

Potsdam Auxiliary & College Educational Services, Inc. (PACES)
Bear Express Merchant Agreement- Amended 5/22/09

This agreement applies to the participation by «BUSNSS» in the Bear Express Program of PACES at SUNY Potsdam.

1. The merchant agrees to accept the SUNYCard for any or all purchases of food, drink, or general merchandise items EXCEPTING ALCOHOLIC beverages and **GIFT CARDS** at their location using Bear Express dollars. The merchant also agrees to prominently display the PACES/SUNYCard logo at their establishment as a reminder to SUNY Potsdam students, faculty and staff that they are a Bear Express participant.

2. The merchant agrees to purchase the transactional terminal provided by PACES that connects their establishment via telephone line to the database on campus. PACES personnel will install the terminal at the location and train staff in its operation **when installed. The merchant shall:**

**provide follow up staff education and training
to batch out transactions on a weekly basis.**

permit only authorized personnel to operate the terminal

maintain physical security of equipment

mainten, repair and provide supplies for the equipment,

not hold PACES liable for any errors or malfunctions of the equipment.

Equipment is warranted by the manufacturer for one year from the date of receipt of the equipment by PACES. Merchant is responsible for the repair and replacement of the equipment after the warranty period.

3. PACES shall not be held liable for transactions made on lost or stolen cards. For in store and delivery purchases, the merchant shall:

- Verify at delivery and/or point of purchase by means of the photograph on the card, that the customer is the card owner.
- Verify at delivery and/or point of purchase that the card is not visibly altered or deteriorated.
- Complete the transaction by “swiping” the card on the terminal and receiving electronic confirmation that the amount of the charge was deducted from the stored value in the customer’s account. In the case of a delivery transaction the merchant shall deduct the amount of purchase from the customer’s account by manual input of the customer’s campus card through the on-line terminal and verify that the amount of the charge was deducted from the stored value in the customer’s account.
- Obtain at delivery and/or point of purchase the customer’s signature on the receipt of charge and provide the customer with their copy.
- **Apply no surcharge to the customer on any transaction for use of Bear Express**

4. Should the customer have fewer funds on account than the amount of the charge, the terminal will provide the message “Insufficient Funds.” Should it become necessary to provide a refund to a customer, the merchant must issue a refund to the same card that incurred the charge. No cash refunds are permissible. In the event of a malfunction in the system, immediately contact the SUNYCard office at 267-2658 during the hours of 8:00 AM – 4:00 PM, Monday through Friday.

5. PACES will pay the merchant **weekly from September-May and twice monthly during June, July and August** (excepting holidays) for the face amount of the

transactions completed since the previous payment, less the commission amount and any refunds. The payment will be made by check and sent by first class mail.

6. In the event a customer inquires about a purchase or refund at the merchant's establishment, PACES will provide that person with a record of the transaction(s).

7. PACES and the merchant shall both keep confidential the terms of this agreement. The merchant shall not reveal or disclose to any party the commission paid to PACES on sales. Violation of this information may and shall result in removal from the program. The merchant agrees that the customers' names and records of purchases are the sole property of the customers and PACES.

8. Each party agrees to indemnify and hold harmless the other party, its parent, subsidiaries, affiliated, licensees, successors, and assignees from and against all damages, losses, and expenses including, but not limited to reasonable attorneys' fees and costs, arising from any suit or claim arising or alleged to have arisen out of the indemnifying party's actions or failure to act and/or in connection with the relationship established by this agreement, including but not limited to the breach hereof.

9. The agreement shall **begin on June 1, 2009 and continue until** terminated by either party upon thirty (30) days advance written notice. Should either party materially default in the performance of its obligations under this agreement and such default continue for fifteen 15 days after written notice to the defaulting party, the other party may, without further notice, terminate this agreement by written notice. The elements of confidentiality and indemnification in this agreement shall survive the termination.

10. The merchant agrees to pay PACES a commission rate of «COMMISSION» on all sales for the term of the contract. Following the close of the annual contract period the merchant and PACES shall examine the volume of sales during the August – May period and determine whether any modification in the commission rate is appropriate for the succeeding year.

11. The merchant may not assign this agreement to any other party.

12. This agreement shall be governed by and construed in accordance with the laws of the State of New York. Each party agrees to comply with all applicable laws, rules, and regulations pertaining to their obligations under this agreement. PACES retains the right to modify this agreement upon thirty (30) days advance notice.

Daniel J. Hayes
Executive Director
PACES
129 Merritt Hall
SUNY Potsdam

By _____

By _____

Title _____

Title _____

Date _____

Date _____

5/24/09