

## **APPENDIX B: PRIVACY STATEMENT**

Protecting the privacy of Constellation Payments' merchants is important to Constellation Payments. Constellation Payments wants its merchants to understand what personal information it collects and how it is used. To provide its merchants with transaction processing services and related products (including, without limitation, credit card, charge card, debit card, loyalty card, gift card and stored-value card transaction processing services), as well as other value-added products and services that Constellation Payments may agree in writing to provide to merchants from time to time (collectively, the "Constellation Payments Services") as set forth in this Agreement, Constellation Payments may collect, use and provide its Affiliates (and other third parties that help Constellation Payments serve its merchants) with access to personal information provided to it in the ordinary course of its relationship with its merchant.

Each capitalized term used in this Statement that is not defined herein shall have the meaning given to such capitalized term in the Constellation Payments Payment Gateway & Merchant Services Agreement between Constellation Payments and Customer to which this Statement is attached (the "Agreement").

For purposes of this Statement, "Personal Information" is personal information that relates to an individual and that is obtained by Constellation Payments from Customer in the ordinary course of the Constellation Payments Services.

Customer's application for Constellation Payments Services, and/or its continued use of the Constellation Payments Services constitutes Customer's consent to Constellation Payments' collection, use and disclosure of Personal Information, as set out in this Statement. If Customer withdraws its consent to Constellation Payments' collection, use and disclosure of Personal Information in accordance with this Statement, Constellation Payments may not be able to provide Customer with the Constellation Payments Services.

### **A. Why Constellation Payments Collects Information**

Constellation Payments gathers Personal Information so it can: (i) evaluate the merchant's application for the Constellation Payments Services; (ii) underwrite the merchant's account; (iii) process Transactions; (iv) manage all billing processes; (v) enable fraud protection and risk management processes; (vi) provide merchant account servicing; (vii) offer other products and services; (viii) support Constellation Payments' legal compliance obligations; and (ix) otherwise improve and perform the Constellation Payments Services.

### **B. Confidentiality and Security**

Within Constellation Payments and its Affiliates, Constellation Payments restricts access to Personal Information to those employees and other agents who need to know that information to provide products and services to Customer and to operate Constellation Payments' business. Constellation Payments has established physical, technical and administrative security processes that are commensurate with the sensitivity of the information collected to safeguard Personal Information and will employ an independent auditing firm to test the effectiveness of the systems and practices that Constellation Payments has in place. [ Recognizing that technology is continually developing, Constellation Payments will modify, or implement additional, security measures on an ongoing basis to safeguard Personal Information. ]

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### **C. What Information Constellation Payments Collects and How It is Collected**

During the course of rendering Constellation Payments Services, Constellation Payments may collect the following types of Personal Information:

- Personal Information relating to the identity of principals of Customer (including, without limitation, date of birth, home address, home and mobile phone numbers, social security number, driver's license information and other identifying information that Constellation Payments receives from time to time from the merchant on the application form, on other forms or otherwise);
- Personal Information relating to End Users that may be received in connection with Transactions; and
- Credit and financially-related Personal Information relating to Customer, principals of Customer and End Users that Constellation Payments receives from third parties (including, but not limited to, consumer reporting agencies, credit bureaus, and the merchant's financial institution; and
- Other Personal Information received by Constellation Payments in the ordinary course of its rendering Constellation Payments Services.

### **D. To Whom Personal Information is Disclosed**

Personal Information may be disclosed to Affiliates of Constellation Payments and other third parties in connection with Constellation Payments' providing to Customer the Constellation Payments Services. Constellation Payments may also disclose Personal Information to : (i) payment networks, and the members of such networks; (ii) electronic funds transfer networks; (iii) clearing and settlement banks; (iv) service companies that perform business operations for Constellation Payments, (including, without limitation, account statement preparation and mailing services); (v) Constellation Payments' marketing vendors who assist Constellation Payments in marketing and improving its products and services; (vi) courts, independent auditors, law enforcement agencies and other governmental authorities, bodies or agencies in response to subpoenas, to prevent fraud, during the course of an audit or examination or as otherwise required by applicable law; (vii) collection agencies, credit bureaus or reporting agencies, business credit bureaus or other parties associated in collecting any debt owed by Customer to Constellation Payments or its Affiliates, and (viii) any third party purchasing all, or substantially all, of Constellation Payments' assets.

Constellation Payments will take commercially reasonable efforts to protect the confidentiality of Personal Information. However, Constellation Payments cannot guaranty or other assure customer or End Users that any Personal Information will not be accessed, compromised, disclosed, obtained or modified without authorization by a third party.

### **E. Cookies**

Constellation Payments' web site at <http://www.csipay.com/> (the "Site") may place files called "cookies" on the hard drive of Customer's computer. Cookies placed on Customer's computer by Constellation Payments will enable the Site to recognize Customer as a prior user in the future, provide the Site with information regarding Customer's prior use, enable Constellation Payments to analyze the use of the Site by users (including, but not limited to, Internet protocol ("IP") addresses, access dates and times, connection speeds, languages used, CONSTELLATION PAYMENT PROCESSING USA INC

location of IP addresses, browser, operating system, and other information regarding Customer's equipment, and other technical information relating to Customer's use of the Site), and otherwise assist Constellation Payments in making the Site more beneficial to Customer. Constellation Payments uses so-called permanent cookies that are saved on Customer's browser until Customer deletes them, and so-called session cookies that are automatically deleted when Customer's browser is closed. Customer's browser may provide Customer with the ability to not accept cookies, as well as the ability to delete already-existing cookies. Refusing or deleting cookies may limit Customer's ability to take advantage of certain features of the Site. Constellation Payments does not use cookies to examine other web sites Customer may have visited before or after leaving the Site.

**F. Amendments.**

This Policy may be amended at any time and from time to time by Constellation Payments, in its sole discretion. Any amendments to this Policy will be posted on the Site, which customer should periodically check for, among other things, such amendments. Customer may also be notified of such amendments by e-mail fax or regular mail from Constellation Payments using addresses and/or numbers contained in its records for Customer. In using the Site after any such amendment is so posted or upon receipt of such notification, Customer automatically accepts such amendments without any further action on its part.