

## SERVICE DESCRIPTION

Financial-Information-Technologies, LLC (“Fintech”, “fintech.net”, or “fintech.com”) is a company specializing in providing electronic funds transfer (EFT) services and other services in the beverage alcohol industry (together referred to as “Electronic Services”). These services enable retailer and distributor subscribers (“subscribers”) and together (“trading partners”) to electronically initiate the exchange of business information with their trading partners through electronic communication methods and to also facilitate funds exchanges.

Fintech does not act as an agent of either trading partner in connection with the use of these Electronic Services. The establishment of the terms of any commercial or legal relationship between the trading partners by means of the use of the electronic services is solely the responsibility of the trading partners, but to facilitate trading partner relationships, subscriber’s name will appear in the list of customers on the Fintech website. The provision of such service by Fintech shall not be interpreted as conferring any authority to or responsibility on Fintech with respect to the establishment, continuation, or binding effect of such terms.

Fintech agrees to perform in a good and workmanlike manner the service of Electronic Services upon the terms and conditions set forth as follows:

1. The devices located at Fintech to support the communications network will be provided by Fintech. The subscriber or the other parties will provide any additional equipment or software necessary for the subscriber or other parties to communicate with Fintech.
2. Fintech may include the subscriber’s name and contact information in internal contact lists available only to Fintech users.

## ELECTRONIC SERVICES RESPONSIBILITIES

I. In the event the subscriber is utilizing the Electronic Services, the following responsibilities are ascribed:

### 1. Fintech

- a. Fintech will process all files submitted for EFT exchange within the required period from the time of file receipt except in the event of delays described below.
- b. Fintech will ensure and complete initial setup and subsequent changes of bank accounts to process through the Federal Reserve System.
- c. Prior to initiating any electronic funds transfer for a new trading partner relationship, Fintech shall generate a prenotification entry through the Federal Reserve Banking system in order to establish the validity of the bank account data. If Fintech receives notice that the prenotification has been rejected by the receiving bank, both trading partners will be notified. Electronic files cannot be submitted for processing until the cause for rejection has been corrected.
- d. Fintech will adhere to National Automated Clearing House rules for processing all subscriber data.
- e. In certain instances, Fintech will utilize scanning or OCR Services to provide a suggested match or output.

### 2. Trading Partners

- a. Validity checks of data sent in for EFT credit initiation is the responsibility of the payment order originator. It is this trading partner’s responsibility to notify both Fintech and their trading partner in the event inaccurate data was remitted and processed.
- b. Payee Initiated Payment Orders - In the event the payer’s bank returns or rejects files previously submitted for processing, Fintech will notify the payer upon Fintech’s receipt of bank notification. It will be the responsibility of the payer to wire the funds to Fintech by 2:00 pm EST on the same day of notification. In the event restitution is not made, Fintech will initiate an EFT debit to the bank account of the payee along with notification from Fintech. It will be the responsibility of the payee to collect their funds other than through Fintech.
- c. For General Commerce and Payment Services Payments Only (Does Not Apply to Regulated Beer, Wine and Spirits Payments) – The Payer’s account may be debited approximately four (4) business days prior to the effective payment Due Date to assure collected funds are available to the Payee (“Prefunding”). The Payer can opt to eliminate this four (4) day funding process by obtaining and providing to Fintech, at Payer’s expense, a Surety Bond sufficient to cover possible monetary returned item exposure. The Surety Bond will be in the amount of the average daily payments processed times 1.5 to allow for seasonality.
- d. Subscriber acknowledges that everything submitted for processing (a) is accurate, true and correct in all respects; (b) has been fully authorized and approved by the entity holding the account to which the entry pertains and such authorization and approval will be effective until such entry is made to the account and (c) that Fintech shall not be liable to subscriber for any damages, losses, liabilities, or expenses incurred by subscriber as a result of the following:
  - i.) Fintech’s acceptance or failure to accept an entry submitted by subscriber; or ii.) the issuance of any entry by the Subscriber. The subscriber is also representing that they are authorized to provide such information to Fintech for utilizing this payment feature.

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- e. Trading Partners maintain the responsibility to ensure that payments are scheduled in such a manner that their obligations will be paid on time. Payments will not be initiated to any entity that would violate any sanctions lists or that would be in violation of OFAC (Office of Foreign Assets Control) or any other U.S. law. Payments made by subscriber may be returned for various reasons, including but not limited to a change in billing address or other incorrect information about the biller. In the event a payment is returned, you authorize Fintech to either research and correct the payment, resubmit the payment or void the payment and credit the amount of the voided payment to your account, in Fintech's sole discretion and without liability to subscriber. Subscriber will be responsible for correcting any information and resubmitting or paying via alternate means for voided payments.
  - f. Fintech must be notified in writing at least 5 business days prior to an EFT start date for a new EFT location addition and in the event of a change in bank accounts. A new bank authorization form must be submitted with this change.
  - g. Reconciliation and balancing of actual bank account activity with invoices submitted for processing will be the sole responsibility of each trading partner.
  - h. As it relates to the use of OCR, subscriber maintains the sole responsibility to review all outputs from the scanning or OCR services. The Subscriber also maintains the responsibility to make any corrections to the outputs. The subscriber represents that all information provided to Fintech is accurate, current and complete and that the subscriber has been authorized to provide such information to Fintech for utilizing this feature. Subscriber is responsible for all transactions it authorizes upon utilizing this feature including any instances where subscriber shares a password or login information. Subscriber agrees not to share log in and password information. Fintech has the right to rely upon the use of user log in and password information as being a legitimate and authorized access to subscriber accounts through use of this feature. Fintech is not responsible for making any corrections to an inaccurate OCR.
- II. The subscriber understands that changes made in either their hardware or software may result in the inability to send or receive data through the Fintech process. Fintech will not be responsible for supporting these types of changes made by a subscriber unless Fintech has tested such changes and notified subscriber that Fintech can support the changes. It will also be the responsibility of the subscriber to notify Fintech at least 30 days prior to any changes required in data formats.

### **INTERCONNECTION**

The subscriber may request that Fintech interchange the subscriber's data with Value Added Networks (VAN's) when necessary for transacting electronic business with a trading partner. Fintech shall in no event be liable to the subscriber for any loss or damage arising from the conduct of any VAN with which Fintech interchanges the subscriber's data. For any electronic services that use electronic mail or text messaging, Fintech will ensure the sending of the information on behalf of subscriber but cannot guarantee receipt by the trading partner. Fintech shall in no event be liable for any loss where Fintech has sent the information and the trading partner has not received it.

### **DATA RETENTION**

It is the responsibility of the subscriber to retain all records and data submitted to and received from Fintech related to processing activity. In the event a dispute arises between the subscriber and a trading partner regarding data processed, the subscriber may contract with Fintech to provide necessary reconciliation research.

### **CUSTOMER REPRESENTATIVE AUTHORIZED TO EXECUTE CHANGES AND REQUEST ELECTRONIC SERVICES**

As a condition to Fintech's obligation hereunder, the subscriber shall designate those individuals who shall be authorized on behalf of the subscriber to make user profile changes, bank account changes and/or to initiate debit or credit entries. Designation of the authorized customer representative(s) may be altered or revoked from time to time upon written notice to Fintech from any signatory customer representative.

### **BANK FILTERS, DEBIT BLOCKS, DEBIT AUTHORIZATION**

Subscriber agrees to immediately inform Fintech if subscriber intends to use or has instituted any type of bank filter, debit block or debit authorization, which restricts or prohibits any debit generated by a trading partner or Fintech against the subscriber's account(s); to notify Fintech immediately upon changing any bank filter, debit block, or debit authorization; and to utilize a notification system such as Positive Pay to allow debits that would otherwise be blocked by any bank filter, debit block, or debit authorization to process. Any return resulting from a bank filter, debit block or debit authorization will result in the subscriber's being charged a first day return fee as set forth in the then current Schedule of Fees & Services. Failure to wire funds to Fintech the same day to mitigate the return will result in the imposition of a carry-over charge as set forth in the then current Schedule of Fees & Services. Such charges will continue for each day the wire transfer is not made.

Additionally, subscriber agrees that Fintech has the option and right to recover such funds through a charge back to the subscriber's trading partner for the amount of the return.

Subscriber agrees to utilize the Fintech Maximum Day Total limit feature to monitor trading partner bank filters/debit block/debit authorization dollar limits and adjust them as required to minimize bank returns (i.e., holiday periods, change in product purchase amounts). Subscriber will be contacted by Fintech periodically to review bank filter/debit block/debit authorization limits.

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Subscriber will provide Fintech a listing of all trading partner bank filter/debit block/debit authorization dollar limits in order for Fintech to communicate possible filter overages via the Fintech Maximum Day Total limit report and keep this listing current.

### **ERROR DETECTION**

Fintech has no obligation to discover and shall not be liable to either trading partner for errors made by one or both of the trading partners. This will include but not be limited to errors made in identifying the appropriate Financial Institution bank account, or for errors in the amount or description of an entry. Fintech will likewise have no duty to discover and shall not be liable for duplicate or invalid entries issued by a trading partner. In the event that the subscriber makes an error or issues a duplicate entry, the subscriber shall indemnify, defend all claims, and hold Fintech harmless from any loss, damages, or expenses, including but not limited to attorney's fees, incurred by Fintech as the result of the error or issuance of duplicate or invalid entries.

### **PAYMENT FOR SERVICES**

Subscriber agrees to pay to Fintech the full amount invoiced for performance of the electronic services. Fintech's fees are subject to change by Fintech upon thirty (30) days prior written notice and include setup fees, monthly processing fees, and the following bank related charges: NSF or other monetary return -- \$50.00; bank filter return -- \$100.00 or 0.1% of the amount returned, whichever is higher; and reversal of funds -- \$100.00 or 1.0% of the amount returned, whichever is higher. Payment by subscriber to Fintech is due by the 20<sup>th</sup> day following the invoice date. A finance charge of 1.5% per month will be applied to any balance not paid by said date. Subscriber will also be responsible for payment to Fintech for any Value-Added Network (VAN) charges Fintech incurs as a result of subscriber's processing requirements and for non-processing services requested by subscriber, such as bank account changes, bank filter setup, and additional reports.

### **WARRANTIES, REPRESENTATIONS AND COVENANTS**

The subscriber warrants, represents and covenants that each file or item submitted for processing (a) is accurate, true and correct in all respects and (b) has been fully authorized and approved by the entity holding the account to which the entry pertains, and such authorization and approval will be effective until such entry is made to the account. The subscriber also warrants, represents and covenants that it shall fully comply with the Operating Rules of the National Automated Clearing House Association including current federal and state rules and regulations related to electronic payments for beverage alcohol and other regulated products. Subscriber further warrants, represents and covenants that all bank account information provided to Fintech, is appropriately designated for the operation of the licensed business in the d/b/a or official company name.

### **LIMITATION OF LIABILITY**

Except as provided for in this Disclosure, Fintech shall not be liable to subscriber for any damages or expenses incurred by subscriber as the result of Fintech's acceptance or failure to accept an entry submitted by subscriber. IN NO EVENT SHALL FINTECH BE LIABLE TO SUBSCRIBER OR ANY OTHER PARTY DEALING THROUGH, OR WITH SUBSCRIBER, FOR CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES, EVEN IF FINTECH HAS KNOWLEDGE OF THE EXISTENCE OF THE PARTICULAR CIRCUMSTANCES GIVING RISE TO CONSEQUENTIAL OR OTHER DAMAGES. In the event Fintech shall commit an error in connection with the processing or transmission of an entry, except as provided by applicable law, the subscriber's sole remedy against Fintech shall be to request Fintech to correct the error with reasonable promptness. In no event shall Fintech be liable to subscriber for attorney's fees incurred by subscriber in any action brought by subscriber under this Disclosure.

THE FEATURES AND SERVICES PROVIDED HEREUNDER ARE PROVIDED TO SUBSCRIBER ON AN "AS IS" AND "AS AVAILABLE" BASIS. SUBSCRIBER ASSUMES ALL RESPONSIBILITY FOR DETERMINING WHETHER THE FEATURE OR THE INFORMATION GENERATED THEREBY IS ACCURATE OR SUFFICIENT FOR SUBSCRIBER'S PURPOSES. FINTECH DOES NOT WARRANT THAT USE OF THE FEATURE WILL BE ERROR-FREE OR UNINTERRUPTED. FINTECH IS NOT RESPONSIBLE FOR SOFTWARE INSTALLED OR USED BY SUBSCRIBER OR FOR THE OPERATION OR PERFORMANCE OF THE INTERNET. FINTECH SHALL NOT BE LIABLE TO SUBSCRIBER FOR ANY DAMAGES OR EXPENSES ARISING OUT OF ANY INCORRECT OR INCOMPLETE DETAILS. FINTECH SHALL NOT BE LIABLE TO SUBSCRIBER FOR ANY DAMAGES OR EXPENSES INCURRED BY SUBSCRIBER AS THE RESULT OF FINTECH'S ACCEPTANCE OR FAILURE TO ACCEPT AN ENTRY SUBMITTED BY SUBSCRIBER.

### **INDEMNIFICATION**

The subscriber agrees to defend, indemnify and hold Fintech harmless from all claims, demands, losses, liabilities, expenses and costs, including attorney's fees and costs, resulting or arising, directly or indirectly, from (a) the issuance of an entry by subscriber or a trading partner; (b) any act or omission by the subscriber or any of its agents, employees or representatives with respect to an entry; (c) any failure on the part of the subscriber to comply with any federal or state law or regulation or (d) any default, failure or breach by the subscriber with respect to any warranty, representation, covenant or disclosure herein contained.

This indemnification expressly includes, but is not limited to, damages (including attorneys' fees and related costs) resulting from any regulatory actions initiated by any federal or state alcohol beverage regulatory agency or authority due to the cancellation or rejection by the subscriber or its agent of any EFT initiated by Fintech or its authorized trading partners pursuant to the subscriber's Retailer Program Enrollment.

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### **FORCE MAJEURE**

Subscriber acknowledges and agrees that Fintech shall not be responsible or liable for any loss or damage as the result of delays or the failure of Fintech to perform any obligation under this Disclosure caused by acts of God, acts of other parties, acts of civil or military authorities, fires, strikes, floods, changes in laws or regulations, interruption of voice, data, or electronic communication or computer facilities, suspension of payments by financial institutions, radio frequency interference, war, emergency conditions, or other circumstances beyond the control of Fintech.

### **TERMINATION**

Either party may terminate the Fintech Electronic Services upon written notice received ninety (90) days prior to the requested date of termination. Notwithstanding the foregoing, Fintech may immediately terminate the Electronic Services or may refuse to accept and process entries without notice upon the happening of any of the following events or circumstances; (a) the subscriber's violation, breach of, or default in its performance or observance of any term, condition, representation, obligation, or warranty contained in the Retailer Program Enrollment or Retailer Electronic Services Disclosure; (b) default by the subscriber in payment of any sum owed by the subscriber to Fintech hereunder or under any note or any other agreement; (c) misrepresentation by the subscriber of any material fact in any statement, report or representation given or made to Fintech in connection herewith; (d) the seizure, attachment, garnishment or encumbrance by court order or legal process of any portion of the subscriber's deposit accounts, assets, alcohol license or properties; (e) business failure, insolvency or bankruptcy of the subscriber; (f) default by the subscriber under any other agreement between the subscriber and Fintech; and (g) if, in Fintech's sole discretion, Fintech determines that the subscriber has abused its rights under this Disclosure or if Fintech believes it will suffer a loss or other damage if the Electronic Services are not terminated. All substantive and procedural provisions hereof relative to liabilities of the parties and all warranties, representations and covenants thereto made shall survive any termination of this Disclosure. All sums owing by the subscriber to Fintech shall be due and payable in full immediately upon the termination of the Electronic Services, at which time subscriber will be charged for the entire month for any services billed on a monthly basis.

In order to meet all state requirements for timely processing of regulated product invoices, as part of the termination process, the subscriber must provide to Fintech:

1. The last invoice date for which invoices can be presented for processing by Fintech.
2. The last business day Fintech can process invoices through the bank system.
3. Availability of the subscriber designated bank account for three (3) business days following the last day Fintech can process invoices through the bank system.

To maintain compliance, invoices submitted outside of these requirements or items returned due to unavailability of the retailer designated bank account will be returned to the distributor for collection.

### **CONFIDENTIALITY/NON-DISCLOSURE**

Fintech will treat confidentially and not disclose any subscriber EFT identifiable data/information used in any Fintech Electronic Service to anyone other than Fintech's employees, agents, originating depository bank, to the subscriber's trading partner, or to a licensing authority. Fintech is authorized by subscriber to identify subscriber publicly as a customer by displaying subscriber's trademarks and logos (collectively, the "Logos") in Fintech's marketing, promotional and other materials, and subscriber grants Fintech a non-exclusive royalty-free license to use the Logos in Fintech's business for such purpose. Subscriber will not disclose any information received from Fintech except to trading partners or to a licensing authority.

### **HEADINGS**

Headings are used for reference purposes only and shall not be deemed a part of this Disclosure.

### **INTELLECTUAL PROPERTY**

Fintech has developed numerous proprietary computer applications for use in providing the electronic services and, as part of providing these services, has trademarked (or has pending trademarks for) a number of terms, including FINTECH, ONESOURCE, FTX, EZORDER, and FINTECH.NET. In addition to developing proprietary applications used to provide the electronic services, Fintech develops other applications, including the aggregation of purchase data, that do not relate to EFT and retains the exclusive right to use those applications (hereafter the "Applications"). Fintech reserves the right, subject to applicable laws, to use and distribute Company purchase data. Use of the Applications and all information derived therefrom is the sole property of Fintech.

### **SEVERABILITY**

In the event that any court or tribunal of competent jurisdiction determines that any provision of the Disclosure is illegal, invalid, or unenforceable, the remainder of this Disclosure shall not be affected thereby.

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### GOVERNING LAW

The laws of the State of Florida shall govern as to the interpretation, validity and effect of this Disclosure, and any modifications hereto. All disputes arising out of this Disclosure shall be finally settled by arbitration in Tampa, Florida, conducted in accordance with the rules of the American Arbitration Association. Judgment upon any award rendered pursuant to arbitration may be entered in any court having jurisdiction, or application may be made to such court for judicial acceptance of award and an order of acceptance as the case may be.

### NOTICES

Fintech may change this Disclosure at any time by giving subscriber notice as outlined herein. Except as otherwise provided herein, all notices required or permitted to be given under this Disclosure, including modifications of the terms of this Disclosure, may be given by any commercially reasonable means, including posting on the Fintech website. Continued use by subscriber of Electronic Services after notice of a change constitutes acceptance of the change by subscriber. All notices shall be effective when received, except as may be otherwise provided in this Disclosure or by applicable law. If a notice is not received because of the failure or disconnection of the addressed communication system, notice is effective at the time of transmission or dispatch. The subscriber and Fintech may each change the address for service of written notice upon it by a notice in writing to the other party by any commercially reasonable means. Notices by subscriber must be given by an officer of subscriber. Trading Partners agree to abide by the terms of the Fintech Privacy Policy, a copy of which is located at: <https://fintech.com/privacy-policy>.

### AGREEMENT

Your Independent Retailer Program Enrollment and this Independent Retailer Electronic Services Disclosure constitute the entire agreement between the parties concerning its subject matter.