent jurisdiction).

9. DISCLAIMERS, WARRANTY, WAIVERS, REMEDIES, AND LIABILITY LIMITATIONS.

- a. **WARRANTY DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH BELOW IN THE "LIMITED SOFTWARE WARRANTY," AND TO THE FULLEST EXTENT ALLOWED UNDER APPLICABLE LAW, YARDI DISCLAIMS ALL EXPRESS, IMPLIED AND STATUTORY WARRANTIES WITH REGARD TO YARDI BREEZE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR THAT YARDI BREEZE WILL MEET YOUR SPECIFIC SOFTWARE, TECHNICAL, PROPERTY MANAGEMENT, OR ANY OTHER REQUIREMENTS OR EXPECTATIONS.
- b. **INTERNET PERFORMANCE DISCLAIMER.** YARDI DOES NOT AND CANNOT CONTROL THE FLOW OF DATA VIA THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT THE INTERNET. YARDI WILL USE COMMERCIALY REASONABLE EFFORTS TO REMEDY AND AVOID SUCH EVENTS, BUT CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, YARDI DISCLAIMS ANY LIABILITY RESULTING FROM OR RELATING TO SUCH EVENTS.
- c. **LIMITED SOFTWARE WARRANTY.** Yardi warrants that Yardi Breeze does not infringe on or misappropriate any third party proprietary information, trademark, copyright, patent rights, intellectual property rights, or trade secrets. Any damages for a breach of this LIMITED SOFTWARE WARRANTY by Yardi are strictly limited by these Terms.
- d. **REMEDY FOR BREACH OF LIMITED SOFTWARE WARRANTY.** IF YARDI BREACHES ITS LIMITED SOFTWARE WARRANTY TO YOU, YARDI AGREES TO USE COMMERCIALY REASONABLE EFFORTS TO MODIFY THE LICENSED PROGRAMS SO THAT THE LICENSED PROGRAMS CONFORM TO THAT WARRANTY. IF SUCH MODIFICATION IS NOT COMMERCIALY REASONABLE, THEN YARDI WILL NOTIFY YOU AND YOU MAY TERMINATE THESE TERMS WITHOUT PENALTY. THE FOREGOING IS YOUR SOLE REMEDY IN THE

EVENT OF A BREACH OF THE LIMITED SOFTWARE WARRANTY.

- e. **DAMAGES WAIVER.** NOTWITHSTANDING ANY OTHER OF THESE TERMS, AND TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, YARDI DISCLAIMS ALL OBLIGATIONS AND LIABILITIES FOR SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE AND CONSEQUENTIAL DAMAGES, ATTORNEYS' FEES, EXPERTS' FEES, AND COURT COSTS (EVEN IF YARDI HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES), ARISING FROM OR IN CONNECTION WITH THESE TERMS.
 - f. **LIMITATION OF YARDI'S LIABILITY AND YOUR SOLE REMEDY AGAINST YARDI.** IN ADDITION TO ALL OTHER LIMITATIONS SET FORTH IN THESE TERMS, AND TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, YOU AGREE THAT YARDI SHALL HAVE NO LIABILITY WHATSOEVER EXCEPT IN THE EVENT OF A CLAIM OR CAUSE OF ACTION ARISING OUT OF OR CONNECTED WITH THESE TERMS FOR WHICH YARDI WAS THE SOLE CAUSE, AND THAT YARDI'S MAXIMUM LIABILITY TO YOU, REGARDLESS OF THE AMOUNT OF LOSS YOU MAY CLAIM OR HAVE SUFFERED, SHALL BE LIMITED TO A REFUND OF THE FEES YOU ACTUALLY PAID TO YARDI IN THE 12 MONTHS IMMEDIATELY PRIOR TO THE DATE YOU FIRST NOTIFY YARDI OF YOUR CLAIM. THIS REFUND IS YOUR SOLE AND EXCLUSIVE REMEDY.
10. **Disputes.** In the event of a dispute arising out of or related to these Terms or your use of Yardi Breeze, you and Yardi will use commercially reasonable and good faith efforts to informally and timely resolve the dispute. All such efforts shall be confidential and be protected under applicable law as compromise and settlement negotiations. If after 30 calendar days of good faith negotiations in accordance with this section the parties are unable to reach a mutually satisfactory resolution, either party may pursue its rights and remedies under applicable law.
11. **Assignment.** These terms and your access to Yardi Breeze cannot be assigned by you for any reason without the prior, express, written consent of Yardi, which Yardi may withhold in its sole discretion. Any attempted or purported assignment without the prior, express, written consent of Yardi is void. These Terms are binding on and inure to the benefit of both you and Yardi and our respective, authorized assigns, successors, and legal representatives.
12. **Governing Law and Venue.** These Terms are governed and determined by the laws of the State of California, without any regard to conflicts of laws rules or regulations. Any action or proceeding related to or arising out of these Terms shall be resolved only in a court of competent jurisdiction in the City of Santa Barbara, State of California (or, if there is no court of competent jurisdiction in the City of Santa Barbara, California, then the court of competent jurisdiction closest to the City of Santa Barbara, California), and you and Yardi expressly consent to the personal jurisdiction of such courts and waive any right to cause any action or proceeding to be brought or tried elsewhere.
13. **Waiver.** If you or Yardi waive any breach of these Terms by the other party, that waiver shall not be construed as a waiver of any subsequent breach of the same or similar nature, or any other breach of any kind.
14. **Severability.** If a court or other body of competent jurisdiction determines that any part of these Terms is unenforceable, you and Yardi expressly acknowledge and agree that all other parts of these Terms unaffected by that determination shall remain valid and enforceable.
15. **Headings.** The section headings and captions in these Terms are for convenience only, and you and Yardi agree that the headings and captions do not and are not intended to limit or change the substance of these Terms in any way.
16. **Data Use.** Yardi may aggregate, compile, and use your data to improve, develop or enhance Yardi Breeze or the other services Yardi offers or may offer in the future. By aggregating any such data, Yardi will not preserve it in a form that can be traced back to you or any tenants residing in any property you own or manage.
17. **Entire Agreement and Modification.**
- a. **Entire Agreement.** These Terms constitute the final, complete, and exclusive agreement between you and Yardi pertaining to the subject matter in these Terms, and these Terms expressly replace and supersede other prior understandings or agreements, if any and no matter what form they may have been in. You and Yardi also acknowledge and agree that each has not been induced to enter into these Terms by or because of any representations, warranties, or otherwise that are not set forth in these Terms.
 - b. **Modification.** These Terms can only be modified by Yardi, which it may do in its sole discretion, from time to time. It is your responsibility to know, understand, and abide by the most current version of these Terms as accessible at [YARDI® BREEZE TERMS OF USE](#) (and also on the "Company Settings" screen within Yardi Breeze).

PAYMENT PROCESSING TERMS

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Overview and KYC. Payment processing features (collectively, "Payment Services") are built into Yardi Breeze. To access and use the Payment Services, you must provide certain additional information about you, your business, and/or the owners of the properties you manage. This information is collected, reviewed and validated by the Yardi KYC ("Know-Your-Client") team as part of a required customer identification program (or "CIP"). The CIP requirements and other terms and conditions in addition to the Yardi Breeze Terms are required by the third-party providers that make payment processing possible (such as payment facilitators and credit card networks) and cannot be waived (collectively, the "Payment Services Terms" or "Payment Processing Terms"). If you do not provide the required information, if the information you provide does not meet the requirements of Yardi or of the applicable third-party providers, or if you do not agree to and accept all of the Payment Services Terms, you cannot enable and use Payment Services within Yardi Breeze.

ACKNOWLEDGEMENT. IN ADDITION TO THE YARDI BREEZE TERMS, BY USING YARDI BREEZE PAYMENT PROCESSING SERVICES INCLUDING (BUT NOT LIMITED TO) WALK-IN RENT COLLECTION/RENT PAYMENT SERVICES, PAYMENT PROCESSING, OR ANY OTHER PAYMENT OPTIONS THAT MAY BE AVAILABLE THROUGH YARDI BREEZE, YOU ACKNOWLEDGE THAT YOU HAVE READ, ACCEPTED, AND AGREED TO BE BOUND BY THESE PAYMENT PROCESSING TERMS AS TO THE PAYMENT SERVICES YOU CONFIGURE AND USE. WITH RESPECT TO CREDIT CARD OR DEBIT CARD TRANSACTIONS, YARDI IS ENTERING INTO THE PAYMENT PROCESSING TERMS ON BEHALF OF AND AS AN AGENT OF THE APPLICABLE ACQUIRER.

THESE PAYMENT PROCESSING TERMS MAY BE UPDATED AND REVISED ONLINE FROM TIME TO TIME AND YOUR CONTINUED USE OF PAYMENT SERVICES THROUGH YARDI BREEZE CONSTITUTE YOUR ACKNOWLEDGEMENT AND ACCEPTANCE OF THE THEN-CURRENT VERSION OF THESE PAYMENT PROCESSING TERMS.

1. **Definitions.** Capitalized terms used but not defined in these Payment Processing Terms shall have the meanings given to them in Section 10, below.
2. **Payment Processing**
 - a. You may select the types of Transactions available to Users from among the available configurations within Yardi Breeze. Please note that some of the Transaction configurations covered by these Payment Processing Terms may not yet be available to you and are subject to Applicable Law.
 - b. **Transactions and Sweeps**
 - i. All Transactions shall be settled through Yardi's master merchant account with Yardi's ACH Processor.
 - ii. You will receive ACH transfers from your sponsored or sub-merchant account to Yardi's master merchant account to the bank account you specified during the configuration process as follows:
 1. for MasterCard, Visa and Discover credit card funds, within four business days after such Transaction(s);
 2. for American Express credit card funds, on the fifth business day after such Transaction(s); and
 3. for all debit card and any other Transaction funds (including ACH Transaction funds), within four business days.
 - iii. If you elect to use a TPPS, the TPPS will be your agent for the delivery of Transactions to all applicable Payment Networks. You agree to assume full responsibility and liability for any failure of such agent to comply with the applicable Payment Network Rules.
 - c. **Fees.** The Payment Processing Fees ("Fees") are as follows and may be amended by Yardi in its reasonable and sole discretion:
 - i. **ACH: \$1.95** per Transaction
 - ii. **Signature debit card:**
 1. Where Transaction amount is \$1,000.00 or less: **\$3.95** per Transaction
 2. Where Transaction amount is more than \$1,000.00 and up to and including \$2,000.00: **\$4.95** per transaction
 3. Where Transaction amount is more than \$2,000.00: **\$9.95** per Transaction
 - iii. **Credit cards:** Mastercard, Visa, Discover, AMEX: **2.5%**
 - iv. **Transaction adjustments for credit cards and debit cards:**
 1. Per Occurrence Fees (such as Chargebacks, and the like): **\$25.00** each
 2. Retrieval Fee: **\$25.00** each
 - v. **Check21 adjustments: \$40.00** each
 - vi. **Yardi Bill Pay (ACH and Check Writing via Check Bill-Pay Payments): \$1.00** per Transaction
 - d. **Payment.** Within Yardi Breeze, Payment of Fees is the responsibility of the User and these Fees will not appear in your general ledger.
 - e. **Transaction Limits.** Transaction limits are currently set at \$25,000. Yardi may change the Transaction limits in its sole reasonable discretion. You may present credit card Transactions over \$25,000 subject to Yardi's approval. ACH Transactions over \$25,000 are prohibited.
 - f. **Chargebacks.** You acknowledge and agree that you are fully liable for all charges, Chargebacks, disputes and other customer service issues relating to Transactions made via Payment Services.
 - g. **Withholdings.** Yardi reserves the right to withhold from settlement any amount of payments due to Yardi in anticipation of any liabilities, damages, Fees, Chargebacks, refunds and other reversal fees, fines, penalties and other amounts owed by you to Yardi. Yardi may retain such withholding until the underlying amounts owed have been paid, or until any other breach of these Payment Processing Terms has been cured or the risk has been mitigated to Yardi's reasonable satisfaction. Yardi's right to withhold includes:
 - i. if you, after a written warning, repeatedly fails to meet its obligations under the Payment Processing Terms
 - ii. if you experience a significantly elevated level of Chargebacks, returns or complaints relative to historic figures;
 - iii. if Yardi reasonably suspects that your financial situation has deteriorated significantly; or
 - iv. in the event of the cancellation or termination of Yardi Breeze or any other products or services for which you are responsible for making payments to Yardi, until all amounts due are satisfied.
 - h. **Setoff.** Yardi may, in its sole discretion, offset any amounts owed to you against any claims Yardi may have against you.
2. **Client Representations, Warranties and Obligations**
 - a. **Your Authorizations.** You authorize: (i) Yardi to accept on your behalf any Payment Network-branded card or other payment method that Yardi makes available to you, in its sole discretion, to Users through the Payment Services, to submit charges on such payment methods on your behalf, and to receive settlement from the applicable Payment Network for authorized charges, each in accordance with the applicable Payment Network Rules; and (ii) a Payment Network or Acquirer to establish a reserve against you in the event you are designated as the recipient for payments directly from a Payment Network or the Acquirer. You acknowledge that Yardi's approval of your use of the Payment Services is always subject to the approval of the Acquirer or a Payment Network.
 - b. **Compliance.** You represent that you are a qualified individual or legitimate business and warrant that you will use the Payment Services only for legal purposes and in compliance with all Applicable Law, Payment Network Rules (including any Payment Network Rules specific to your business or industry), the Payment Processing Terms, and any other Yardi policy, procedure or other requirement relating to the Payment Services (including any policies against restricted or prohibited goods or services), as each may be amended from time to time.
 - c. **User Relations and Customer Service.** You shall maintain customer service information that is readily available for review by Users in accordance with Applicable Law and Payment Network Rules, including: (i) clear instructions on how Users may contact you (such as via an active customer service email address and telephone number); and (ii) refund policies that are clearly and conspicuously disclosed to the User.
 - d. **Prohibited Acts.** You will not: (i) take any action that results or may result in a significant circumstance that creates harm or loss of goodwill to any Payment Network, Acquirer or Yardi; (ii) accept, and will ensure that your Users do not initiate or deposit, any Transactions that you know

or should have known to be either fraudulent, not authorized by the User, or made on behalf of or redirected to another party; (iii) transfer or attempt to transfer your financial liability by asking or requiring Users to waive their dispute rights; or (iv) bill for or collect from any User any payments made by the User through the Payment Services unless a Chargeback has been exercised, you have fully paid for the charge, and you otherwise have the right to do so; and (v) permit Transactions that involve payments between and among your partners, investors and other third parties not affiliated with rent and tenancy related payments.

- e. **Your Portal Content.** With respect to any content or trademarks provided by you for use in connection with any Portal, you represent and warrant that you have all necessary right, title, and/or interest in and to any such content or trademarks, and agree to defend, indemnify and hold Yardi harmless from and against any claims, damages or losses resulting from a breach of the foregoing representation and warranty.
- f. **Your Duty to Inform.** For anti-money laundering and other lawful purposes, you agree to immediately notify Yardi:
 - i. regarding circumstances concerning you, your parent or subsidiary, your Affiliate, or any of your owners that result in or pose a significant risk to your financial status;
 - ii. about changes relating to your address, management, board or other changes having a significant effect on your ownership structure;
 - iii. if there are any material changes with regard to the type of products or services you offer as reported to Yardi in your Yardi Breeze registration or any other registration or application, or if the name or tax identification number under which you conduct business changes; or
 - iv. if there are any other material changes relating to you or your activities.

3. **Payment Networks**

- a. **Payment Network Rules.** You acknowledge that Transactions are governed by the applicable Payment Network Rule. In the event of any conflict between a Payment Processing Term and a Payment Network Rule, the Payment Network Rule will control. You acknowledge that a Payment Network or Acquirer has the right to enforce the applicable Payment Network Rules and to prohibit Yardi and/or you from engaging in conduct that the Payment Network or Acquirer deems could injure or could create a risk of injury to the Payment Network, including injury to reputation, or that could adversely affect the integrity of the Payment Network's systems and/or confidential information. You agree not to take any action that could interfere with or prevent the exercise of such right by the Payment Network or Acquirer, or Yardi's or its Acquirer's compliance with the Payment Network Rules.
- b. **Payment Network Marks.** You acknowledge that: (i) each Payment Network is the sole and exclusive owner of its respective marks; (ii) you will not contest the ownership of any such marks for any reason; and (iii) the relevant Payment Network may, at any time, immediately and without advance notice, prohibit you from using any of its marks for any reason.
- c. **Payment Network Liability.** You agree to pay all fines, fees, penalties and other assessments or indebtedness levied by a Payment Network to Yardi which are attributable in any way to any act of or omission by you.
- d. **Direct Acquiring Agreement.** If you processes, or Yardi anticipates that you will process: (i) at least one million dollars (\$1,000,000) in Visa transactions (or such other amount as Visa may determine from time to time); or (ii) at least one million dollars (\$1,000,000) in MasterCard transactions (or such other amount as MasterCard may determine from time to time), in each case in any 12-month period, you agree that, pursuant to the Payment Network Rules, it agrees and will be subject to the terms and conditions of the separate payment processing agreement with the Acquirer, available at https://clientcentral.yardi.com/core_custompage/Vantiv_MSA_Sub-Merchants and incorporated herein by this reference.
- e. **Availability of Payment Networks.** You acknowledge that the Payment Networks available through the Payment Services may change from time to time and that Yardi may remove any specific Payment Network at any time. Yardi has the right to suspend or terminate a User's ability to pay you using any or all payment methods, including a specific Payment Network-branded payment device, through the Payment Services: (i) at the direction of the relevant Payment Network, the Acquirer or a governmental authority; (ii) for your failure to comply with the Payment Processing Terms, or (iii) in Yardi's sole reasonable discretion. Yardi reserves the right to revise, temporarily suspend, discontinue, replace and/or make changes to its Payment Services or any portion thereof, its websites or other User or your interfaces to the Payment Services, in its sole discretion for any reason from time to time and without notice, provided that Yardi will inform you prior to any changes that will materially affect the provision of the Payment Services.
- f. **Restricted Merchant List.** If you violate the Payment Processing Terms or any obligation under the Payment Network Rules, Yardi may report you to the relevant Payment Network's restricted or terminated merchant database.

4. **Information and Data Security**

- a. **Information Requests.** You shall promptly provide to Yardi, upon request from time to time during its use of the Payment Services, with all information necessary for Yardi to perform the Payment Services, monitor your activities and use of the Payment Services for the purpose of deterring fraud and other wrongful activities (including site surveys of your physical, electronic or other establishments), perform verification checks (including credit, KYC and AML checks), and to ensure your compliance with the Payment Processing Terms, Applicable Law, and the Payment Network Rules. If you are undergoing a forensic investigation at the time the Payment Processing Terms become effective, you agree to inform Yardi and fully cooperate with the investigation until completed.
- b. **Information Sharing.** You acknowledges that Yardi may share information about you and your Transactions with its Acquirer or a Payment Network (including its affiliates, agents, subcontractors, and employees), and for the Acquirer or Payment Network (including its affiliates, agents, subcontractors, and employees) to use your and any Transaction data to perform its services, operate and promote the Payment Network, perform analytics and create reports, and for other lawful purposes or as permitted under the relevant Payment Network Rules.
- c. **Data Security.** You shall maintain sufficient safeguards to protect any cardholder, Transaction or third-party information in its possession and shall comply with Applicable Laws and Payment Network Rules relating to the security of such information, including the PCI-DSS. Yardi may from time to time request evidence of your compliance with its data security obligations. You may not disclose any User cardholder account, Transaction data or third-party data to any third-party except as permitted under Applicable Law or the Payment Network Rules.

- d. **Data Use.** Yardi may collect, use and retain Data and/or other personal information of Users or Third Parties for the purposes of providing the Payment Services and for reasonable business record retention purposes. Yardi may disclose Data and/or other personal information of Third Parties or Users to third parties as necessary to provide the Payment Services or as permitted or required by Applicable Law or Payment Network Rules.
5. **Termination.** Upon notice to you, Yardi may immediately terminate your use of the Payment Services upon the occurrence of any of the following:
- You materially breach the Payment Processing Terms or Payment Network Rules and fails to cure such breach within 7 days (or such other time as directed by Yardi or its Acquirer) of written notice of a material breach (or if you cannot reasonably cure the material breach within such time, fails to continuously and diligently work to cure the breach until the breach is cured);
 - You notify Yardi, or Yardi receives information that indicates, that you do not meet Yardi's underwriting or creditworthiness requirements;
 - Yardi, in its sole reasonable discretion, determines that your activities are fraudulent, create harm or loss of goodwill to any Payment Network, or are otherwise wrongful;
 - as directed by any Payment Network, the Acquirer or a governmental authority;
 - Yardi is no longer authorized to process Transactions as your payment facilitator or payment service provider; or
 - Your assignee, if authorized by Yardi under the terms of your Yardi Breeze Agreement, does not satisfy Yardi's underwriting requirements or the sponsored merchant standards under Applicable Law or Payment Network Rules.
6. **INDEMNIFICATION.** YOU AGREE TO INDEMNIFY AND HOLD YARDI, ACQUIRER, ANY PAYMENT NETWORK, AND THEIR RESPECTIVE EMPLOYEES, OFFICERS AGENTS, SHAREHOLDERS, AND DIRECTORS HARMLESS FROM ANY AND ALL THIRD PARTY CLAIMS, LOSSES, DAMAGES, COSTS, EXPENSES (INCLUDING ATTORNEYS' FEES), FINES, PENALTIES REGARDLESS OF WHETHER THE SAME ARE ACTUAL, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE ("DAMAGES") RESULTING FROM OR IN CONNECTION WITH THE PAYMENT SERVICES OR INCURRED AS A RESULT OF, OR RELATED TO, THE FOLLOWING CAUSES: (I) YOUR BREACH OF ANY COVENANT, REPRESENTATION OR WARRANTY UNDER THE PAYMENT PROCESSING TERMS; (II) CLIENT'S VIOLATION OF APPLICABLE LAW OR PAYMENT NETWORK RULES; (III) RECKLESS OR WILLFUL MISCONDUCT BY YOU AND ANY OF YOUR AGENTS, EMPLOYEES, OFFICERS, OR DIRECTORS; (IV) ANY MATERIAL INACCURACIES IN THE INFORMATION YOU PROVIDED TO YARDI; AND (V) ANY INSTRUCTIONS FROM YOU REGARDING THE RELEASE OR HOLDING OF YOUR SETTLEMENT FUNDS.
7. **LIMITATION OF LIABILITY.** IN ADDITION TO ANY OTHER LIMITATIONS SET FORTH IN THE TERMS OR ANY OTHER AGREEMENT WITH YARDI, IN NO EVENT SHALL YARDI, ACQUIRER, ANY PAYMENT NETWORK OR THEIR RESPECTIVE AFFILIATES, SUCCESSORS, OR PERMITTED ASSIGNS BE LIABLE TO THE CLIENT FOR ANY INCIDENTAL, INDIRECT, SPECULATIVE, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND (WHETHER BASED IN CONTRACT, TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY, FRAUD, OR OTHERWISE, OR STATUTES, REGULATIONS, OR ANY OTHER THEORY) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF SUCH POTENTIAL DAMAGES. NEITHER YARDI, ACQUIRER, CLIENT NOR ANY PAYMENT NETWORK WILL BE RESPONSIBLE TO THE OTHER FOR DAMAGES ARISING FROM DELAYS OR PROBLEMS CAUSED BY TELECOMMUNICATIONS CARRIERS OR THE BANKING SYSTEM, EXCEPT THAT YARDI, ACQUIRER AND THE PAYMENT NETWORKS RIGHTS TO CREATE RESERVES AND EXERCISE CHARGEBACKS WILL NOT BE IMPAIRED BY SUCH EVENTS. IN ADDITION TO ALL OTHER LIMITATIONS SET FORTH IN THESE TERMS, AND TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, YOU AGREE THAT YARDI SHALL HAVE NO LIABILITY WHATSOEVER EXCEPT IN THE EVENT OF A CLAIM OR CAUSE OF ACTION ARISING OUT OF OR CONNECTED WITH THESE TERMS FOR WHICH YARDI WAS THE SOLE CAUSE, AND THAT YARDI'S MAXIMUM LIABILITY TO YOU, REGARDLESS OF THE AMOUNT OF LOSS YOU MAY CLAIM OR HAVE SUFFERED, SHALL BE LIMITED TO A REFUND OF THE FEES YOU ACTUALLY PAID TO YARDI IN THE 12 MONTHS IMMEDIATELY PRIOR TO THE DATE YOU FIRST NOTIFY YARDI OF YOUR CLAIM. THIS REFUND IS YOUR SOLE AND EXCLUSIVE REMEDY.
8. **Additional Terms**
- American Express Additional Terms.** With respect to American Express Transactions, you agree to the terms and conditions set forth in the AMEX MOG, available at www.americanexpress.com/merchanttopguide and other similar terms that maybe published by American Express, which are incorporated herein by this reference.
 - ACH Additional Terms.** With respect to ACH Transactions, you agree to the additional NACHA obligations set forth in Attachment A attached to the Payment Processing Terms incorporated herein.
 - Bill-Pay Payment Additional Terms.** With respect to Bill-Pay Payments, you agree to the additional terms set forth in Attachment B attached to the Payment Processing Terms incorporated herein and also the JHA MONEY CENTER PROCESSING SERVICES AGREEMENT incorporated herein.
 - Utility Expense Management Setup.** If you obtain utility billing or utility expense management related services from YES Energy Management, Inc. or its affiliated companies, you may engage Yardi to perform certain Payment Services associated with such utility billing services. You authorize Yardi to setup and configure records for utility billing vendors and update such vendor ACH account information as needed. You acknowledge and agree that it is your sole responsibility to ensure and verify the accuracy of ACH account information, irrespective of whether your or Yardi, at your direction, makes such changes.
 - Walk-In Rent Collection/Rent Payment Services (WIPS®).** If you elect to use the WIPS service, then you acknowledge and agrees to the following terms:
 - You will pay all fees and other charges, including any statement, service, Chargeback, application, rejection, return, reversal, refund, debit or other fee imposed by a processing institution, correspondent bank, merchant bank or other institution in connection with the authorization, processing and settlement of your Transactions.
 - You must do one of the following: (i) utilize a banking institution that is supported by Yardi; (ii) secure the agreement of your banking institution to work with Yardi in interfacing WIPS with your banking institution (in which case reasonable time will be necessary to complete the interface in light of the interface requirements); or (iii) sign-up for, and utilize, Yardi's ACH Processors' banking institution processing services.

- iii. CheckFreePay is a Third Party vendor and licensed money transmitter and is solely responsible for its network of agents (the "Agents"). You further acknowledge and agree that among various other unrelated business transactions: (i) Agents accept cash-only rent payments from WIPS Users in exchange for a nominal convenience fee (for purposes of this Agreement, each cash payment remitted by a User through WIPS, less the Agent's convenience fee, is referred to as a "Payment"); and (ii) Yardi does not collect rent directly from any User through WIPS and has no control over the Agents or CheckFreePay's Agent network.
- iv. The User, not the Agent, determines how much rent to pay using WIPS. Because the Agent will accept whatever cash sum the User desires to pay and will charge a convenience fee each time a payment is made, the Payment(s) made by a User to the Agent may be less than, equal to, or greater than the total rent due. Accordingly, you acknowledge and agree that the rent payment subsequently reflected in the software and ultimately credited to your account may be an under- or over-payment of the User's rent. Except to the extent such under- or over-payment is caused solely by Yardi's negligence or willful misconduct, you expressly acknowledge and agree that the payment of rent is a matter between you and User and you agree to defend, indemnify and hold Yardi harmless from and against any third party (including User) claims relating to or arising out of the use of WIPS.
- v. Typically, the software will reflect each Payment within 1 business day and each Payment will be credited to your designated account within 3 business days. Because delays may arise from time to time, these are targets and not guarantees; however, so long as you provide all necessary and correct Payment Processing information to enable Yardi to properly facilitate the routing of Payments from the Agent to you, Yardi has the appropriate guarantees from CheckFreePay that CheckFreePay will promptly and accurately deliver to you all Payments made using WIPS.
- vi. You expressly acknowledge and agree to the following Office of Foreign Asset Control (OFAC) obligations:
 - 1. You shall not use WIPS, or allow WIPS to be used, for any purpose other than the payment of rent and related charges by Users who physically occupy the dwelling for which the rent payment or related charges apply.
 - 2. You shall at all times comply with all OFAC requirements and fulfill all OFAC responsibilities that apply to you concerning the administration and enforcement of economic and trade sanctions against targeted foreign states, organizations, and individuals, including providing any information to Yardi that is reasonably necessary for Yardi to fulfill its obligations under OFAC, if any.
 - 3. If at any time you discover or reasonably believe a User, employee or organization on the Specially Designated Nationals and Blocked Persons List, published from time to time by OFAC (the "OFAC List"), is using WIPS for any reason, you shall immediately notify Yardi and cooperate fully with any subsequent investigation or request for information that may be required in connection with complying with OFAC requirements and all other applicable laws and regulations.
 - 4. Except to the extent an OFAC violation arises solely as a result of Yardi's gross negligence or willful misconduct, you agree to defend, indemnify and hold Yardi and its parent, subsidiaries, directors, officers, agents, representatives, and employees harmless from all claims, losses, penalties and other liabilities relating to or arising out of any acts or omissions by you and your parent, subsidiaries, directors, officers, agents, representatives, Users or employees that give rise to an OFAC violation.
- vii. If you utilize Yardi's master merchant account with its ACH Processor for WIPS Transactions: (i) you may only process User rent payment WIPS Transactions through Yardi's master merchant account with ACH Processor; and (ii) you agree that Yardi may satisfy reimbursement for any fees and other charges, including any statement, service, Chargeback, application, rejection, return, reversal, refund, debit or other fee imposed by a processing institution, correspondent bank, merchant bank or other institution in connection with the authorization, processing and settlement of your WIPS Transactions from subsequent deposits to the corresponding bank account.

9. Miscellaneous

- a. **Amendments to the Payment Processing Terms.** Yardi may amend the Payment Processing Terms at any time in its sole discretion, including when such changes are required by Applicable Law, a Payment Network Rule, Acquirer, Third Party payment processor contractual obligations or any other legal, regulatory, contractual or other requirement imposed by regulatory authority, payment processing institution, correspondent bank, merchant bank or any other entity involved in any way, whether directly or indirectly, with Payment Processing.
- b. **Third Party beneficiaries.** The Payment Processing Terms are intended for the sole and exclusive benefit of you and Yardi and are not intended to benefit any Third Party except as otherwise expressly provided in the Payment Processing Terms; provided, however, that the benefits, but not the obligations, arising from the Payment Processing Terms shall be conferred to a Payment Network to the extent required by that Payment Network, which grants such Payment Network the right to enforce relevant terms of the Payment Processing Terms against you.

10. Definitions

"**ACH**" means a nationwide funds transfer network that enables participating financial institutions to electronically credit, debit and settle entries to bank accounts.

"**ACH Processor**" means the ACH processor and originator who has contracted with Yardi to process ACH Transactions, which is currently Jack Henry & Associates, Inc., ProfitStars Division, located at 663 West Highway 60, Monett, MO 65708.

"**Acquirer**" means (i) with respect to Transactions initiated with an American Express-branded payment method, American Express Travel Related Services Company, Inc., located at 3 World Financial Center, 200 Vesey Street, 49th Floor, New York, NY 10285, (ii) with respect to ACH Transactions, the ACH Processor, and (iii) with respect to all other Transactions, a member bank that has contracted with Yardi to provide Payment Services and which is licensed to participate in the card acceptance programs affiliated with Visa, MasterCard, Discover and other Payment Networks that enable Users to purchase goods and services.

"**Applicable Law**" means: (i) any applicable law, statute, regulation, ordinance, or subordinate legislation to which you or Yardi or an Affiliate of either is subject; (ii) any court order, judgement, or decree that is binding on you or Yardi or an Affiliate of either of us; and (iii) any directive, policy, rule, or order that is binding on you or Yardi or an Affiliate of either of us and that is made or given by a regulator or other government or government agency of any territory, or other national, federal, commonwealth, state, provincial, or local jurisdiction.

"**Chargeback**" means a Transaction that is disputed at the request of either the User or the User's card issuer. A Chargeback will cause the amount of the original sale and a Chargeback fee to be deducted from your bank account.

"**Check 21**" means the Check for the 21st Century (Check 21) Act and all regulations pertaining to the Check 21 Act.

"**Data**" means bank account, credit card, debit card and other personal information in respect of Users, Third-Parties and you obtained by Yardi in

order to process Transactions or Yardi Bill-Pay Payments.

“Including” or “includes” are not limiting and mean including, but not limited to.

“Payment Network” means Visa USA, Inc. (“Visa”), MasterCard International, Inc. (“MasterCard”), Discover Financial Services, LLC, American Express Travel Related Services Company, Inc. (“American Express”), the National Automated Clearing House Association or any other regional ACH used to process ACH Transactions (“NACHA”), their affiliates, and such other payment card networks, brands and associations that Yardi may make available through the Payment Services from time to time.

“Payment Network Rules” means the written rules, regulations, releases, interpretations and other requirements (whether contractual or otherwise) imposed or adopted, and as amended from time to time, by the relevant Payment Network. The term “Payment Network Rules” includes, but is not limited to, the:

- Visa Core Rules and Visa Product and Service Rules available at <https://usa.visa.com/dam/VCOM/download/about-visa/visa-rules-public.pdf>
- MasterCard’s and Transaction Processing Rules available at <https://www.mastercard.us/en-us/about-mastercard/what-we-do/rules.html>
- Amex MOG available at www.americanexpress.com/merchantsopguide, and
- NACHA Operating Rules and Guidelines, as such rules may be amended from time to time, as may be applicable.

“Payment Processing” means each Transaction or Yardi Bill-Pay Payment processed.

“Payment Services” means Yardi’s online payment and payment processing services with respect to Bill-Pay Payments and User charges made using Payment Network-branded payment methods and ACH methods.

“PCI-DSS” means the Payment Card Industry Data Security Standard.

“Portal” means the Yardi Card Services system, which is a payment-only portal to which Users are redirected when using RENTCafé, COMMERCIALCafé, or CONDOCafé and through which Users have the option to make payments through an online payment channel.

“Yardi Breeze Agreement” means the agreement between you and Yardi authorizing you to use Yardi Breeze.

ATTACHMENT A – ACH Payments Terms

Version 022318 brz

With respect to ACH Transactions, you acknowledge and agree to the additional terms below. Capitalized terms used in this Attachment A but not defined shall have the meanings given to them in Section 10 of the Payment Processing Terms, above.

- 1. Definitions.** The following additional definitions will apply to this section on ACH Payments:
 - a. “ACH Payment” means a debit Entry to a User’s bank account authorized by such User through the Payment Services.
 - b. “Entry” has the meaning set forth in the NACHA Rules.
 - c. “NACHA Rules” means the operating rules and guidelines of the National Automated Clearing House Association or any other regional ACH used to process payments via the Payment Services, as such rules are in effect from time to time.
 - d. “Originating Depository Financial Institution” or “ODFI” has the meaning set forth in the NACHA Rules.
 - e. “Originator” has the meaning set forth in the NACHA Rules. For purposes of ACH Payments, you are deemed an Originator.
 - f. “Receiving Depository Financial Institution” or “RDFI” has the meaning set forth in the NACHA Rules.
 - g. “Receiver” has the meaning set forth in the NACHA Rules. For purposes of ACH Payments, User is deemed a Receiver.
- 2. ACH Payments.**
 - a. **Acknowledgements; Representations and Warranties.** You acknowledge that: (i) you are an Originator with respect to each ACH Payment, (ii) you agree to assume the obligations and responsibilities of an Originator under the NACHA Rules, and (iii) you represent and warrant that ACH Payments shall be exclusively for payments owed to you by Users, and not for payments by Users to third parties. You understand that the ACH Payment will be transmitted through the ACH, and your rights and obligations concerning an ACH Payment will be governed by, and construed in accordance with the Payment Processing Terms. You further acknowledge that it will not originate, and will not permit or cause Users to authorize, ACH Payments in violation of the laws of the United States, including, without limitation, the sanctions, laws, regulations and orders administered by OFAC, FinCEN and any state laws, regulations or orders applicable to ACH Payments. You agree to comply with the NACHA Rules and represents and warrants that it has read and understands all NACHA Rules (inclusive of amendments) applicable to you.
 - b. **Authorizations.** For User to initiate an ACH Payment to you, Yardi will obtain, on your behalf and for your benefit, an authorization from User that authorizes Yardi and ODFI to initiate the ACH Payment. Yardi is not responsible for the content of a User’s authorization, including the accuracy of payment amounts or bank account information as provided by the User. You acknowledge that once submitted, the authorization may not be amended or modified. Yardi will promptly notify you of any ACH Payment that Yardi, the ODFI or the ACH rejects, or of any ACH Payments that are rejected or returned by the RDFI or the ACH, but will not remake or represent such rejected or returned ACH Payments. Once an ACH Payment has been initiated, Yardi does not have an obligation to honor any request for a stop payment, correction, reversal or recall of the ACH Payment.
 - c. **Additional Rights.** Yardi or its ODFI (i) may terminate or suspend your ability to originate ACH Payments for breach of the NACHA Rules in a manner that permits Yardi or the ODFI to comply with the NACHA Rules and (ii) may audit you for compliance with the NACHA Rules.

ATTACHMENT B – Yardi Bill-Pay Payments Additional Terms

Version 022318 brz

With respect to Yardi Bill-Pay Payments, you acknowledge and agree to the additional terms below. Capitalized terms used in this Attachment B shall have the meanings ascribed to them below or as defined in the Payment Processing Terms if not defined herein.

1. **Definitions.** The following additional definitions will apply to this section on Yardi Bill-Pay Payments:
 - a. **"ACH Bill-Pay Payments"** means a payment made through the ACH payment processing services provided by Yardi pursuant to these Payment Processing Terms and (if applicable) JHA MC pursuant to the JHA Terms.
 - b. **"Check Bill-Pay Payments"** means a payment made by the Check 21 payment services provided by Yardi and (if applicable) JHA MC pursuant to these Payment Processing Terms.
 - c. **"JHA Terms"** means the Processing Services Agreement between you and JHA Money Center, Inc. ("**JHA MC**"), available at https://clientcentral.yardi.com/core_custompage/JHA-processing-services-agreement, that govern the processing of ACH Bill-Pay Payments, "**Payment Instruction**" means a data file created by you through Yardi's Payment Processing system that expressly authorizes: (a) with respect to Check Bill-Pay Payments, the creation of a paper or electronic draft, signed in your name or by Yardi on your behalf as your authorized agent or representative, in the amount and payable to the Third Party as instructed in the data file, that will draw from your designated bank account upon presentment, and the delivery of such draft to Third Party as directed in the data file, and (b) with respect to ACH Bill-Pay Payments, an ACH payment to Third Party's designated bank account in accordance with the JHA Terms.
 - d. **"Banking Institution"** means the institution you elected to send Payment Instructions to in the case that the institution is not JHA MC.
2. **General Terms- JHA MC.** You agree to the following terms with respect to Bill-Pay Payments made pursuant to Payment Instructions to JHA MC:
 - a. **Acknowledgements.** You acknowledge that your ability to make Bill-Pay Payments is subject to review and acceptance of Client by JHA MC (or other replacement Bill-Pay Payments payment processor), and that Yardi's sole responsibility for Bill-Pay Payments is the receipt and transmission of Payment Instructions from you to JHA MC.
 - i. With respect to ACH Bill-Pay Payments only, you further acknowledge and agree that: (i) the JHA Terms govern the processing of ACH Bill-Pay Payments, (ii) in order to initiate ACH Bill-Pay Payments, you must execute and submit the JHA Terms for review, acceptance and countersignature by JHA MC, and (iii) Yardi is not responsible or liable for any obligations under the JHA Terms or any performance relating to ACH Bill-Pay Payments, other than an obligation required to be performed by Yardi expressly described in the Payment Processing Terms or applicable Yardi policy, procedure or other requirement relating to ACH Bill-Pay Payments. You agree to indemnify and hold Yardi and its respective employees, officer's agents, shareholders, and directors harmless from any and all Damages resulting from or in connection with the JHA Terms or incurred as a result of, or related to, your breach of the JHA Terms.
 - ii. With respect to Check Bill-Pay Payments only, you further acknowledges and agrees that (i) JHA MC is providing some of the processing services for Check Bill-Pay Payments, and as a result, JHA MC shall be an intended third party beneficiary of these Payment Processing Terms solely with respect to Check Bill-Pay Payments; (ii) JHA MC shall have the right to enforce directly against you the Payment Processing Terms that relate to Check Bill-Pay Payments and the ownership and protection of the intellectual property rights of JHA MC and its licensors in and to its processing services; and (iii) JHA MC shall have no responsibility or liability with regard to Yardi's obligations to you under the Payment Processing Terms with respect to Check Bill-Pay Payments.
 - b. **Authorizations.** You expressly authorize: (i) Yardi to transmit Payment Instructions to JHA MC, and (ii) Yardi or JHA MC, as applicable, to process the Bill-Pay Payment in accordance with these Payment Processing Terms and, as applicable, the JHA Terms. You acknowledge and agree that all ACH Bill-Pay Payments in an amount exceeding \$10,000.00 per transaction will be made by paper check via Check Bill-Pay Payment, for accounts using Yardi's ACH Processors' services as the clearinghouse. You acknowledge and agree that Yardi is not responsible for the content of any Payment Instruction (including the accuracy of payment amounts, bank account information, Third Party account numbers, or any other information you provide) and that you are solely responsible for the accuracy of all information and instructions provided to Yardi. You acknowledge that once submitted, a Payment Instruction may not be amended or modified, except (with respect to ACH Bill-Pay Payments) as may be permitted under the JHA Terms.
 - c. **Rejections; Returns.** Yardi will use commercially reasonable efforts to promptly notify you of any Bill-Pay Payment that may be rejected or returned by JHA MC, Third Party, or Third Party's bank, but will not remake or represent such rejected or returned Bill-Pay Payment. Once a Bill-Pay Payment has been initiated, Yardi does not have any obligation to honor any request for a stop payment, correction, reversal or recall of the Bill-Pay Payment except (with respect to ACH Bill-Pay Payments) as may be permitted under the JHA Terms. You will reimburse Yardi immediately within two days for any losses arising directly or indirectly from any of the foregoing and will pay Yardi any fee applicable to a returned or rejected Bill-Pay Payment in accordance with the Payment Processing Terms.
 - d. **Insufficient Funds.** Any insufficiency of available funds in your bank account with respect to a Bill-Pay Payment may result in a delayed payment or non-payment to the designated Third Party. Yardi is not responsible for such delays or non-payment or for any related fees assessed by Third Party or your bank, including but not limited to late payment fees or Third Party or bank fees charged for insufficient funds.
 - e. **Right to Suspend or Terminate Bill-Pay Payments.** Yardi (i) may immediately terminate or suspend your ability to make Bill-Pay Payments or submit Payment Instructions due to your breach of the Payment Processing Terms, JHA Terms or Applicable Law, or at the direction of JHA MC; and (ii) may audit you for compliance with the Payment Processing Terms or Applicable Law with respect to Bill-Pay Payments.
3. **General Terms – Client Direct to Banking Institution.** You agree to the below terms when sending Payment Instructions to their own Banking Institution ("**Direct to Bank**"):
 - a. **Acknowledgements.** You acknowledge that your ability to make Bill-Pay Payments is subject to review and acceptance of Client by their chosen Payment Institution, and Yardi's sole responsibility for Bill-Pay Payments is the receipt and transmission of Payment Instructions from you to your Banking Institution. With respect to ACH Bill-Pay Payments only, you further acknowledge and agree that: (i) you have agreed to certain terms and conditions with Banking Institution with respect to the processing of ACH Bill-Pay Payments, (ii) in order to initiate ACH Bill-Pay Payments with a Banking Institution that is not JHA MC, you must have an account with their chosen Banking Institution ("**Banking Institution Agreement**"), and (iii) Yardi is not responsible or liable for any obligations under your Banking Institution Agreement or any performance relating to ACH Bill-Pay Payments, other than an obligation required to be performed by Yardi expressly described in the Payment Processing Terms or applicable Yardi policy, procedure or other requirement relating to ACH Bill-Pay Payments. You agree to indemnify and hold Yardi and its respective employees, officer's agents, shareholders, and directors harmless from any and all Damages resulting from or in connection with your Banking Institution Agreement or incurred as a result of, or related to, your breach of your Banking Institution's Agreement.
 - b. **Authorizations.** You expressly authorize: (i) Yardi to transmit Payment Instructions to your Banking Institution, and (ii) Yardi or your Banking

Institution, as applicable, to process the Bill-Pay Payment in accordance with these Payment Processing Terms and, as applicable, your Banking Institution's Agreement. You acknowledge and agree that Yardi is not responsible for the content of any Payment Instruction (including the accuracy of payment amounts, bank account information, Third Party account numbers, or any other information provided by you) and that you are solely responsible for the accuracy of all information and instructions provided to Yardi. You acknowledge that once submitted, a Payment Instruction may not be amended or modified, except (with respect to ACH Bill-Pay Payments) as may be permitted under your Banking Institution's Agreement.

- c. **Rejections; Returns.** Yardi will use commercially reasonable efforts to promptly notify you of any Bill-Pay Payment that may be rejected or returned by your Banking Institution, Third Party, or Third Party's bank, but will not remake or represent such rejected or returned Bill-Pay Payment. Once a Bill-Pay Payment has been initiated, Yardi does not have any obligation to honor any request for a stop payment, correction, reversal or recall of the Bill-Pay Payment. You will reimburse Yardi immediately within two days for any losses arising directly or indirectly from any of the foregoing and will pay Yardi any fee applicable to a returned or rejected Bill-Pay Payment in accordance with the Payment Processing Terms.
 - d. **Insufficient Funds.** Any insufficiency of available funds in your bank account with respect to a Bill-Pay Payment may result in a delayed payment or non-payment to the designated Third Party. Yardi is not responsible for such delays or non-payment or for any related fees assessed by Third Party or your bank, including but not limited to late payment fees or Third Party or bank fees charged for insufficient funds.
 - e. **Right to Suspend or Terminate Bill-Pay Payments.** Yardi (i) may immediately terminate or suspend your ability to make Bill-Pay Payments or submit Payment Instructions due to your breach of the Payment Processing Terms, or Applicable Law; and (ii) may audit you for compliance with the Payment Processing Terms or Applicable Law with respect to Bill-Pay Payments.
4. **Representations and Warranties.** In addition to any other representations or warranties you have made under these or any other terms and conditions related to Yardi Breeze or any of its related products and services, you further represent and warrant that:
- a. Payment Instructions shall be exclusively for payments owed by you to Third Parties, and not be made on behalf of other third parties;
 - b. You will not make, and will not permit or cause Third Parties to authorize, any Bill-Pay Payment that you know or should have known to be either fraudulent, not authorized by the Third Party, made on behalf of another party, or in violation of Applicable Law;
 - c. Your bank account identified in a Payment Instruction or otherwise used to fund a Bill-Pay Payment has been established in the United States primarily for business purposes and not for personal, family or household purposes;
 - d. You will provide complete and accurate information regarding it and its Third Parties' information (including mailing address and/or bank account);
 - e. You will execute and maintain a written agreement with each Third Party authorizing you to initiate an ACH Bill-Pay Payment or Check Bill-Pay Payment, as applicable, and that for ACH Bill-Pay Payments, Third Party has authorized you to initiate an ACH credit to Third Party's designated bank account; and
 - f. Any such written agreement and authorization have not been terminated or revoked on the date a Payment Instruction is submitted by you to Yardi to initiate a Bill-Pay Payment to the relevant Third Party.

JHA MONEY CENTER PROCESSING SERVICES AGREEMENT

Version 022117 brz

By registering and using Yardi Breeze, accessing and using the Payment Services, and accessing and using Bill-Pay, you expressly acknowledge, agree to, and accept this JHA MONEY CENTER PROCESSING SERVICES AGREEMENT (this "Agreement"), which is made by and between JHA Money Center, Inc. with its principal place of business located at 663 West Highway 60, Monett, Missouri, 65708 ("JHA MC"), and you, the Customer, effective upon activation of Bill-Pay through Yardi Breeze (the "Effective Date") and continuing throughout your Initial Term and any subsequent Term (as defined in the Yardi Breeze Terms of Use at [YARDI® BREEZE TERMS OF USE](#) and also on the "Company Settings" screen within Yardi Breeze) so long as you continue to meet all of the requirements of this Agreement.

JHA MC is in the business of providing payment processing solutions and related maintenance and support services. This Agreement establishes the terms and conditions that will apply to the initial transaction and all subsequent transactions which JHA MC and Customer enter into pursuant to this Agreement. The parties agree as follows:

1. JHA MC agrees to provide to Customer the payment processing solutions described in this Agreement and any Solution Section or then-current customer processing services price list provided by JHA MC or a JHA MC reseller partner (as the case may be), on the Standard Terms and Conditions incorporated into this Agreement, below. Customer agrees to use the JHA MC payment processing solutions in accordance with these Standard Terms and Conditions.
2. Following signature of this Agreement by an authorized representative of Customer, this Agreement will become effective on the date that JHA MC accepts Customer's application and boards Customer as a customer of the JHA MC processing services as provided in this Agreement the ("Effective Date"). JHA MC's commencement of its provision of the processing services to Customer shall confirm JHA MC's acceptance of this Agreement.
3. The parties acknowledge that JHA MC has not received all necessary licenses for conducting a money transmission business throughout the United States. As of the date of this Agreement, the states for which licensure has not yet been granted are New York and Hawaii. JHA MC will notify Partner as soon as all licenses have been granted. This contract shall be subject to early termination without penalty by written notice from either party to the other if JHA MC has not received money transmitter licenses in all jurisdictions within the United States and its territories where such licensure is required to provide the Services by July 31, 2016. This termination right shall expire as to both parties upon JHA MC's receipt of the final required license. JHA MC shall give Customer prompt written notice of receipt of such license.

Standard Terms and Conditions

1. DEFINITIONS: The following terms used in this Agreement shall have the meaning specified below:

- a. "ACH Transaction": An electronic payment transaction originated by Customer and processed through the ACH Network in the Federal Reserve System.
- b. "Administrator": The Customer's employee who has been designated as Customer's primary contact with JHA MC for the Services and has been appointed by Customer to manage the administration of Services access, including passwords, and communicate authorizations to JHA MC.
- c. "Confidential Information": As the context requires, whether disclosed orally or in writing or by any other media: (a) the terms of this Agreement, all information and materials provided by either party to the other party for its use in performing in its responsibilities under this Agreement, including but not limited to information relating to the business, products, processing services, technology and systems of the other party; the intellectual property, computer programs, code, algorithms, schematics, data, know-how, processes, ideas, and inventions of the other party or its licensors; names and expertise of employees and consultants; SSAE16 and other audit reports; and other technical, business, financial, customer and product development plans, forecasts, strategies and information; (b) the trade secrets contained in JHA MC's Software and Services, and (c) all information and materials, including customer and consumer non-public personal information and data, provided by a Customer to JHA MC which is covered by a written agreement and obligation of confidentiality. Confidential Information shall not include information which: (i) is in or (through no improper action or inaction by the party receiving the information (the "Receiving Party") or any employee or agent thereof) enters the public domain; (ii) was rightfully in its possession or known by the Receiving Party prior to receipt from the party disclosing the information (the "Disclosing Party"); (iii) was rightfully disclosed to the Receiving Party by another person without restriction; (iv) was independently developed by or for the Receiving Party without access to and use of any Confidential Information of the Disclosing Party; or (v) is disclosed as legally required pursuant to a court or regulatory agency order or subpoena, provided that the Disclosing Party is first given a reasonable opportunity to seek a protective order or other legal means for prohibiting or restricting the disclosure of its Confidential Information without appropriate confidentiality obligations.
- d. "Courseware": The end user training courseware and materials relating to the use and operation of the Services and JHA MC's processing system that JHA MC or a Reseller may provide through classroom training, online training or e-Learning delivery to Customer.
- e. "NACHA Rules": The then-current rules, regulations and procedural guidelines published by the National Automated Clearing House Association ("NACHA") and/or all regional payment alliances associated with NACHA.
- f. "Reseller": A third party reseller, such as an ISO reseller or Value Added Reseller, appointed and authorized by JHA to resell and/or deliver the Services and Courseware to Customer.
- g. "Services": The payment processing services provided by JHA MC to Customer under this Agreement.
- h. "Settlement Account": A commercial demand deposit bank account which Customer has established for JHA MC's access and use to settle financial payment transactions processed by JHA MC under this Agreement.
- i. "Software": Software programs and associated documentation and materials that JHA MC provides to Customer for use with the Services.
- j. "Solution Section" means each segment of Exhibit A that describes a Service or Software that is subject to this Agreement with the associated fees, costs, and any special terms and conditions applicable to the Service or Software.
- k. "Transaction". A payment transaction initiated by Customer and processed by JHA MC.

2. SET-UP AND DELIVERY OF SERVICES:

- 2.1 In conjunction with this Agreement, Customer has completed and submitted to JHA MC or a Reseller (as applicable) an initial written application and supporting documentation about Customer's business and financial status, for JHA MC's consideration in the account set-up and provision of the Services to Customer. Customer acknowledges that JHA MC shall be entitled to rely upon the validity, accuracy and completeness of the information provided by Customer in its application and supporting documentation to JHA MC, for JHA MC's use in performing its due diligence review of Customer's status and financial standing for determining (a) if JHA MC will enter into this Agreement with Customer; (b) if JHA MC will provide all or any of the Services to Customer under this Agreement; and (c) the credit and account processing standards and limits that JHA MC will apply to the processing of Customer's Entries. Subsequent to the initial acceptance and set-up of Customer for JHA MC's provision of the Services, JHA MC may from time to time request that Customer provide updated information and supporting documentation to JHA MC to confirm Customer's then-current business and credit status, which Customer shall apply best efforts to deliver to JHA MC within three (3) business days following receipt of JHA MC's written request. Any failure by Customer to provide the information and supporting documentation requested by JHA MC via the application or by other means within a timely manner shall be deemed to be a material breach of this Agreement by Customer.
- 2.2 When Customer's application has been accepted and approved by JHA MC, JHA MC, either directly or through a Reseller who has contracted for the delivery of Services with Customer, shall provide the Services selected by Customer in its application. Customer shall utilize and access the Services in accordance with the terms of this Agreement and the practices and procedures established by JHA MC for the Services which have been communicated in writing to Customer. As part of the Customer set-up and boarding process:

JHA MC will provide Customer with the necessary user name(s) and password(s) ("Password") to access the Services which are hosted on JHA MC's processing system. Customer will designate an Administrator who shall be vested with the authority to determine who will be

authorized to use the Services; establish separate passwords for each user; and establish limits on each user's authority to access information and conduct transactions. Customer is responsible for the actions of its Administrator, the authority the Administrator gives others to act on Customer's behalf, and the actions of the persons designated by the Administrator to use the Services. Customer shall take reasonable security procedures and practices to safeguard the confidentiality of the passwords; limit access to its passwords solely to persons who have a need to know such information; closely and regularly monitor the activities of employees who access the Services; and prohibit its employees and agents from initiating Transactions in the Services without proper authorization and supervision and adequate security controls.

2.3 JHA MC or a Reseller may make available to Customer end-user training and/or Courseware to assist Customer in understanding and using the Services and the JHA MC processing system. The Courseware is a proprietary product of JHA MC and its licensors and is provided to Customer for its sole internal use. JHA MC and its licensors reserve all ownership rights in and to the Courseware materials. For training classes performed by JHA MC or the Reseller at Customer's site, Customer shall pay the applicable onsite training class fee quoted by JHA MC or the Reseller and the reimbursable out-of-pocket travel expenses of the JHA MC or Reseller trainer who travels to and from Customer's location to deliver the training session. For on-line classes and e-Learning modules provided by JHA MC or the Reseller, Customer shall pay the training class fee specified upon registration. If JHA MC or the Reseller offers a Courseware license which permits the Customer to perform its own internal training classes for the personnel of Customer and its Customers, Customer shall pay the annual Courseware license fee quoted by JHA MC or the Reseller for use of the Courseware modules licensed by Customer for this purpose.

3. REFUND, RECOUPMENT AND SET-OFF:

3.1 JHA MC will send an ACH debit on JHA MC's behalf to Customer's Settlement Account to collect the funding for the Transactions initiated by Customer. Any return by Customer of the debit sent to collect the cumulative amount for all daily payments is strictly prohibited and shall constitute breach of contract by Customer. As soon as notice is provided to Customer that any debited funds have been returned, Customer shall wire to JHA MC on that same day immediately available funds in the amount of any returned debit. Customer acknowledges that time is of the essence in its obligation to cover immediately any such returned debited funds. Further, Customer shall indemnify JHA from any and all actual direct loss suffered by JHA MC from any such incorrectly returned debit. All funds held by JHA MC overnight will be held for safety in overnight investment accounts. Interest, if any, on such funds will be paid to JHA MC as part of its compensation for the Services.

3.2 Customer hereby acknowledges and agrees that JHA MC shall have a right of setoff against:

- (a) any amounts JHA MC would otherwise be obligated to deposit into Customer's account, and
- (b) any other amounts JHA MC may owe Customer under this Agreement.

3.3 Right to Refund. Customer may request a refund of a Transaction, by contacting Customer Service, if:

- (a) the instructions as to where the funds should be forwarded or transmitted have not been complied with by JHA MC; or
- (b) the funds have not been committed, forwarded or transmitted to the designated recipient within ten (10) calendar days of JHA MC's receipt of the funds.

4. PRICING AND PAYMENT:

4.1 Customer shall pay Reseller the fees, penalties and charges for the Services or Courseware shown in Exhibit A or the then-current fee schedule in effect for Customer. All amounts are stated and due and payable in U.S. dollars, and are exclusive of any taxes or other charges which may be imposed by a government entity on the Services or Courseware, except for taxes due on JHA MC's or the Reseller's income. Customer shall pay all fees invoiced according to the directions set forth in Exhibit A.

4.2 Customer shall pay Reseller for the Services in accordance with the written agreement between Reseller and Customer. Reseller is responsible for providing Customer with an accurate statement of all fees due for the Services.

5. NACHA RULES AND JHA MC GUIDELINES: Each party shall comply with the then-current NACHA Rules which apply to ACH Transactions processed under this Agreement. In addition, JHA MC may publish to Customer and other customers its own standard operating and implementation guidelines for the Services with respect to specific NACHA Rules which will govern and apply to this Agreement as if set forth herein.

6. CONFIDENTIAL INFORMATION AND SECURITY PROCEDURES:

6.1 Customer shall protect and maintain the confidentiality of all Confidential Information disclosed by JHA MC to Customer under this Agreement and comply with the security procedures described in this Agreement and in any JHA MC policies and procedures communicated in writing to Customer. Customer acknowledges that the purpose of these security procedures is for verification of authenticity of a Transaction and not to detect an error in the transmission or content of a Transaction. No security procedure for the detection of any such error has been agreed upon between JHA MC and Customer. Customer is strictly responsible to establish and maintain the procedures to safeguard against unauthorized transmissions.

6.2 Customer understands that the password and Services access and use instructions provided by JHA MC are confidential and agrees to assume all risks of accidental disclosure or inadvertent or wrongful use by any party whatsoever except for JHA MC, whether such disclosure of use are on account of Customer's negligence or are deliberate acts. Customer acknowledges that no person from JHA MC will ever ask for any password and that JHA MC employees do not need and should not ask for Customer's password.

6.3 Customer shall change its password periodically and whenever anyone who has had access to a password is no longer employed or authorized by Customer to use the Services. JHA MC may require Customer to change its password at any time. JHA MC may deny access to the Services without prior notice if it is unable to confirm to its satisfaction any person's authority to access the Services or if JHA MC believes such action is necessary for security reasons.

6.4 Customer acknowledges that the Services and Software provided by JHA MC under this Agreement incorporates trade secrets of JHA MC

and its licensors, and as such is protected by civil and criminal law. Customer shall notify JHA MC immediately of the unauthorized possession, use or knowledge of any item supplied under this Agreement by any person or organization not authorized by this Agreement to have such possession, use or knowledge. JHA MC shall have, in addition to any other remedies available to it at law or equity, the right to seek injunctive relief enjoining any wrongful use or possession of the trade secrets contained in the Services or Software by any party. Customer acknowledges that irreparable harm will occur to JHA MC in the event of such wrongful use or possession of the trade secrets contained in the Services or Software and that other remedies are inadequate.

7. CONSUMER TRANSACTIONS; DATA PRIVACY AND SECURITY

- 7.1 Customer acknowledges and agrees that at the time of execution of this Agreement only business-related Transactions may be processed under this Agreement. No consumer Transactions for personal, family or household purposes shall be submitted without JHA MC's prior written consent, which may be withheld in JHA MC's sole discretion. In the event JHA MC grants such written consent, the following subsections shall apply.
- 7.2 In accordance with applicable data privacy laws and regulations, which may include but not be limited to the Gramm-Leach-Bliley Act ("GLBA") and the Health Insurance Portability and Accountability Act ("HIPAA"), JHA MC shall not disclose or permit access to or use of the non-public personal information of individual consumers made available by Customer to JHA MC for any purposes other than those specifically required to fulfill JHA MC's contractual obligations with Customer. JHA MC shall not sell the consumer information for any reason. In connection with providing services to Customer, JHA MC shall take all commercially reasonable steps to ensure the privacy and security of the consumer information in JHA MC's possession and protect against anticipated threats and hazards to the security of such information. JHA MC shall take all commercially reasonable steps to prevent unauthorized access to or use of such consumer information that could result in substantial harm or inconvenience to Customer or its consumers. In the event any court or regulatory agency seeks to compel disclosure of the information, JHA MC shall, if legally permissible, promptly notify Customer of the disclosure requirement and will cooperate so that Customer may at its expense seek to legally prevent this disclosure of the information.
- 7.3 JHA MC's parent company, Jack Henry & Associates, Inc., has separately published its data privacy and security compliance commitment to its and its affiliated companies' customers, which corresponds at a minimum to the provisions of this Section 7 as of the effective date of this Agreement. To the extent that additional commitments are reflected in future published versions of this policy, these additional commitments shall be incorporated as part of this Agreement without further actions by the parties. In no event shall a future published data privacy and security compliance statement lessen or eliminate any of the commitments stated in this Section 7.
- 7.4 If a breach of security results in an unauthorized intrusion into JHA MC's systems which directly and materially affects Customer or its consumers, appropriate measures will be taken to stop the intrusion; JHA MC will report on the intrusion to Customer within a reasonable time after discovery of the intrusion and report the subsequent corrective action taken in response to the intrusion; and provide reasonable assistance to Customer to support any mandatory disclosures about the intrusion to its consumers as required by law. If law enforcement agencies are notified about the intrusion, JHA MC may delay its notification of the intrusion to Customer until authorized to do so by the law enforcement agencies.

8. WARRANTIES:

- 8.1 JHA MC warrants to Customer that its Services will be performed in a professional and timely manner consistent with industry standards and in accordance with the NACHA Rules and applicable laws and regulations and any written JHA MC policies and procedures communicated by JHA MC to Customer. In the event that Customer discovers an error in the Services or Software which has been caused by JHA MC, if Customer has contracted directly with JHA MC for the Services, Customer shall immediately notify JHA MC of the existence and details of the error; if Customer has contracted with a Reseller for the Services, then Customer shall provide this notification to Reseller. JHA MC shall apply commercially reasonable efforts to correct the error within a reasonable time after JHA MC's receipt of notification of the error. EXCEPT FOR THE FOREGOING WARRANTY, JHA MC MAKES NO OTHER WARRANTIES FOR THE SERVICES PROVIDED BY JHA MC AND JHA MC DISCLAIMS ANY AND ALL PROMISES, REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. JHA MC does not guarantee the completeness or accuracy of the information provided from a third-party database. JHA MC shall have no liability to Customer for any invalid Customer information provided by Customer or Entries returned unpaid to Customer.
- 8.2 Customer warrants that:
 - (a) all Transactions submitted to JHA MC for processing will comply with applicable laws and regulations and the NACHA Rules pertaining to the Transactions;
 - (b) Customer will comply with all laws, regulations and the NACHA Rules applicable to Customer's activities covered by this Agreement;
 - (c) all information provided by Customer initially in its application and supporting documentation and subsequently in all updates to its application and supporting documentation provided to JHA MC pursuant to Section 2.1 above is valid, complete, accurate and up-to-date;
 - (d) the individual signing and submitting this Agreement, the application for purchase of the Services from JHA MC, and all future updates to the application and supporting documentation has the legal authority to make and bind Customer to the agreements, warranties and commitments stated in this Agreement and the submitted application on Customer's behalf; and
 - (e) only business-related Transactions may be processed under this Agreement and no consumer Transactions for personal, family or household purposes shall be submitted without JHA MC's prior written consent pursuant to Section 7.1.
 - (f) It is JHA MC's corporate policy not to knowingly provide processing Services for any person or organization whose use of the processing Services involves or pertains to, and Customer acknowledges and agrees that, it is strictly prohibited for Customer to utilize the JHA Solutions for, any activity which is illegal under U.S. law or involves an activity or business with which JHA MC declines to accept and conduct business generally ("Excluded Activity or Activities"). Customer warrants that it will not utilize the Services with respect to any of the Excluded Activities, which include but are not limited to the following:
 - (1) Cash Advance/Check Cashers/ Payday Loan Business
 - (2) Bank Drafts, Remotely Created Checks or Electronically Created Payment Orders

- (3) Government Grant or Will-Writing Kits
- (4) International ACH Transactions (IAT)
- (5) Internet Gambling payments (see Regulation GG)
- (6) Internet Tobacco or Firearms Sales
- (7) Predatory consumer lending business
- (8) Pornography or other Sexually-Oriented Businesses
- (9) Psychic or Horoscope Consultation Services
- (10) Sweepstakes

JHA MC may publish to its resellers and customers from time to time a more detailed and comprehensive list of businesses and activities which JHA MC includes within the scope of Excluded Activities. JHA MC reserves the right to reject and to refuse to process a Transaction that JHA MC deems, in its sole discretion, may constitute use of the processing Services in conjunction with any Excluded Activity. If JHA MC has reason to believe that the Customer is utilizing the processing Services in conjunction with an Excluded Activity, JHA MC may immediately terminate its provision of processing Services to Customer immediately upon written notice to Customer. If JHA MC encounters activity which it believes may be suspicious, as determined in JHA MC's sole discretion, Customer agrees to promptly provide such support and information as JHA MC may reasonably request for investigating and/or reporting of such transactions to governmental entities.

9. INDEMNIFICATION:

9.1 JHA MC shall indemnify, defend and hold Customer harmless from and against all claims, actions, losses and expenses, including reasonable attorney's fees and legal costs, incurred by Customer arising out of a third party claim that the Services or Software owned and provided by JHA MC under this Agreement infringe the valid United States intellectual property rights of the third party, provided that JHA MC is promptly notified by Customer of its receipt of notice of such claim, is given control of the defense or settlement of such claim, and is given reasonable assistance requested by JHA MC at JHA MC's cost with regard to such claim.

9.2 Customer shall indemnify, defend and hold JHA MC and its third party service providers harmless from and against all claims, actions, losses and expenses, including fines, penalties, reasonable attorney's fees and legal costs, incurred by JHA MC or its third party service providers arising out of (a) Customer's breach of this Agreement, the NACHA Rules or applicable laws and regulations; (b) incorrect or incomplete data or information provided by Customer in the submission of a Transaction to JHA MC, a closed Settlement Account, or insufficient funds in the Settlement Account, or return of an ACH debit on the Settlement Account initiated by JHA MC, and/or (c) fraudulent activity, wrongful or unauthorized use of the Services, or submission of fraudulent or illegal Transactions by Customer or a third party who has gained access to the Services through the use of Customer's password.

10. LIMITATIONS OF LIABILITY: IN NO EVENT SHALL JHA MC OR ITS THIRD PARTY SERVICE PROVIDERS, BE LIABLE TO CUSTOMER OR ANY OTHER PARTY FOR ANY LOSS OF PROFITS OR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, EVEN IF THE POSSIBILITY OF THE OCCURRENCE OF SUCH DAMAGES WAS FORESEEABLE. Except as otherwise required by law, in no event shall JHA MC be liable for damages for non-delivery or delay of a payment transaction, unless arising from the gross negligence or willful misconduct of JHA MC. Further, JHA MC will remain liable to Customer in the event JHA MC deposits funds into an account other than the account specified by Customer or forwards funds to a third-party location which was not designated by Customer, to the extent the error is caused by the acts of JHA MC, and JHA MC, Reseller, or an authorized third party is unable to recover the funds. Except for (1) JHA MC's indemnification liability stated in Section 9.1 above; (2) actual, direct damages arising from any action or omission of action by JHA MC which constitutes the gross negligence or willful misconduct of JHA MC; or (3) return of the amount of funds that JHA deposited into the incorrect account or forwarded to a third-party location which was not designated by Customer and was unable to recover, the sole remedy of Customer and JHA MC's aggregate, cumulative liability to the Customer for all claims of actual direct damages relating to the Services, this Agreement, or the relationship between JHA MC and Customer, including any cause of action in contract, negligence, tort, strict liability or otherwise, shall not exceed an amount equal to the total amount of all fees earned by JHA for Services delivered under this Agreement during the three (3) month period preceding the origination of the claim giving rise to liability.

11. TERM AND TERMINATION:

A. Term: This Agreement shall have an initial term of three (3) years from and after the Effective Date. Upon expiration of the initial term, this Agreement shall automatically renew for additional consecutive twelve (12) month terms unless either party gives written notice of its election not to renew this Agreement to the other party no later than sixty (60) calendar days prior to the end of the then-current term. Notwithstanding the foregoing, if you cancel or terminate Yardi Breeze, this Agreement shall concurrently terminate, except for the Survival Obligations in Section 11. D., below.

B. Termination For Cause:

(a) Termination Due to Material Breach: This Agreement may be terminated by either party for cause upon giving the other party written notice of the breach of this Agreement committed by the other party and giving the other party a reasonable time to cure the breach. For the purpose of this Agreement, a reasonable time to cure the breach specified in the written notice shall be deemed to be:

- (1) For any breach of Sections 2.1, 2.2, 3.1, 3.3, 4.1, 6, 7.1 or 8.2 above: Five (5) business days from receipt of written notice.
- (2) For all other types of breach of this Agreement, except as provided below: Thirty (30) calendar days from receipt of written notice of the breach.

Notwithstanding the foregoing, in the event either party materially breaches any provision of this Agreement by fraud, act of intent to defraud, failure to notify the other party of a material change in party's financial structure or a material change in the information originally provided to induce the other party to enter into the Agreement, the non-breaching party may immediately terminate this Agreement in writing without giving the breaching party an opportunity to cure the breach with prior written notice.

(b) Termination Due to Changed Circumstances: JHA MC reserves the right to terminate this Agreement in whole or in part at any time due to the occurrence of any of the following changed circumstances:

- (1) Customer becomes insolvent, enters into suspension of payments, moratorium, reorganization or bankruptcy, makes a general assignment for the benefit of creditors, admits in writing its inability to pay debts as they mature, suffers or permits the appointment of a receiver for its business or assets, or avails itself of or becomes subject to any other judicial or administrative proceeding that relates to insolvency or protection of creditors' rights, any of which in JHA MC's reasonable judgment impairs the ability of Customer to perform its responsibilities under this Agreement;
- (2) In JHA MC's sole judgment, there is a deterioration or other materially negative change in Customer's financial status or structure which increases the financial risk being assumed by JHA MC in processing Customer's Transactions;
- (3) There is a change in the laws, regulations, regulatory guidance, or NACHA Rules that are applicable to this Agreement and JHA MC's provision of any of the Services which restricts or prohibits JHA MC from providing the affected Services to Customer, would be reasonably likely to cause material liability relating to legal or regulatory issues for JHA MC, or which presents reputational risk to JHA MC or would significantly increase JHA MC's costs in providing the affected Services to its customers generally; or
- (4) Customer's business and/or assets are acquired by a competitor of JHA MC,

In these instances, JHA MC will provide written notice of the termination on this basis to Customer, which shall become effective upon receipt by Customer.

- C. Termination for Convenience: Either party may exercise the right to terminate this agreement without cause and for its convenience by giving the other party at least thirty (30) days prior written notice of such termination.
- D. Survival of Obligations: The provisions of Sections 6, 7, 8, 9, 10, and 12 of this Agreement and any other provisions of the other Sections of this Agreement which by their nature should reasonably be expected to continue to apply after termination of this Agreement shall survive the termination of this Agreement.

12. GENERAL PROVISIONS:

- a) Governing Law: This Agreement will be governed by and construed in accordance with the laws of the State of Missouri, without regard to its conflict of laws principles.
- b) Notice: Any notice required or permitted hereunder shall be in writing and shall be sent by certified mail, return receipt requested, or by overnight express mail or reputable overnight courier, with proof of delivery retained, and addressed to the respective parties at the address set forth below. Notice of breach or termination of this Agreement sent to JHA MC shall be directed to the same address, attention Legal Department.
- c) Assignment: This Agreement shall not be assigned or delegated in whole or in part by Customer to any other party without the prior written consent of JHA MC, which shall not be unreasonably withheld.
- d) Legal Fees: In the event of any dispute arising out of or related to the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees, court costs and collection expenses in addition to any other recovery.
- e) Force Majeure: If performance by JHA MC, its third party service providers or any of their respective affiliates, of any Services or obligation under this Agreement is prevented, restricted, delayed or interfered with by reason of acts or events beyond their reasonable control, including but not limited to labor disputes and strikes; acts of nature, fire, floods, lightning, hurricanes, earthquakes or severe weather; utility or communications failures; failures of the ACH network or Federal Reserve Bank system; computer-associated outages or delay in receiving electronic data; war, civil commotion or acts of terrorism; or the introduction of any new law, order or regulation which prohibits or restricts performance of this Agreement, then JHA MC its third party service providers and their respective affiliates affected by the occurrence of such acts or events shall be excused from their performance hereunder to the extent of the prevention, restriction, delay or interference.
- f) Amendment: This Agreement may be amended only by a written document signed by authorized representatives of both parties.
- g) Entire Agreement: This Agreement contains the entire agreement between Customer and JHA MC relating to the subject matter addressed herein, and supersedes any prior or contemporaneous understandings or agreements, whether oral or written, between the parties regarding the subject matter of this Agreement.
- h) Form and Delivery of Signed Agreement: This Agreement may be executed by the parties by applying manual or electronic signatures of its authorized representatives to original documents or facsimile, scanned or other electronic copies of original documents and transmitted by physical or electronic means for this purpose. For legal evidentiary purposes, a facsimile, scanned or other electronic copy of this Agreement bearing the signatures of the authorized representatives of both parties shall be accepted as an equivalent to a signed original copy of this Agreement.
- i) Independent Contractors: The parties are and shall remain independent contractors and shall have no legal right or authority to make any binding commitments on behalf of the other party.
- j) In the event of a conflict or ambiguity between any Solution Section and these terms and conditions or any other document, the terms and conditions of the Solution Section will prevail with respect to the Services covered by that Solution Section unless otherwise provided.

MERCHANT SERVICES AGREEMENT FOR SUB-MERCHANTS

Version 11.2013 brz

By registering and using Yardi Breeze, accessing and using the Payment Services, and accepting User payments by Mastercard, Visa, Discover, AMEX, you expressly acknowledge, agree to, and accept this MERCHANT SERVICES AGREEMENT FOR SUB-MERCHANTS (this "Agreement"), which is made among VANTIV, LLC, having its principal office at 8500 Governors Hill Drive, Symmes Township, OH 45249-1384 and its designated Member Bank (collectively "Acquirer") and you, the Client (hereinafter referred to as "Sub-merchant"), in connection with the agreement between Sub-merchant and Yardi Systems, Inc. ("Provider"). Acquirer will provide Sub-merchant with certain payment processing services ("Services") in accordance with the terms of this Agreement. In consideration of Sub-merchant's receipt of credit or debit card funded payments, and participation in programs affiliated with MasterCard International Inc. ("MasterCard"), VISA U.S.A. Inc. ("VISA"), Discover ("Discover"), and certain similar entities (collectively, "Associations"), Sub-merchant is required to comply with the Operating Regulations (defined below) as they pertain to applicable credit and debit card payments. In addition, if Sub-merchant meets certain requirements under the Operating Regulations or an Association or the Operating Regulations otherwise require, Sub-merchant may be required to enter into a direct relationship with an entity that is a member of the Associations. By executing this Agreement, Sub-merchant has fulfilled such requirement. However, Acquirer understands that Sub-merchant may have contracted with Provider to obtain certain processing services

and that Provider may have agreed to be responsible to Sub-merchant for all or part of Sub-merchant's obligations contained herein.

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises contained herein, the parties agree as follows:

1. **Certain Sub-merchant Responsibilities.** Sub-merchant agrees to comply, and to cause third parties acting as Sub-merchant's agent ("Agents") to comply, with the Association's and other payment network's by-laws, operating regulations and/or all other rules, policies and procedures, including but not limited to the Payment Card Industry Data Security Standard, the VISA Cardholder Information Security Program, the MasterCard Site Data Protection Program, and any other program or requirement that may be published and/or mandated by the Associations or payment networks (collectively "Operating Regulations"). Sub-merchant may review the VISA, MasterCard, and Discover websites for a copy of the Visa, MasterCard and Discover regulations. The websites are: <http://usa.visa.com/merchants/> and <http://www.mastercard.com/us/merchant/> and <http://www.discovernetwork.com/merchants/>. Sub-merchant also agrees to comply with all applicable state, federal, and local laws, rules, and regulations ("Laws"). Without limiting the foregoing, Sub-merchant agrees that it will fully comply with any and all anti-money laundering laws and regulations, including but not limited to the Bank Secrecy Act, the US Treasury's Office of Foreign Assets Control (OFAC) and the Federal Trade Commission. For purposes of this section, Agents include, but are not limited to, Sub-merchant's software providers and/or equipment providers.

If appropriately indicated in Sub-merchant's agreement with Provider, Sub-merchant may be a limited-acceptance merchant, which means that Sub-merchant has elected to accept only certain Visa and MasterCard card types (i.e., consumer credit, consumer debit, and commercial cards) and must display appropriate signage to indicate the same. Acquirer has no obligation other than those expressly provided under the Operating Regulations and applicable law as they may relate to limited acceptance. Sub-merchant, and not Acquirer, will be solely responsible for the implementation of its decision for limited acceptance, including but not limited to policing the card type(s) accepted at the point of sale.

Sub-merchant shall only complete sales transactions produced as the direct result of bona fide sales made by Sub-merchant to cardholders, and is expressly prohibited from presenting sales transactions which are produced as a result of sales made by any person or entity other than Sub-merchant, or for any purposes related to any illegal or prohibited activity, including but not limited to money-laundering or financing of terrorist activities.

Sub-merchant may set a minimum transaction amount to accept a card that provides access to a credit account, under the following conditions: i) the minimum transaction amount does not differentiate between card issuers; ii) the minimum transaction amount does not differentiate between MasterCard, Visa, or any other acceptance brand; and iii) the minimum transaction amount does not exceed ten dollars (or any higher amount established by the Federal Reserve). Sub-merchant may set a maximum transaction amount to accept a card that provides access to a credit account, under the following conditions: Sub-merchant is a i) department, agency or instrumentality of the U.S. government; ii) corporation owned or controlled by the U.S. government; or iii) Sub-merchant whose primary business is reflected by one of the following MCCs: 8220, 8244, 8249 – Schools, Trade or Vocational; and the maximum transaction amount does not differentiate between MasterCard, Visa, or any other acceptance brand.

2. **Sub-merchant Prohibitions.** Sub-merchant must not i) require a cardholder to complete a postcard or similar device that includes the cardholder's account number, card expiration date, signature, or any other card account data in plain view when mailed, ii) add any tax to transactions, unless applicable law expressly requires that a Sub-merchant impose a tax (any tax amount, if allowed, must be included in the transaction amount and not collected separately), iii) request or use an account number for any purpose other than as payment for its goods or services, iv) disburse funds in the form of travelers checks if the sole purpose is to allow the cardholder to make a cash purchase of goods or services from Sub-merchant, v) disburse funds in the form of cash unless Sub-merchant is dispensing funds in the form of travelers checks, TravelMoney cards, or foreign currency (in such case, the transaction amount is limited to the value of the travelers checks, TravelMoney cards, or foreign currency, plus any commission or fee charged by the Sub-merchant), or Sub-merchant is participating in a cash back service, vi) submit any transaction receipt for a transaction that was previously charged back to the Acquirer and subsequently returned to Sub-merchant, irrespective of cardholder approval, vii) accept a Visa consumer credit card or commercial Visa product issued by a U.S. issuer to collect or refinance an existing debt, viii) accept a card to collect or refinance an existing debt that has been deemed uncollectable, or ix) submit a transaction that represents collection of a dishonored check. Sub-merchant further agrees that, under no circumstance, will Sub-merchant store cardholder data in violation of the Laws or the Operating Regulations including but not limited to the storage of track-2 data. Neither Sub-merchant nor its Agent shall retain or store magnetic-stripe data subsequent to the authorization of a sales transaction.
3. **Settlement.** Upon receipt of Sub-merchant's sales data for card transactions, Acquirer will process Sub-merchant's sales data to facilitate the funds transfer between the various Associations and Sub-merchant. After Acquirer receives credit for such sales data, subject to the terms set forth herein, Acquirer will fund Sub-merchant, either directly to the Sub-merchant Owned Designated Account or through Provider to an account designated by Provider ("Provider Designated Account"), at Acquirer's discretion, for such card transactions. Sub-merchant agrees that the deposit of funds to the Provider Designated Account shall discharge Acquirer of its settlement obligation to Sub-merchant, and that any dispute regarding the receipt or amount of settlement shall be between Provider and Sub-merchant. Acquirer will debit the Provider Designated Account for funds owed to Acquirer as a result of the Services provided hereunder, provided that Acquirer may also debit Sub-merchant's designated demand deposit account ("Sub-merchant Owned Designated Account") upon receipt of such account information from Sub-merchant or Provider, or if Acquirer deposits settlement funds into the Sub-merchant Owned Designated Account. Further, if a cardholder disputes a transaction, if a transaction is charged back for any reason, or if Acquirer reasonably believes a transaction is unauthorized or otherwise unacceptable, the amount of such transaction may be charged back and debited from Sub-merchant or Provider.
4. **Term and Termination.** This Agreement shall be binding upon Sub-merchant upon Sub-merchant's execution. The term of this Agreement shall begin, and the terms of the Agreement shall be deemed accepted and binding upon Acquirer, on the date Acquirer accepts this Agreement by issuing a merchant identification number, and shall be coterminous with Provider's agreement with Sub-merchant.

Notwithstanding the foregoing, Acquirer may immediately cease providing Services and/or terminate this Agreement without notice if (i) Sub-merchant or Provider fails to pay any amount to Acquirer when due, (ii) in Acquirer's opinion, provision of a service to Sub-merchant or Provider may be a violation of the Operating Regulations or any Laws, (iii) Acquirer believes that Sub-merchant has violated or is likely to violate the Operating Regulations or the Laws, (iv) Acquire determines Sub-merchant poses a financial or regulatory risk to Acquirer or an Association, (v) Acquirer's agreement with Provider terminates, (vi) any Association deregisters Provider, (vii) Acquirer ceases to be a member of the Associations or fails to have the required licenses, or (viii) Acquirer is required to do so by any of the Associations.
5. **Limits of Liability.** Sub-merchant agrees to provide Acquirer, via a communication with Provider, with written notice of any alleged breach by Acquirer of this Agreement, which notice will specifically detail such alleged breach, within thirty (30) days of the date on which the alleged breach first occurred. Failure to so provide notice shall be deemed an acceptance by Sub-merchant and a waiver of any and all rights to dispute such breach.

EXCEPT FOR THOSE EXPRESS WARRANTIES MADE IN THIS AGREEMENT, ACQUIRER DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Sub-merchant's sole and exclusive remedy for any and all claims against Acquirer arising out of or in any way related to the transactions contemplated herein shall be termination of this Agreement. In the event that Sub-merchant has any claim arising in connection with the Services, rights, and/or obligations defined in this Agreement, Sub-merchant shall proceed against Provider and not against Acquirer, unless otherwise specifically set forth in the Operating Regulations. In no event shall Acquirer have any liability to Sub-merchant with respect to this Agreement or the Services. Sub-merchant acknowledges Acquirer is only providing this Agreement to assist in Provider's processing relationship with Sub-merchant, that Acquirer is not liable for any action or failure to act by Provider, and that Acquirer shall have no liability whatsoever in connection with any products or services provided to Sub-merchant by Provider. If Provider is unable to provide its services to Sub-merchant in connection with this Agreement and Acquirer elects to provide those services directly, Sub-merchant acknowledges and agrees that the provisions of this Agreement will no longer apply and the terms of Acquirer's then current Bank Card Merchant Agreement, which would be provided to Sub-merchant, will govern Acquirer's relationship with Sub-merchant. If Provider subsequently provides its services to Sub-merchant in connection with this Agreement, Acquirer will cease to provide such services after receipt of notice from Provider and this Agreement will govern Acquirer's relationship with Sub-merchant.

6. **Miscellaneous.** This Agreement is entered into, governed by, and construed pursuant to the laws of the State of Ohio without regard to conflicts of law provisions. This Agreement may not be assigned by Sub-merchant without the prior written consent of Acquirer. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, transferees and assignees. This Agreement is for the benefit of, and may be enforced only by, Acquirer and Sub-merchant and is not for the benefit of, and may not be enforced by, any other party. Acquirer may amend this Agreement upon notice to Sub-merchant in accordance with Acquirer's standard operating procedure. If any provision of this Agreement is determined to be illegal or invalid, such illegality or invalidity of that provision will not affect any of the remaining provisions and this Agreement will be construed as if such provision is not contained in the Agreement "Member Bank" as used in this Agreement shall mean a member of VISA, MasterCard and/or Discover, as applicable, that provides sponsorship services in connection with this Agreement. As of the commencement of this Agreement, Member Bank shall be Fifth Third Bank, an Ohio Banking Corporation, located in Cincinnati, OH 45263. The Member Bank is a party to this Agreement. The Member Bank may be changed, and its rights and obligations assigned to another party by Acquirer at any time without notice to Sub-merchant.

TENANT SCREENING SERVICES ACTIVATION AGREEMENT

Version 031616 brz

By registering and using Yardi Breeze, and accessing and using Tenant Screening Services, you expressly acknowledge, agree to, and accept this TENANT SCREENING SERVICES ACTIVATION AGREEMENT (this "Agreement"), which is made between you and RentGrow, Inc., a Delaware corporation located at 400 Fifth Avenue, Suite 120, Waltham, MA 02451 ("RentGrow"). RentGrow provides certain products that provide Screening Services (defined in this Agreement) to you, the Client, in connection with your management of residential or commercial units using Yardi Breeze. As a condition to accessing and using these Screening Services, and in consideration of the respective rights and obligations of the parties as set forth in this Agreement, the parties agree as follows:

1. Definitions.

- a. **"Applicant"** means a current or prospective tenant of a Property who has consented in writing to End-User's use of the Services in connection with the Permissible Purpose.
- b. **"Confidential Information"** is defined as referenced in section 6 of this Agreement.
- c. **"Credit Bureau"** and **"CRA"** mean each credit bureau such as Equifax®, Experian®, TransUnion® and other consumer reporting agency vendor (such as LexisNexis®) that provides information contained in the Services, either individually or collectively as understood by the context wherever referenced.
- d. **"Eligibility Criteria"** means the Applicant selection policies or standards, as set solely by Client or other responsible party such as a property owner.
- e. **"End-Users"** means Client and Client's employees who access and use Services.
- f. **"Fair Credit Reporting Act"** or **"FCRA"** means 15 U.S.C. § 1681 et seq. as may be amended from time to time.
- g. **"Permissible Purpose"** means the use of the Services by End-Users for evaluating Applicants in accordance with this Agreement, the FCRA, all other applicable laws and regulations, and Schedule C.
- h. **"Property"** or **"Properties"** means the property or properties and the designated units thereof for which you will be using the Services.
- i. **"Schedule C"** refers to the required supplemental terms and conditions document available at <https://www.yardibreeze.com/us-screening-schedule-c/>, which is fully incorporated into this Agreement. Schedule C is mandated by the various third-parties identified therein, can only be modified by them, must be accepted by you in order to use the Services, and may be modified from time to time by the various third-parties identified therein, with or without notice. **NOTE:** RentGrow cannot modify Schedule C, and Schedule C does not and will not contain any term, condition, notice or otherwise that is not required by a Credit Bureau, CRA, applicable law or regulation, or as otherwise expressly required by the third-parties identified therein.
- j. **"Services"** or **"Screening Services"** or **"Tenant Screening Services"** means the RentGrow screening and related products (including ScreeningWorks Pro Premium and ScreeningWorks Pro Premium Plus) and solutions provided pursuant to this Agreement that contain information expressly governed by the FCRA, other related applicable laws and regulations and Schedule C.
- k. **"Tenant Screening Report"** means the information from any Credit Bureau assembled, merged and provided by RentGrow: (i) to Applicants, as required; and (ii) to End-Users, as required.

2. Term and Termination.

- a. The Initial Term, Term and the process for cancelling or terminating your Screening Services is tied to your registration of Yardi Breeze. If your Yardi Breeze agreement is cancelled or terminated, this Agreement is automatically cancelled or terminated at the same time. You may terminate the Screening Services at any time without cancelling Yardi Breeze by contacting a Yardi Breeze representative at **(800) 866-1144**.
- b. RentGrow may terminate this Agreement if: (i) there has been a material breach that is not or cannot be cured within 7 days of written notice; or (ii) there has been a material breach and you do not acknowledge the breach or work diligently to cure the breach within a time period that is satisfactory to RentGrow. In any event, RentGrow cannot guarantee that any information contained in the Services will be available from any specific Credit Bureau or CRA; and in the event the Credit Bureaus stop providing data to RentGrow for any reason, RentGrow may terminate this Agreement, in whole or in part.

- c. **Effect of Termination.** Upon termination or expiration of this Agreement, RentGrow will cease providing the Services to Client and all outstanding Fees, if any, shall become immediately due and payable.
- d. **Survival.** Your and Yardi's obligations under the Tenant Screening Services Activation Agreement regarding compliance with the FCRA and all other applicable laws, and your obligation to pay for the Screening Services you used, shall survive any termination or cancellation of the Screening Services.

3. **Pricing and Fees.** You have two Screening Services packages to choose from within Yardi Breeze:

- a. **ScreeningWorks Pro Premium – \$10.00** per screening, which includes:
 - i. Civil Court Records
 - ii. Credit with score
 - iii. Rental history (RentBureau)
 - iv. OFAC check
- b. **ScreeningWorks Pro Premium Plus – \$15.00*** per screening, which includes:
 - i. Everything included in ScreeningWorks Pro Premium, plus:
 - ii. National Criminal records search

***NOTE:** Due to data availability limitations in certain states, a more labor-intensive search process is required. Because of this, a supplemental fee of **\$10.00** (in addition to the standard Package 2 fee of \$15.00) per screening applies to the screening of Applicants applying to a property in the following states: AL, CA, CO, DC, DE, ID, LA, MA, NV, SD, VA, WY.
- c. **Billing and Payments.** You expressly acknowledge and agree to pay RentGrow for the costs incurred based on the Package you choose. The amount you owe for your use of the Services is due and payable on the last day of each month of your Initial Term or subsequent Term, and will either be invoiced (with payment due upon receipt) or automatically billed to the credit card you provided during your Yardi Breeze registration process. **BY ADDING SCREENING SERVICES, YOU EXPRESSLY AUTHORIZE RENTGROW TO CHARGE THAT CARD EACH MONTH FOR THE COST OF THE SCREENINGS PERFORMED, PLUS ANY SUPPLEMENTAL FEES UNDER PACKAGE 2 AND ANY APPLICABLE TAXES, DURING THE INITIAL TERM AND ANY SUBSEQUENT TERM.** To cancel these automatic payments or to change or update the credit card you authorize to be charged, you must contact a Yardi Breeze representative by calling **(800) 866-1144** or a RentGrow representative by calling **(800) 736-8476**.
- d. **Failure to Pay.** If for any reason your payment is declined, returned, or otherwise cannot be processed, your access to the Services, will be suspended. This means you will not be able to access the Services and may be unable to fully manage your units. To restore your access to the Services, you must bring your account into good standing. Any disputes about a failure to pay **MUST** be sent in writing within 30 days from the date your access to the Services was suspended to:

RENTGROW, INC.
Attn: Yardi Breeze Screening Services
400 Fifth Avenue, Suite 120
Waltham, MA 02451

4. **Acknowledgements, Criteria, Access and Location.**

- a. **Acknowledgements and Required Supplemental Terms and Conditions.** As an express condition of accessing and using the Services, you acknowledge and agree that you and all End-Users shall do so only for the Permissible Purpose, and that you and all End-Users are bound by: (i) the terms and conditions of this Agreement; (ii) the FCRA; (iii) all other laws and regulations that apply to you; and (iv) the current version of Schedule C as available at <https://www.yardibreeze.com/us-screening-schedule-c/>.

IN THE EVENT YOU DO NOT ACCEPT THE VERSION OF SCHEDULE C IN EFFECT AT THE TIME YOU WISH TO USE THE SCREENING SERVICES, YOU MAY NOT USE THE SCREENING SERVICES. YOU ACKNOWLEDGE AND AGREE THAT YOUR USE OF THE SERVICES SHALL CONSTITUTE YOUR EXPRESS ACCEPTANCE AND ACKNOWLEDGEMENT OF SCHEDULE C IN ITS ENTIRETY THAT IS IN EFFECT AT THE TIME YOU USE THE SERVICES. AS INDICATED IN SCHEDULE C, YOU ARE REQUIRED TO INITIAL CERTAIN TERMS. YOU HEREBY EXPRESSLY ACKNOWLEDGE AND AGREE THAT YOUR ACCEPTANCE OF THE TERMS IN THIS AGREEMENT AND YOUR USE OF THE SERVICES CONSTITUTES YOUR INITIALING WHEREVER REQUIRED IN SCHEDULE C.

- b. **Tenant Eligibility Criteria.** You are solely and exclusively responsible for establishing the Eligibility Criteria for each Property. RentGrow plays no role whatsoever in determining the Eligibility Criteria for any Property, plays no role in any tenancy decisions and does not guarantee the effectiveness of Client's Applicant selection policies or the accuracy of any Credit Bureau, CRA or other information delivered by way of the Services or in a Tenant Screening Report.
- c. **Access to and Use of the Services.** Only End-Users are authorized to access and use the Services, and shall only do so for the Permissible Purpose. Any unauthorized access to or use of the Services by anyone shall entitle RentGrow to immediately suspend or terminate part or all of the Services.
- d. **Right to Audit and Compliance.** In accordance with RentGrow's obligations to the Credit Bureaus and some CRAs, including RentGrow's obligation to help prevent and detect potentially fraudulent and/or suspicious activity, you acknowledge and agree that RentGrow may conduct random as well as regular monitoring of End-User's access to and use of the Services and your compliance with this Agreement for the purpose of validating that End-Users are accessing and using the Services only for the Permissible Purpose and in accordance this Agreement. Additionally, you expressly acknowledge and agree that as a material condition of receiving the Services, you must complete all necessary on-boarding requirements, including on-boarding performed by the KYC team as described in the Terms or as may otherwise be initiated by Yardi or RentGrow in accordance with vendor requirements and any applicable laws or regulations related to the prevention of identity theft, financial fraud, money laundering, terrorist financing and the like. A refusal to provide requested or required information, or the inability of RentGrow or Yardi to validate it, will result in your not being able to access

and use the Services.

- e. **Shared Location.** If you operate from a physical location or on a server or network (the "Location") that is shared with a third-party business (a "Company"), you hereby acknowledge and represent that: (i) you are legally entitled to operate at or on the Location shared with Company; and (ii) you shall expressly prohibit and physically and/or electronically prevent Company from accessing or using the Services in any manner or for any purpose whatsoever.

5. **Software Title/Non-Transfer.** Just as with Yardi Breeze, all right, title and interest in and to Screening Works Pro Premium, ScreeningWorks Pro Premium Plus, any RentGrow software or any software of its parent or subsidiary companies (collectively for purposes of this Agreement, "RentGrow Software") used as part of the Services shall remain exclusively with RentGrow or its parent or subsidiary company. No title transfer is intended or executed by this Agreement.

6. **Confidentiality.**

The same Confidentiality, Exceptions, Obligations to Disclose, and the Return of Confidential Information terms that apply to Yardi Breeze apply to the Services, and by this reference are incorporated herein.

7. **Warranties.**

a. **Warranty Disclaimer (as between RentGrow and Client only).** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, AND TO THE FULLEST EXTENT ALLOWED UNDER APPLICABLE LAW, RENTGROW DISCLAIMS ALL WARRANTIES WITH REGARD TO THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

b. **Warranty Disclaimer (as between Client and each Credit Bureau only).** SEE SCHEDULE C.

8. **Damage Limitations.**

a. **Damage Waiver (as between RentGrow and Client only).** REGARDLESS OF ANY OTHER PROVISION IN THIS AGREEMENT, AND TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, RENTGROW DISCLAIMS ALL OBLIGATIONS AND LIABILITIES FOR SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE AND CONSEQUENTIAL DAMAGES, ATTORNEYS' AND EXPERTS' FEES, AND COURT COSTS (EVEN IF RENTGROW HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES), ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT.

b. **Damage Waiver (as between Client and each Credit Bureau only).** SEE SCHEDULE C.

c. **Liability Limit (as between RentGrow and Client only).** IN ADDITION TO THE LIMITATIONS OTHERWISE SET FORTH IN THIS AGREEMENT (BUT EXCLUDING SCHEDULE C), AND TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, IN THE EVENT OF ANY CLAIM OR CAUSE OF ACTION BY CLIENT ARISING OUT OF OR CONNECTED WITH THIS AGREEMENT, RENTGROW'S MAXIMUM LIABILITY TO CLIENT, REGARDLESS OF THE AMOUNT OF LOSS CLIENT MAY HAVE SUFFERED, SHALL NOT EXCEED THE FEES PAID BY CLIENT TO RENTGROW FOR THE SERVICES PROVIDED UNDER THIS AGREEMENT DURING THE 6 MONTHS IMMEDIATELY PRECEDING THE EARLIEST DATE OF THE EVENT(S) GIVING RISE TO THE LIABILITY.

d. **Liability Limit (as between Client and each Credit Bureau only).** SEE SCHEDULE C.

e. **Non-Reliance Release (as between RentGrow and Client only).** CLIENT HEREBY RELEASES RENTGROW AND ITS AGENTS, EMPLOYEES AND INDEPENDENT CONTRACTORS FROM LIABILITY FOR: (i) ANY NEGLIGENCE RELATED TO OR IN CONNECTION WITH THE INFORMATION PROVIDED AS PART OF THE SERVICES; AND (ii) ANY LOSS OR EXPENSE RESULTING, DIRECTLY OR INDIRECTLY, FROM INFORMATION DERIVED FROM THIRD PARTIES, INCLUDING BUT NOT LIMITED TO THE CREDIT BUREAUS.

f. **Non-Reliance Release (as between Client and each Credit Bureau only).** SEE SCHEDULE C.

9. **Assignment.** The Services cannot be assigned by you for any reason without the prior, express, written consent of RentGrow, which RentGrow may withhold in its sole discretion. Any attempted or purported assignment without RentGrow's prior, express, written consent is void. This Agreement is binding on and inures to the benefit of both you and RentGrow and our respective, authorized assigns, successors, and legal representatives.

10. **Disputes.** The Disputes provision of your Yardi Breeze Terms as between you and Yardi shall apply as between you and RentGrow, and by this reference that provision is incorporated herein.

11. **General Provisions.**

a. **Independent Contractor Status.** The parties agree that they are independent contractors and nothing in this Agreement is intended to make the parties partners, agents, joint venturers, or any other form of joint enterprise, or to make the employees, agents, or representatives of one of the parties into employees, agents, or representatives of the other party. No party to this Agreement shall have any express or implied right or authority to assume or create any obligations on behalf of any other party, and no party to this Agreement shall have any express or implied right to bind any other party to any contract, agreement, or undertaking with any third-party.

b. **Governing Law and Venue.** These Terms are governed and determined by the laws of the State of California, without any regard to conflicts of laws rules or regulations. Any action or proceeding related to or arising out of these Terms shall be resolved only in a court of competent jurisdiction in the City of Santa Barbara, State of California (or, if there is no court of competent jurisdiction in the City of Santa Barbara, California, then the court of competent jurisdiction closest to the City of Santa Barbara, California), and you and RentGrow expressly consent to the personal jurisdiction of such courts and waive any right to cause any action or proceeding to be

brought or tried elsewhere.

- c. **Binding Effect.** This Agreement is binding on and inures to the benefit of the parties and their permitted assigns, successors, and legal representatives.
- d. **Notices.** All notices that RentGrow may be obligated to provide you under the FCRA or otherwise will be sent to the email address you provided during your Yardi Breeze registration and as may be updated by you from time to time. You expressly acknowledge and agree to keep your email address up to date. If you have any reason to contact RentGrow about your Services, you must either call **(800) 736-8476** or write to RentGrow at:
- RENTGROW, INC.
Attn: Yardi Breeze Screening Services
400 Fifth Avenue, Suite 120
Waltham, MA 02451
- e. **Waiver.** The waiver of a party's breach of this Agreement shall not operate or be construed as a waiver of any other or subsequent breach.
- f. **Severability.** If a court or other body of competent jurisdiction determines that any part of this Agreement is unenforceable, the remainder of this Agreement shall nevertheless remain enforceable.
- g. **Headings.** This Agreement's section headings and captions are inserted for convenience only and are not intended to form a material part of this Agreement.
- h. **Data Use.** RentGrow and its parent, subsidiary or affiliated companies may aggregate, compile, and use information derived from the provision of the Services in order to improve, develop or enhance the Services and/or other services offered, or to be offered, by RentGrow, its parent company, or their affiliated companies; provided that no personally identifiable information belonging to you or any Applicant is identifiable as originating from, or can be traced back to, you or the Applicant.
- i. **Modification.** You may not modify or amend this Agreement except with the prior written approval of RentGrow. RentGrow may modify the terms of this Agreement from time to time. **TO ACCESS THE MOST CURRENT VERSION OF THIS AGREEMENT, CLICK ON [YARDI® BREEZE TERMS OF USE](#) OR ON THE "COMPANY SETTINGS" SCREEN WITHIN THE YARDI BREEZE SOFTWARE. BY CONTINUING TO USE YARDI BREEZE AND THE SERVICES, YOU EXPRESSLY ACKNOWLEDGE THAT YOU HAVE READ AND ACCEPT THE MOST CURRENT VERSION OF THIS AGREEMENT.**
- j. **Property Information.** In order to access and use the Services, and to remain compliant with the FCRA and other applicable law, you acknowledge and agree that (a) all of the information about the Properties for which the Services will be utilized that you provide during registration (the "**Property Information**") is true, accurate, current and complete; and (b) that you will promptly update any Property Information that changes to ensure that it remains true, accurate, current and complete so long as you are using the Services.