

# ATM PLACEMENT AGREEMENT

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This ATM Placement Agreement (this "**Agreement**") is entered into as of [EFFECTIVE DATE] (the "**Effective Date**") by and between:

[ATM PROVIDER LEGAL NAME], a [STATE] [ENTITY TYPE, e.g. limited liability company] with its principal place of business at [PROVIDER ADDRESS] (the "**Provider**"); and

[MERCHANT LEGAL NAME], a [STATE] [ENTITY TYPE] (or an individual) with its principal place of business or address at [MERCHANT ADDRESS] (the "**Merchant**").

Provider and Merchant are each a "**Party**" and together the "**Parties**."

**Recitals.** Merchant operates the business location at [LOCATION ADDRESS] (the "**Location**") and wishes to host one or more automated teller machines for the convenience of its customers. Provider supplies, installs, and services automated teller machines and wishes to place a machine at the Location on the terms below. In consideration of the mutual promises below, the Parties agree as follows.

## 1. Placement and Equipment

**1.1 Grant of placement rights.** Merchant grants Provider the right to install, operate, service, and maintain [NUMBER] automated teller machine(s) (each an "**ATM**" and together the "**ATMs**") at the position(s) within the Location described in **Exhibit A** or as the Parties otherwise agree in writing.

**1.2 Ownership of equipment.** Each ATM, its software, signage, and the cash loaded into it remain the sole property of Provider (or its sponsor or vault provider) at all times. This Agreement transfers no ownership interest in the ATMs to Merchant.

**1.3 Branding and signage.** Provider may place reasonable signage on or near the ATM identifying the machine and any applicable network. Merchant will not alter, cover, or remove Provider's signage without consent.

**1.4 Installation and removal.** Provider will install the ATMs at its expense and will remove them at the end of this Agreement, restoring the affected area to substantially its prior condition, ordinary wear and tear excepted.

## 2. Term and Renewal

**2.1 Initial term.** This Agreement begins on the Effective Date and continues for an initial term of [NUMBER] [months/years] (the "**Initial Term**"), unless terminated earlier under Section 9.

**2.2 Renewal.** After the Initial Term, this Agreement automatically renews for successive [NUMBER]-[month/year] periods (each a "**Renewal Term**") unless either Party gives written notice of non-renewal at least [NUMBER, e.g. 60] days before the end of the then-current term. The Initial Term and any Renewal Terms are together the "**Term**."

**2.3 Holdover.** If Provider continues to operate an ATM at the Location after the Term with Merchant's consent, the arrangement continues month-to-month under these terms until terminated by either Party on **[NUMBER]** days' written notice.

### 3. Surcharges, Fees, and Revenue Share

**3.1 Surcharge.** Provider will set the cardholder surcharge for transactions at the ATM at **[AMOUNT]** per withdrawal, or as the Parties agree in **Exhibit A**, subject to applicable network rules and law.

**3.2 Merchant compensation.** Provider will pay Merchant **[a fixed fee of [AMOUNT] per surcharged transaction / [PERCENTAGE]% of net surcharge revenue / a flat monthly fee of [AMOUNT]]** (the "Merchant Fee"), as elected in **Exhibit A**.

**3.3 Reporting and payment.** Provider will deliver a transaction statement and the Merchant Fee **[MONTHLY]**, within **[NUMBER, e.g. 15]** days after the end of each period, payable by **[ACH / CHECK / OTHER]**.

**3.4 Records and audit.** Provider will keep accurate transaction records. On reasonable prior notice and no more than **[NUMBER, e.g. once]** per year, Merchant may inspect those records during business hours, at Merchant's expense, to verify Merchant Fee calculations.

### 4. Cash Loading and Servicing

**4.1 Cash responsibility.** Provider is solely responsible for supplying, loading, balancing, and reconciling the cash in each ATM, whether through its own armored service or a third party. **[If Merchant loads cash, replace this Section with the agreed cash-provisioning and reimbursement terms.]**

**4.2 Servicing.** Provider will keep the ATMs in good working order, will respond to a reported malfunction within **[NUMBER]** business hours, and will repair or replace a malfunctioning ATM within a reasonable time.

**4.3 Receipts and supplies.** Provider will keep the ATMs supplied with receipt paper and other consumables needed for normal operation.

**4.4 Customer support.** Provider will post a customer-support contact at each ATM and will handle cardholder disputes, chargebacks, and reversals.

### 5. Location Responsibilities

**5.1 Space and utilities.** Merchant will provide suitable floor space and access to standard electrical power and, if needed, a telephone line or network connection adequate to operate the ATMs, at no charge to Provider unless agreed otherwise in **Exhibit A**.

**5.2 Access.** Merchant will give Provider and its servicers reasonable access to the ATMs during **[hours]** to load cash, service, maintain, and remove the ATMs.

**5.3 Care and security.** Merchant will use reasonable care consistent with how it secures its own premises to prevent vandalism, tampering, or theft, and will promptly notify Provider of any damage, malfunction, or suspected fraud.

**5.4 No tampering.** Merchant and its personnel will not open, move, service, or attempt to access the interior or cash of any ATM.

### 6. Compliance and Network Rules

**6.1 Regulatory compliance.** Provider will operate the ATMs in compliance with applicable banking, network, accessibility, and electronic-funds-transfer rules that apply to ATM operators. Each Party will comply with the laws that apply to its role under this Agreement.

**6.2 Disclosures.** Provider is responsible for posting any surcharge and fee disclosures required by applicable law and network rules.

**6.3 Data and security.** Provider will maintain reasonable security controls for the ATMs and cardholder data consistent with applicable payment-industry standards.

## 7. Exclusivity

**7.1 Exclusive placement.** During the Term, Merchant will not host or permit any other ATM at the Location, except **[describe carve-outs, or "none"]**. **[Delete this Section if placement is non-exclusive.]**

**7.2 Non-exclusive alternative.** If placement is non-exclusive, Merchant may host other ATMs, provided it does not relocate, obscure, or disadvantage Provider's ATMs.

## 8. Insurance, Liability, and Indemnification

**8.1 Insurance.** Provider will maintain commercial general liability insurance of at least **[AMOUNT]** per occurrence and, on request, will provide a certificate of insurance and name Merchant as an additional insured.

**8.2 Allocation of risk.** Provider bears the risk of loss of cash and equipment inside the ATMs except to the extent caused by Merchant's negligence or breach. Merchant bears responsibility for the condition of the Location except to the extent caused by Provider.

**8.3 Limitation of liability.** Except for indemnified claims and a Party's gross negligence or willful misconduct, neither Party is liable for indirect, incidental, special, consequential, or punitive damages, and each Party's aggregate liability is limited to the total Merchant Fees paid or payable in the **[NUMBER, e.g. 12]** months before the event giving rise to the claim.

**8.4 Mutual indemnification.** Each Party will defend and indemnify the other against third-party claims arising from the indemnifying Party's negligence, willful misconduct, or breach of this Agreement, subject to prompt written notice and reasonable cooperation.

## 9. Termination

**9.1 Termination for convenience.** Either Party may terminate this Agreement for convenience on **[NUMBER, e.g. 60]** days' prior written notice.

**9.2 Termination for cause.** Either Party may terminate immediately on written notice if the other Party materially breaches and fails to cure within **[NUMBER, e.g. 15]** days after written notice describing the breach.

**9.3 Effect of termination.** On termination, Provider will pay all Merchant Fees accrued through the termination date and will remove the ATMs and its cash within **[NUMBER]** days. Amounts accrued before termination remain payable.

## 10. General Provisions

**10.1 Independent contractors.** The Parties are independent contractors. Nothing creates a partnership, joint venture, agency, or employment relationship.

10.2 **Governing law and venue.** This Agreement is governed by the laws of the State of [STATE], without regard to its conflict-of-laws rules. The Parties submit to the exclusive jurisdiction of the state and federal courts located in [COUNTY, STATE].

10.3 **Assignment.** Neither Party may assign this Agreement without the other's prior written consent, except to a successor in connection with a merger, acquisition, or sale of substantially all assets, on written notice.

10.4 **Notices.** Notices must be in writing and sent to the addresses above (or as updated in writing) and are effective on receipt.

10.5 **Force majeure.** Neither Party is liable for delay or failure caused by events beyond its reasonable control, provided it gives prompt notice and uses reasonable efforts to mitigate.

10.6 **Entire agreement; amendment.** This Agreement, including its Exhibits, is the entire agreement between the Parties on its subject and supersedes prior discussions. It may be amended only by a writing signed by both Parties.

10.7 **Severability and waiver.** If any provision is unenforceable, the rest remains in effect. A Party's failure to enforce a provision is not a waiver.

10.8 **Counterparts and electronic signature.** This Agreement may be signed in counterparts and by electronic signature, each of which is an original and all of which together form one agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

PROVIDER	MERCHANT
Signature: _____	Signature: _____
Printed name: [NAME]	Printed name: [NAME]
Title: [TITLE]	Title: [TITLE]
Date: _____	Date: _____

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