

EZ Cart™ Merchant Agreement

This agreement is for parties seeking to make their products and/or services available on marketamerica.com or shop.com (the "Sites") and use certain services offered by either Market America, Inc., a North Carolina corporation, marketamerica.com, inc., a Florida corporation, or Shop MA, Inc., a Florida corporation (Market America, Inc., marketamerica.com, inc., and Shop MA, Inc., collectively, for purposes of this EZ Cart Merchant Agreement, "Company," "We," "Us," or "Our"). Company shall facilitate online transactions between buyers and third-party sellers through various services (the "Services"), including, but not limited to, the ma® EZ Cart™ ("EZ Cart") and maPayment System ("maPayment"). If you ("you" or "Seller") want to access the Sites and use the Services to sell items, you must accept the terms and conditions of this EZ Cart Merchant Agreement (the "EZ Cart Merchant Agreement") without change. BY REGISTERING FOR AND USING THE SERVICES, YOU AGREE TO BE BOUND BY ALL TERMS AND CONDITIONS OF THIS EZ CART MERCHANT AGREEMENT, AND ALL POLICIES AND GUIDELINES OF THE SITE ARE INCORPORATED HEREIN BY REFERENCE.

Company reserves the right to change any of the terms and conditions contained in this EZ Cart Merchant Agreement and/or any policies and/or guidelines governing the Sites or Services, at any time and in its sole discretion. Any changes will be effective upon posting of the revisions on marketamerica.com and will be available through the appropriate link on that website. All notices of changes to this EZ Cart Merchant Agreement or to any other applicable policies or guidelines will be posted on marketamerica.com for thirty (30) days. You are responsible for reviewing the notices and any applicable changes. Changes to the referenced policies and guidelines may be posted without notice to you. YOUR CONTINUED USE OF THE SITE AND THE SERVICES FOLLOWING COMPANY'S POSTING OF ANY CHANGES WILL CONSTITUTE YOUR ACCEPTANCE OF SUCH CHANGES OR MODIFICATIONS. IF YOU DO NOT AGREE TO ANY CHANGES TO THIS EZ CART MERCHANT AGREEMENT, DO NOT CONTINUE TO USE THE SERVICES OR THE SITE.

1. **Eligibility.** Use of the Sites and Services is limited to parties that lawfully can enter into and form contracts under applicable law. For example, minors are not allowed to use the Services. To register, you must provide your real name (if an individual) or registered business name (if a business), address, phone number, e-mail address, and valid information on a checking or savings account at a U.S. bank that will serve as your linked account ("Linked Account") for maPayment.
2. **Company's Role.** Company provides a platform for third-party sellers ("Sellers") and buyers ("Buyers") to complete transactions. Company is a conduit for the actual transaction between Sellers and Buyers. We are not an agent for either Buyers or Sellers, and we have no authority to act on their behalf for any purpose.
3. **Use of the Services.**
 - a. **General.**
 - i. EZ Cart facilitates the purchase of items listed on the Sites. When a Buyer makes a purchase with an authorized credit card payment ("Payment Transaction"), the amount of the Payment Transaction, minus the applicable referral fee and processing fee, is credited to the Seller's registered maPayment account ("Payment Transaction Credits").

- ii. The Services are available only to (i) entities and individuals who are at least 18 years old; (ii) with a checking or savings account with a United States or Canadian bank, (iii) who have agreed to the Required Reserve amount, if required, and (iv) whose applications are acceptable to Company. Payment Transaction Credits can be credited only to bank checking or savings accounts in the United States or Canada. You must provide us true and accurate information when registering and must maintain and update that information as applicable. Seller will not impersonate any person or use a name he or she is not legally authorized to use.
 - iii. The Services are generally available seven (7) days per week, twenty-four (24) hours per day, except for scheduled downtime due to system maintenance. We can initiate Payment Transaction Credits to Seller's maPayment account only on a Business Day when the automated clearinghouses are open for business. For purposes of this EZ Cart Merchant Agreement, a Business Day is a Monday through Friday, excluding federal banking holidays. We will send an order notification/receipt, in a format to be determined by Company, to Seller via e-mail for each completed transaction. In addition, Seller can access his or her maPayment transaction information online when logging on with Seller's password. Seller may access Seller's transactions only with a browser that is compatible with maPayment, including any security features that are a part of maPayment.
 - iv. **Fraud Protection Procedures.** We are constantly improving upon and implementing new technologies to ensure that merchants and customers receive a secure and enjoyable shopping experience. For example, we have implemented fraud protection procedures, including "3-D Secure," which is used by Visa and Mastercard to improve the security of Internet payments. We also take our customers' satisfaction seriously, so that they will be encouraged to return to the Sites. For this reason, we have traditionally experienced a low level of returns and chargebacks, and you can sell your products through the EZ Cart with unsurpassed peace of mind.
 - v. **IN ORDER TO SELL ITEMS THROUGH THE EZ CART, YOU MUST REGISTER WITH COMPANY AND USE THE MAPAYMENT SERVICE.**
- b. **Required Reserve (If Applicable).** We may require that you maintain a minimum balance in your maPayment Account ("Required Reserve") to secure the performance of your obligations under this EZ Cart Merchant Agreement.
- i. The amount of your Required Reserve, if any, will be included in your specific terms on marketamerica.com, the terms of which are incorporated herein by reference. We may change the amount of your Required Reserve at any time upon written notice to you.
 - ii. If at any time you attempt to transfer funds from your maPayment account that would cause your balance to drop below your Required Reserve amount, your transfer request will be declined.

- iii. If at any time your account is terminated, we will send you the Required Reserve from your maPayment account within six (6) months from the date of termination.
- c. **Your Linked Account.** You must link your maPayment account to a valid checking or savings account at a U.S. or Canadian bank. If you are required to maintain a Required Reserve, or if the amount of your Required Reserve has been increased and you do not have sufficient funds in your maPayment account, you must add funds to your maPayment account by clicking on the appropriate tab on the maPayment site.
- d. **Balances.** All balances will be reflected in the Seller's maPayment account when logging on with Seller's password. The current balance displayed in Seller's maPayment account will be updated periodically, and may not include recent Payment Transactions. Generally, funds from a Payment Transaction will credit to Seller's maPayment account within four (4) days of the Payment Transaction; however, Company may, in its discretion, delay the availability of funds from a Payment Transaction pending receipt by Company of confirmation of shipment of the product, or upon Company's receipt of the funds from the credit card processor, whichever is later. Seller may request transfers to Seller's Linked Account at any time by clicking the appropriate link. When Seller makes such a transfer request, we will initiate a transfer to Seller's Linked Account for any amount specified by Seller up to the total balance on the account, less the Required Reserve amount if applicable. Transfers to the Seller's Linked Account will generally be credited within five (5) Business Days of the date we initiate the transfer. On occasion, we may send Seller a paper check instead of an electronic credit to Seller's bank account. We will do so, for instance, if Seller's bank will not accept an electronic credit to Seller's account.
- e. **Transaction Limits.** As a security measure, we may, but are not required to, impose transaction limits on some or all Buyers and Sellers relating to the value of any transaction or disbursement, the cumulative value of all transactions or disbursements during a period of time, or the number of transactions per day or other period of time. EXCEPT AS OTHERWISE SET FORTH HEREIN, WE WILL NOT BE LIABLE TO SELLER IF WE DO NOT PROCEED WITH A TRANSACTION OR DISBURSEMENT.
- f. **Assignment of Interest to Company.** You agree that you will not receive interest or other earnings on balances that are placed in your maPayment account. In consideration for your use of maPayment, you irrevocably transfer and assign to Company any ownership right that you may have in any interest that may accrue on funds held in your maPayment account. This assignment applies only to interest earned on your funds, and nothing in this EZ Cart Merchant Agreement grants Company any ownership right to the principal of the funds you maintain with Company. You also agree that you have no legal right to interest or other compensation from the balances in our bank accounts that result from the timing difference between our being paid by Buyer and our bank account being debited to pay Payment Transaction Credits to Seller.
- g. **Referral Fee.** Each time you make a sale on MarketAmerica.com, we will earn a percentage-based referral fee on all funds (excluding taxes and shipping) collected from each Buyer, as set forth in your specific terms on

marketamerica.com. We will withdraw our Referral Fee from your maPayment account. We may change our Referral Fee rate upon written notice to you of no less than three (3) Business Days. You may not change the Referral Fee without prior written approval of Company. The referral fee rate which applies to any particular sale will be the rate in effect on the date of the transaction.

- h. **Processing Fee.** In consideration for your use of the EZ Cart, you agree to pay to Company a processing fee of three percent (3%) of the total price of the goods sold (including tax and shipping), for each transaction between Seller and Buyer. We will debit the processing fee from your maPayment account after each transaction. THIS FEE IS NOT REFUNDABLE, EVEN IF THE TRANSACTION IS LATER INVALIDATED FOR ANY REASON, UNLESS THE TRANSACTION IS INVALIDATED DUE TO OUR NEGLIGENCE.
- i. **Shipping.** You agree that it is your responsibility to determine in advance the amount, if any, which will be charged for shipping your products to Buyers. Shipping charges will be calculated in accordance with the specific terms that you provide to Company.
- j. **Taxes.** You agree that it is the your responsibility to determine whether sales, use, or similar taxes apply to the transactions and to report and remit the correct tax to the appropriate tax authority. You also agree that Company is not obligated to determine whether sales, use, or similar taxes apply and is not responsible to report, or remit any sales, use, or similar taxes arising from any transaction. The above notwithstanding, Company will collect sales tax on your behalf from Buyers, in accordance with your specific terms that you provide to Company.
- k. **Product Listings.**
 - i. **Products and Product Information.** You will provide, in the format and with the frequency we require, data feeds containing accurate and complete product information for each product that you make available to be listed for sale through the Sites. You agree to promptly update such information as necessary to ensure it at all times remains accurate and complete. You will also ensure that your product listings, your products (including packaging), and your offer and subsequent sale of any of the same comply with all applicable laws (including all marking and labeling requirements).
 - ii. **Product Listing; Merchandising; Order Processing.** We will list your products for sale on one or more of the Sites, and conduct merchandising and promote your products as determined by us. In our discretion, we may use mechanisms that rate, or allow shoppers to rate, your products and/or your performance as a seller and Company may make these ratings and feedback publicly available. We will provide order information to you, in a format to be determined, for each Payment Transaction within a reasonable amount of time after such Payment Transaction. We will also collect all sales proceeds for each of these transactions and will have exclusive rights to do so, and will remit the net proceeds to you in accordance with the terms of this EZ Cart Merchant Agreement.

- iii. **Content.** As a Seller, you may list any item on the Sites unless it is (a) a prohibited item as defined in the procedures and guidelines contained in this EZ Cart Merchant Agreement; (b) an item that in Company's sole discretion is identical or similar to Company-branded items marketed or distributed by Company in its usual course of business; or (c) otherwise prohibited by law. You represent and warrant that you own or otherwise control all of the rights to the content you submit to Company and its affiliates and that the use of such materials by Company and its affiliates will not infringe upon or violate the rights of any third party. Without limitation, you may not list any item or any related material that (a) infringes any third-party intellectual property rights (including copyright, trademark, patent, and trade secrets) or other proprietary rights (including rights of publicity or privacy); (b) constitutes libel or slander or is otherwise defamatory; (c) is counterfeited, illegal, stolen, or fraudulent; or (d) offers for sale tobacco products, pornography or adult products, alcohol, drugs or drug paraphernalia, or firearms or other weapons.
- iv. **License to Company.** You grant Company a royalty-free, non-exclusive, worldwide, irrevocable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all of your product listings and related marketing materials; provided, however, that we will not alter any of your copyrighted material or trademarks from the form provided by you (except to re-size copyrighted material or trademarks to the extent necessary for presentation, so long as the relative proportions of such copyrighted material or trademarks remain the same) and will comply with your removal requests as to specific uses of your copyrighted material or trademarks in a commercially reasonable manner; provided further, however, that nothing in this EZ Cart Merchant Agreement will prevent or impair our right to use your product listings without your consent to the extent that such use is allowable without a license from you or your affiliates under applicable law (e.g., fair use under copyright law, referential use under trademark law, or valid license from a third party).
- v. **Seller's Obligations.** The Seller is obligated to sell the goods at the listed price to Buyers who meet the Seller's posted terms, and to deliver the goods according to the applicable shipping terms. By listing an item for sale, you represent and warrant to prospective Buyers that you have the right and ability to sell, and that the listing is accurate, current, and complete, and is not misleading or otherwise deceptive. Seller will be responsible for providing Company with accurate listing information in an electronic format agreed upon by the parties. As set forth in Section 3(k)(i) above, Seller will determine the purchase price for each item it chooses to list on the Sites. Company will not be responsible for identifying or correcting errors in any of your listings.
- 1. **Payment Transactions.** The Buyer may authorize a Payment Transaction with any major credit card accepted by Company. maPayment helps facilitate Payment Transactions. Except for Company's limited role as a conduit, we are

not involved in any underlying transaction between Buyers and Sellers. We are not a bank and do not offer banking services. Except for any of Company's express obligations under this EZ Cart Merchant Agreement, Seller is solely responsible for the transactions that it authorizes using the Services.

- m. **Fulfillment.** By entering into this EZ Cart Merchant Agreement and posting a listing for sale, you agree to source, sell, fulfill, ship, and deliver the product or otherwise complete the transaction as described by this EZ Cart Merchant Agreement. You acknowledge that by not fulfilling these obligations, your action or inaction may be legally actionable. Additionally, we may in our discretion automatically cancel any transaction that is not completed as described by this EZ Cart Merchant Agreement. Seller shall be solely responsible for the processing and shipment of products to the Buyer. The fulfillment sequence shall be as follows:
- i. Upon receipt of order information ("Order Notice") from Company, but in no event later than one (1) Business Day following receipt of the Order Notice, Seller shall send to Company an acknowledgment of receipt of the Order Notice, in a format to be determined by Company.
 - ii. Seller shall ship and deliver the goods to Buyer within the timeframe designated or if no time frame is provided, within thirty (30) days as required by the Federal Trade Commission's Mail or Telephone Order Merchandise Rule; provided, however, that Seller shall strive to process and fulfill the order (including shipment to the Buyer) within a commercially reasonable amount of time..
 - iii. Upon shipment, but no later than one (1) Business Day after shipment, Seller shall send to Company an electronic confirmation of shipment, in a form to be determined by Company.
 - iv. Additional required communications shall be established upon mutual agreement between you and Company.
- n. **Customer Service.** Seller is solely responsible for providing sales support and customer service to Buyers that purchase Seller's products through the EZ Cart. Seller will resolve Buyer complaints in a timely manner.
- o. **Delivery Errors and Nonconformities; Recalls.** Seller is responsible for: any non-delivery, mis-delivery, theft or other mistake or act in connection with the fulfillment and delivery of your products, except to the extent caused by our failure to make the Order Notice available to you. Seller is also responsible for any non-conformity or defect in, or any public or private recall of, any of your products. You will notify us promptly as soon as you have knowledge of any public or private recalls of your products.
- p. **Returns.** Seller is responsible for establishing its own product return policies, which will apply to all sales you make through the EZ Cart. Your policy must be submitted to Company so we can provide it to customers upon request. We may at our discretion include your return policies on the Sites. Subject to the terms of any return policies Seller submits to Company, Seller must provide a full refund through marketamerica.com to any Buyer who remits payment, if (i) the item

cannot be shipped at the time Company sends you the Order Notice, or (ii) the item has been returned to Seller pursuant to Seller's return policies. Seller must provide the refund promptly, but in no case later than five (5) Business Days following the close of the sale or product return. Any Buyer who believes he/she may be entitled to a refund on this basis will contact the Seller directly.

- q. **Your Obligation to Refund Payments.** When your maPayment account is credited as a result of a Payment Transaction, you are liable to Company for the full amount of the payment, minus any processing, chargeback, or return fees, which are actually withheld, if the Payment Transaction is later invalidated for any reason, unless the Payment Transaction is invalidated due to our negligence. You agree to allow Company to recover any amounts due to Company by debiting your maPayment account. **IF THERE ARE INSUFFICIENT FUNDS IN YOUR MAPAYMENT ACCOUNT TO COVER YOUR LIABILITY, YOU AGREE TO ALLOW COMPANY TO DEBIT YOUR LINKED ACCOUNT TO COVER YOUR LIABILITY.** If there are insufficient funds in your Linked Account, you agree to reimburse Company through other means within five (5) Business Days of the date Company notifies you of your obligation to provide such reimbursement.
- r. **Chargeback or Return Fees.** If Company is required to pay any processing, chargeback, or return fees as a result of chargebacks, transaction reversals, or returns, you are liable to Company for the full amount of such fees. You agree to allow Company to recover any amounts due to Company by debiting your maPayment account. If there are insufficient funds in your maPayment account to cover your liability, you agree to allow Company to debit your Linked Account to cover your liability. If there are insufficient funds in your Linked Account, you agree to reimburse Company through other means within five (5) days of the date Company notifies you of the need for such reimbursement.
- s. **Insurance.** We may at any time during the term of this Agreement require you to procure and maintain at your expense commercial general, umbrella, and/or excess liability insurance with limits of at least \$2 million per occurrence/aggregate covering liabilities caused by or occurring in conjunction with the operation of your business, including products, products/completed operations, and bodily injury, with policy(ies) naming Company as an additional insured. At our request, you will provide to us certificates of insurance.
- t. **Product Reviews.** From time to time in its sole discretion Company may permit customers and other third parties to independently review the products you offer for sale on the Sites. Any review submitted by a customer or other third party may or may not be posted on the Sites, or may be removed from the Sites, in the sole discretion of Company. You will not have access to change, edit, revise, post or remove any such reviews. Company shall have the right, but not the obligation, to review the content of any reviews submitted by a customer or other third party before or after such review is posted on the Sites. Company is not responsible or liable for, and makes no warranties, express or implied, as to the accuracy, reliability or content contained in any such reviews.

4. **Debit Authorization.** BY AGREEING TO THIS EZ CART MERCHANT AGREEMENT, YOU AUTHORIZE COMPANY (AND ITS SUCCESSORS AND ASSIGNS) AND THE FINANCIAL INSTITUTION AT WHICH YOU MAINTAIN

YOUR LINKED ACCOUNT TO DEBIT FROM YOUR LINKED ACCOUNT, PAYMENT FOR ALL REQUIRED RESERVES, PROCESSING FEES, REFERRAL FEES, AND ANY AND ALL OTHER FUNDS OWED TO COMPANY. THIS AUTHORIZATION IS EFFECTIVE FOR SELLER, AS WELL AS ITS SUCCESSORS AND ASSIGNS. THIS AUTHORIZATION WILL REMAIN IN FULL FORCE AND EFFECT UNTIL COMPANY RECEIVES WRITTEN NOTIFICATION FROM SELLER OR SELLER'S AUTHORIZED REPRESENTATIVE, OF ITS TERMINATION IN SUCH TIME AND SUCH MANNER AS TO AFFORD COMPANY AND THE BANK A REASONABLE OPPORTUNITY TO DISCONTINUE THE DEBIT. ANY REQUESTS FOR TERMINATION SHOULD BE MAILED TO THE ADDRESS PROVIDED BELOW.

5. **Reservation of Rights.** In addition to any other rights set forth herein, in our sole discretion:
- i. We may refuse to provide the Services to anyone for any reason at any time.
 - ii. We reserve the right to immediately halt any sale, prevent or restrict access to the Sites or the Services, or take any other action to restrict access to, or availability of, objectionable material, any inaccurate listing, any inappropriately categorized items, any unlawful items, or any items otherwise prohibited by the procedures and guidelines contained in this EZ Cart Merchant Agreement.
 - iii. We reserve the right to delay initiating the transfer of Payment Transaction Credits to a Seller's Linked Account (or sending paper checks) pending an investigation if we, in our sole discretion, believe Seller may have violated the EZ Cart Merchant Agreement. Notwithstanding any other provision of this EZ Cart Merchant Agreement, if we determine, in our sole discretion, that Seller has violated this EZ Cart Merchant Agreement, we may refuse to deliver those Payment Transaction Credits relating to the violation to Seller and may instead maintain the Payment Transaction Credits in an escrow account or, where applicable, may return the amount of any Payment Transaction Credit to Buyer. We will not be liable to Seller if we act in accordance with the provisions of this Section.
 - iv. If we reasonably conclude based on information available to us that Seller's actions and/or performance in connection with the Services may result in Buyer disputes, chargebacks or other claims, we reserve the right to delay initiating the transfer of Payment Transaction Credits to a Seller's bank account (or sending paper checks) for the shorter of either (i) 30 days following the initial date of suspension or (ii) the completion of an investigation regarding Buyer disputes, chargebacks or other claims. We will not be liable to Seller if we act in accordance with the provisions of this Section.
 - v. We reserve the right to seek reimbursement from Seller if we, in our sole discretion, decide to reimburse Buyer for any reason (subject to the terms of any return policies Seller submits to, and which have been accepted for posting by, Company), provide a refund to Buyer if Seller cannot

promptly deliver the goods, discover erroneous or duplicate transactions, or receive a chargeback from Buyer's credit card issuer for the amount of Buyer's purchase from Seller, unless the chargeback or reimbursement to Buyer is due to Company's negligence. We may obtain all amounts due and owing from the Seller to Company under this EZ Cart Merchant Agreement by deducting such amounts from future payments owed to Seller or from Seller's transfer requests, reversing any Payment Transaction Credits to Seller's maPayment Account, or seeking such reimbursement from Seller by any other lawful means. Your failure to fully pay amounts that you owe us on demand will be a breach of this EZ Cart Merchant Agreement. You will be liable for our costs associated with collection in addition to the amount collected, including, without limitation, attorneys' fees, court costs, collection agency fees, and any applicable interest.

- vi. We reserve the right to make any inquiries that Company considers necessary to validate your identity or credit-worthiness. This may include asking you for further information, requiring you to take steps to confirm ownership or provide financial instruments, ordering a credit report or D&B Report, and verifying your information against third party databases or through other sources. You agree to cooperate with any such request from Company.

6. **Company Participation.** Employees of Company and its affiliates are permitted to participate in their personal capacity (i.e., not as Company employees, representatives, or agents of Company or its affiliates) in the transactions conducted through this Sites (unless they have confidential information about a particular item). Employees of Company and its affiliates, when participating in any transaction in their personal capacity, are subject to the same procedures and guidelines as non-employee Buyers.

7. **Password Security.** Your password may be used only to access the Sites, use the Services, electronically sign your transactions, and review your completed transactions. You are solely responsible for maintaining the security of your password. You may not disclose your password to any third party (other than third parties authorized by you to use your account) and are solely responsible for any use of or action taken under your password on this Sites. If your password is compromised, you must change your password.

8. **Illegal Activity.**

- a. **Compliance with Laws; Fraud.** The Sites and Services may be used only for lawful purposes and in a lawful manner. You agree to comply with all applicable laws, statutes, and regulations, including without limitation the CAN-SPAM Act of 2003. You may not register under a false name or use an invalid or unauthorized bank account. You may not impersonate any participant or use another participant's password(s). Such fraudulent conduct is a violation of federal and state laws. Fraudulent conduct may be reported to law enforcement, and Company will cooperate to ensure that violators are prosecuted to the fullest extent of the law.

- b. **Investigation.** Company has the right, but not the obligation, to monitor any activity and content associated with this Sites. Company may investigate any

reported violation of its policies or complaints and take any action that it deems appropriate. Such action may include, but is not limited to, issuing warnings, suspension or termination of your use of the Services, denying access, and/or removal of any materials on the Sites, including listings. Company reserves the right and has absolute discretion to remove, screen, or edit any content that violates these provisions or is otherwise objectionable.

- c. **Disclosure of Information.** Company also reserves the right to report any activity that it suspects violates any law or regulation to appropriate law enforcement officials, regulators, or other third parties. In order to cooperate with governmental requests, to protect Company's systems and customers, or to ensure the integrity and operation of Company's business and systems, Company may access and disclose any information it considers necessary or appropriate, including but not limited to user contact details, IP addressing and traffic information, usage history, and posted content.

9. **Privacy.** Company will only use Seller data or Buyer data for two purposes: (i) to facilitate transactions, and (ii) for internal analysis to increase sales.

- a. Unless otherwise authorized or consented, you agree not to use any information regarding other participants which is accessible from the Sites or disclosed to you by Company or its affiliates, except to enter into and complete transactions. You agree not to use any such information for purposes of solicitation, advertising, unsolicited e-mail or spamming, harassment, invasion of privacy, or otherwise objectionable conduct.
- b. Company and its affiliates may communicate with you in connection with your listings, sales, and the Services, electronically and in other media, and you consent to such communications regardless of any preferences or requests you may have indicated on the Sites or by any other means. Please note that when you sign up to sell items on the Sites, some personally identifiable information about you may be displayed on the Sites and may be viewed by potential buyers.

10. **Confidentiality.**

- a. **Definition.** Seller or its principals may have access to confidential, proprietary trade secret information ("Confidential Information") of Company. Confidential Information includes, but is not limited to, Company's marketing plan, client lists, distributor lists, business records, genealogy reports, computer software programs, information on the inner workings of the marketing plan, internal memoranda, product sources, product pricing, product suppliers, product formulations and legal and accounting information and documents.
- b. **Confidentiality Obligation.** Seller shall not disclose any Confidential Information to third parties without the specific written permission of Company so long as trade secrets remain secret. Seller will not utilize Confidential Information in any way for personal gain either during the term of this Agreement or after termination of this Agreement. Seller and its principals acknowledge that breach of this covenant will cause irreparable harm to Company and hereby consent to the entry of appropriate restraining orders and/or injunctions in courts of competent jurisdiction. This is in no way intended to limit any claims for damage which Company may have as a result of the breach

of this covenant. The rights provided for in this Paragraph 10 shall survive the termination of this Agreement.

11. **Non-Circumvention.** Seller agrees not to knowingly market or sell any of the products it offers for sale through the EZ Cart directly to any of Market America, Inc.'s distributors or customers who have been introduced to Seller by Company, without consent of Market America, Inc., and remuneration to Market America, Inc., if required. If you have reason to believe, or if we inform you, that you are marketing or selling any of these products to any such distributor or customer, you have a duty to investigate and, if the customer is a Market America, Inc. distributor or customer, immediately cease all communications with the distributor or customer.

12. **Non-Solicitation.**

- a. During term of Agreement. Seller agrees not to knowingly solicit, approach, recruit or involve in any way, personally or through another party, any Market America, Inc. distributor or customer who has been introduced to Seller by Company into any other venture, marketing plan, MLM program or business; or give the names obtained by Seller from Company to any other entity or person who might do the same, or sell products or services, directly or through a third party, to any Market America, Inc. distributor or customer.
- b. Post-Termination. Seller agrees that for a period of two (2) years from the date of termination of this Agreement, or two (2) years from the date of conclusion of the last transaction between the parties, whichever date is later, neither Seller nor Seller's employees, agents, consultants, corporations, divisions, subsidiaries or partnerships (or other groups over which Seller has authority or control) will knowingly make contact with or enter into any transaction with any Market America, Inc. distributor or customer who has been introduced to Seller by Company without consent of Market America, Inc., and remuneration to Market America, Inc., if required.
- c. If you have reason to believe, or if we inform you, that you are you are violating this paragraph 12 by conducting prohibited activity with a Market America, Inc. distributor or customer, you have a duty to investigate and, if the customer is a Market America, Inc. distributor or customer, immediately cease all communications with the distributor or customer.

13. **No Warranties.** THE SITES AND THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS. COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED. ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND ARE HEREBY EXPRESSLY DISCLAIMED AND WAIVED, INCLUDING WITHOUT LIMITATION:

- a. THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT;
- b. THAT THE SITES OR THE SERVICES WILL MEET YOUR REQUIREMENTS, WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, OR OPERATE WITHOUT ERROR;

- c. THE INFORMATION, CONTENT, MATERIALS, OR PRODUCTS INCLUDED ON THE SITES WILL BE AS REPRESENTED BY SELLERS, AVAILABLE FOR SALE AT THE TIME OF SALE, LAWFUL TO SELL, OR THAT SELLERS OR BUYERS WILL PERFORM AS PROMISED;
- d. ANY IMPLIED WARRANTY ARISING FROM COURSE OF DEALING OR USAGE OF TRADE; AND
- e. ANY OBLIGATION, LIABILITY, RIGHT, CLAIM, OR REMEDY IN TORT, WHETHER OR NOT ARISING FROM THE NEGLIGENCE OF COMPANY.

TO THE FULL EXTENT PERMISSIBLE UNDER APPLICABLE LAW, COMPANY DISCLAIMS ANY AND ALL SUCH WARRANTIES.

14. **General Release.** IF A DISPUTE ARISES BETWEEN BUYER AND SELLER, YOU RELEASE COMPANY (AND ITS AGENTS AND EMPLOYEES) FROM CLAIMS, DEMANDS, AND DAMAGES (ACTUAL AND CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH SUCH DISPUTES.

15. **Indemnity/Limitation of Liability.**

- a. **Indemnity and Defense.** You will defend, indemnify and hold harmless Company and its affiliates (and their respective employees, directors, agents and representatives) from and against any and all claims, costs, losses, damages, judgments, penalties, interest and expenses (including reasonable attorneys' fees) arising out of any Claim that arises out of or relates to: (i) any actual or alleged breach of your representations, warranties, or obligations set forth in this EZ Cart Merchant Agreement; (ii) your own website or other sales channels; (iii) the products you sell, any content you provide, or the advertisement, offer, sale or return of any products you sell; (iv) any actual or alleged infringement of any intellectual property or proprietary rights by any products you sell or content you provide; and/or Seller Taxes or the collection, payment or failure to collect or pay Seller Taxes, as defined below; or (v) any other actions or omissions to act of Seller or its representatives, contractors, officers, employees, agents, assigns or invitees, in connection with the performance of its obligations under this Agreement . For purposes hereof: "Claim" means any claim, action, audit, investigation, inquiry or other proceeding instituted by a person or entity; and "Seller Taxes" means any and all sales, use, excise, import, export, value added and other taxes and duties assessed, incurred or required to be collected or paid for any reason in connection with any advertisement, offer or sale of products by you on or through the MarketAmerica.com Sites, or otherwise in connection with any action, inaction or omission of you or any affiliate of yours, or any of your or their respective employees, agents, contractors or representatives.

- b. **Limitation of Liability.** COMPANY WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE EZ CART MERCHANT AGREEMENT, THE SITE, THE SERVICES, THE INABILITY TO USE THE SERVICES, OR THOSE RESULTING FROM ANY GOODS OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR

TRANSACTIONS ENTERED INTO THROUGH THE SERVICES, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH COSTS OR DAMAGES. The limitation of liability provided in this paragraph does not apply to the extent that Company's liability to Seller arises solely out of the fraudulent acts of Company, its owners, representatives, officers, or employees.

16. **Applicable Law.** The Sites and the Services are arranged, sponsored, or managed by either Market America, Inc. in the state of North Carolina or Shop MA, Inc. or marketamerica.com, inc. in the state of Florida. You agree that any action at law or in equity arising out of or relating to these terms and conditions shall be submitted to confidential arbitration in Greensboro, North Carolina or Miami, Florida, except that, where Company determines it is necessary, Company may seek injunctive or other appropriate relief in any state or federal court in the states of North Carolina or Florida, and you consent to exclusive jurisdiction and venue in such courts. Arbitration under this EZ Cart Merchant Agreement shall be conducted under the rules then prevailing of the American Arbitration Association. The arbitrator's award shall be binding and may be entered as a judgment in any court of competent jurisdiction. To the fullest extent permitted by applicable law, no arbitration under this EZ Cart Merchant Agreement shall be joined to an arbitration involving any other party subject to this EZ Cart Merchant Agreement, whether through class arbitration proceedings or otherwise.
17. **Independent Contractors.** The parties to this EZ Cart Merchant Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise, or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.
18. **Disputes.** Because Company is not involved in the underlying transaction between Sellers and Buyers and is not the agent of either for any purpose, Company will not be involved in resolving any disputes between participants related to or arising out of any transaction, except as otherwise set forth herein. Company urges Sellers and Buyers to cooperate with each other to resolve such disputes.
19. **Force Majeure.** Neither party will be liable for any delay or failure to perform any of its obligations under the Agreement by reasons, events, or other matters beyond its reasonable control.
20. **Termination.**
 - a. Company, in its sole discretion, may terminate this EZ Cart Merchant Agreement, access to the Sites or the Services, or any pending sale, purchase, or Payment Transaction immediately without notice for any reason. Upon termination, Seller may transfer the total balance in Seller's maPayment account, less the Required Reserve amount, if applicable, to Seller's Linked Account.
 - b. Seller may terminate its participation in EZ Cart at any time by giving notice to Company at the address below. Upon termination, Seller must pay us whatever fees were incurred prior to the effective date of the termination. Also upon termination, any pending transactions will be canceled.
21. **General Provisions**

- a. **Entire Agreement.** This EZ Cart Merchant Agreement and the additional terms specific to you, which are contained on marketamerica.com, constitute the entire agreement of the parties with respect to the subject matter hereof, and supersede and cancel all prior and contemporaneous agreements, claims, representations, and understandings of the parties in connection with the subject matter hereof.
- b. **Severability.** If any provision of this EZ Cart Merchant Agreement shall be deemed unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these terms and conditions and shall not affect the validity and enforceability of any remaining provisions.
- c. **No Waiver.** Neither party will be considered to have waived any of its rights or remedies described in this EZ Cart Merchant Agreement unless the waiver is in writing and signed by that party. No delay or omission by either party in exercising its rights or remedies will impair or be construed as a waiver. Any single or partial exercise of a right or remedy will not preclude further exercise of any other right or remedy. Either party's failure to enforce the strict performance of any provision of this EZ Cart Merchant Agreement will not constitute a waiver of that party's right to subsequently enforce such provision or any other provisions of this EZ Cart Merchant Agreement.
- d. **Notices.** All notices to you will be sent by e-mail or will be posted on the Company Web site. We will send notices to Seller at the e-mail address maintained in Company's records for Seller. Seller will monitor his or her e-mail messages frequently to ensure awareness of any notices sent by us. Seller will send notices to Market America, Inc. at the following address: Company, Inc., 1302 Pleasant Ridge Road, Greensboro, North Carolina 27409 or partners@marketamerica.com. Seller will send notices to marketamerica.com, inc. at the following address: 3301 NE 1st Avenue PH #1, Miami, Florida 33137 or info@partnerwithma.com. Seller will send notices to Shop MA, Inc. at the following address: 3301 NE 1st Avenue PH #1, Miami, Florida 33137. E-mail notices are deemed written notices for all purposes for which written notices may be required. E-mail notices are deemed received the Business Day after transmission if properly addressed to the intended recipient. If not sent by e-mail, notice may be provided in writing and mailed U.S. Mail, postage paid, First Class mail properly addressed or personally delivered by express courier such as Federal Express. First Class mail is properly addressed if sent by us to the address maintained in our records for Seller. First Class mail is properly addressed if sent by Seller to the current address published by us on our Web site. First Class mail is deemed received three Business Days after it is deposited in the U.S. Mail. A notice sent by express courier is deemed received when personally delivered to the intended recipient or to a person with apparent authority to receive such delivery on behalf of the intended recipient.

THE FOLLOWING ADDITIONAL TERMS ARE BINDING ON SELLER IF SELLER, SELLER'S SPOUSE, OR ANY OF SELLER'S REPRESENTATIVES, OFFICERS, DIRECTORS, OR SHAREHOLDERS IS A MARKET AMERICA INDEPENDENT DISTRIBUTOR:

22. Notwithstanding anything herein to the contrary:
- a. You agree that you shall be bound by the Market America, Inc. Independent Distributor Application & Agreement ("IDA&A") with respect to your selling activities on the Sites. For purposes of this Agreement, you shall be bound to any ID&A that has been signed by you, your Spouse, or any of your representatives, officers, directors, or shareholders.
 - b. You agree that, with respect to your selling activities on the Sites, you shall be bound by Part 2 of the Market America, Inc. Career Manual, as it is revised from time to time.
23. You agree that, during any Market America, Inc. meeting, training, or event, you shall not market, sell, or offer for sale any of the products you offer for sale through the EZ Cart to any of Market America, Inc.'s prospective or current Independent Distributors or preferred customers.
24. **Confidential Information.**
- a. Notwithstanding anything herein to the contrary, Confidential Information shall include (i) the names, e-mail addresses, telephone numbers, and mailing addresses of prospective or current Independent Distributors or preferred customers; (ii) any proprietary, trade secret, or confidential information as set forth in Paragraph 10 hereto; and (iii) any proprietary trade secret, or confidential information as set forth in any IDA&A that has been signed by Seller, Seller's Spouse, or any of Seller's representatives, officers, directors, or shareholders.
 - b. You may not use Confidential Information to market, sell, or offer for sale any of the products you offer for sale through the EZ Cart to any of Market America Inc.'s prospective or current Independent Distributors or preferred customers.