



# The Hudson ATM

## ATM PLACEMENT AGREEMENT

This agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by and between Hudson Value Enterprises Inc. ("Hudson ATM"), a New York Corporation located at 15 Hillsworth Avenue Kingston, NY 12401 ("ATM Owner") \_\_\_\_\_ and D/B/A \_\_\_\_\_ ("Proprietor"), with the address as shown on the next page, as follows:

- A. Proprietor is the operator of a retail establishment described on Exhibit "A" which is attached hereto and incorporated herein by reference ("Site").
- B. ATM owner is the owner of an Automatic Teller Machine and owns or has the right to utilize all software needed for the operation of said machine (the "ATM").
- C. ATM owner desires to locate the ATM at the Site and Proprietor is agreeable to said placement on the terms and conditions set forth herein.

**NOW, THEREFORE**, it is agreed as follows:

**1. Placement of ATM:** ATM owner shall install the ATM in a mutually agreed upon area at the Site which is in plain view and readily accessible to the general public. The charge to the user will be as reflected in Exhibit "A" and may be modified by ATM owner, at its discretion with advance notice to the Proprietor.

**2. Responsibility of Proprietor:** Proprietor shall:

- a) Allow ATM owner or its designated agent access to the site for the purpose of installing, maintaining, servicing, repairing, replacing and removing the ATM.
- b) Contract for and provide, at Proprietor's expense, a business telephone line. ATM also requires one (1) operating electrical power outlet (110 V) with isolated ground within 2 feet of the ATM, installation and monthly fees and costs of said outlet to be paid for by Proprietor.
- c) Maintain the area around the ATM so that it is clean, safe, accessible and visible to the general public.
- d) Use its best efforts to protect the ATM from theft and damage.
- e) Maintain appropriate liability insurance with ATM Owner named as an additional insured protecting the parties from any injuries or damages claimed or sustained by any person using or attempting to use the ATM.
- f) Maintain casualty insurance for the full replacement value covering the ATM for damage due to fire, flood, vandalism and other general perils and naming ATM Owner as the loss payee. If Proprietor elects to include the ATM under Proprietor's general fire and casualty insurance, ATM Owner shall be the loss payee only to the extent of the damage to the ATM.
- g) Notify ATM Owner promptly of any operating problems with the ATM.
- h) Operate Proprietor's current business at the Site during normal and customary hours of operation for the businesses of the type operated by Proprietor. Proprietor shall give ATM Owner not less than thirty (30) days notice of any change in the nature of Proprietor's normal business hours or any location transfers and moves.
- i) Not post or allow to be posted on the ATM any signs, plaques, advertising or other material except as may be authorized in writing by ATM owner.
- j) Not allow any other ATM to be installed at the Site without the prior written consent of ATM Owner.

- 3. Responsibilities of ATM Company / ATM Owner:** ATM Owner shall:
- a. Install the ATM on or before the date indicated on Exhibit "A".
  - b. Maintain the ATM and repair if required in a timely manner. ATM downtime should not exceed 3 business days.
  - c. Provide Proprietor with appropriate instructions and training with regard to the operation of the ATM.
  - d. Provide Proprietor with copies of the monthly reports received by ATM Owner from its electronic funds service provider showing the services performed and the charges collected for the use by the public of the ATM.
  - e. Cause to be transferred directly to Proprietor's designated bank account the cash advanced by Proprietor through the ATM. Proprietor's share of fees shall be calculated as set forth on Exhibit "A". Transfers with regard to cash advances dispense by ATM shall be made on a daily basis, bank holidays excepted, unless otherwise agreed by Proprietor. Transfers of Proprietor's share of surcharge fees collected shall be made on a monthly basis.
  - f. Inventory an adequate supply of paper at Proprietor's premises, which are available from Hudson ATM.
- 4. Term:** The term of this Agreement shall commence upon the date that the ATM has been installed and is operational and shall continue for a period of five (5) years. Thereafter, the Agreement shall be automatically renewed for successive three (3) year terms until one party gives the other not less than one hundred eighty days written notice of its intent not to renew. Notwithstanding the foregoing, a party may terminate this Agreement upon three (3) days written notice in the event of a breach by the other party of a material provision of this Agreement if same has not been cured within seven (7) days of written notice from the non-breaching party as to the specifics, to the extent known, of the breach. Notwithstanding the foregoing, ATM owner has the right, at its election, to remove the ATM at any time when the ATM transactions have fallen below a minimum that would sustain operation of that ATM.
- 5. Additional Locations:** Merchant hereby grants to Hudson ATM first right of refusal to place ATMs in any additional Merchant owned locations. Merchant further agrees not to offer such locations to any other third party without prior written consent from Hudson ATM.
- 6. Exclusivity:** Merchant agrees that during Initial Term or any Additional Term under this Agreement, it shall not have any other ATM machine or Point of Sale Cash Back device nor shall Merchant offer Cash Back to Customers in any location through any other means in any location where an ATM has been installed by Hudson ATM with the prior written consent of Hudson ATM.
- 7. Payment to Merchant:** Hudson ATM shall place a Convenience Fee as set forth on Exhibit "A" on each ATM. Hudson ATM reserves the right to modify the Convenience Fee with 30 day notification to the Merchant. Hudson ATM agrees to pay Merchant a percentage of the convenience fee during the term(s) of this Agreement as set forth in Exhibit "A".
- 8. Termination:** Should this Agreement be terminated for any reason prior to the end of the Initial Term by the Merchant, Merchant agrees to pay a one time termination fee equal to the number of months remaining on the Initial Term at the rate of \$100 per month. This fee will be deducted via ACH debit at the time of termination. Notwithstanding the Merchant has the right to terminate contract in the event of a breach by the ATM Owner of a material provision of this Agreement and a 3 day written notice has been served by the Merchant to the ATM Owner.
- 9. Right to match:** In the event this Agreement is terminated by Customer, Customer grants upon such termination to Hudson ATM, a right to match any bona fide third party offer in connection with the processing of any ATM machine in the premises. If Hudson ATM is able to match such third party offer, Customer shall use Hudson ATM to provide such ATM processing. Such right shall last for the period of time that otherwise would have been the remaining portion of the Term in effect at the time of termination if no termination had occurred, and thereafter for as long as Hudson ATM matches such third party offers.
- 10. Waiver:** The failure of either party to enforce at any time any provision of this Agreement or to exercise any right herein provided shall not in any way be construed to be a waiver of such provision or right and shall not in any way affect the validity of this agreement or any part hereof, or limit, prevent or impair the right of such party subsequently to enforce provision or exercise such right.
- 11. Governing Law:** This Agreement shall be construed in accordance with the laws of the State of California and as indicated on Exhibit "A" attached hereto and venue for any actions pertaining to this Agreement shall be as indicated on Exhibit "A".

12. **Entire Agreement:** This Agreement, together with the exhibits hereto, represents the entire understanding between the parties with respect to the matters contained herein and may be amended only by instrument in writing signed by the parties hereto. There are no representation or warranties, express or implied, other than those contained herein.
13. **Notice:** Any notice required or permitted hereunder shall be in writing and may be given by personal service or by depositing same in the United States Mail, first class postage prepaid, to the address of the party receiving the notice as appears on the signature page of this Agreement or as changed through written notice to the other party.
14. **Binding Effect:** This Agreement is binding on the parties and their respective successors an assign. Proprietor may not assign this Agreement without the prior written consent of ATM Owner; which consent shall not be unreasonably withheld.
15. **Severability:** If any provision of this Agreement, or the applicability of such provision to any person or circumstance, shall be determined to be invalid by any court of competent jurisdiction, then such determination shall not affect any other provision of this agreement, all of which provisions shall remain in effect and, if the provision is capable of being construed in two ways, one of which would render it valid, the provision shall have the meaning which renders it valid.
16. **Validity and Enforceability:** Proprietor represents and warrants that the execution and delivery of this agreement by it have been duly authorized by all actions required under the terms of the provisions of its governing instruments and creates a legal, valid and binding obligation on Proprietor.

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*By signing below, I hereby authorize Hudson ATM, or its authorized agents and or affiliates to investigate my personal background, credit and financial records and to make inquires to banks, credit reporting agencies, business associates, landlords and any other person or entity who may have knowledge in regard to myself as applicant or any principals. As part of the investigation, I further authorize Hudson ATM., to request and obtain business credit reports as well as any consumer reports in connection with this and other accounts deemed necessary.*

**ATM OWNER: Hudson ATM**

**PROPRIETOR:**

X \_\_\_\_\_

X \_\_\_\_\_

Hudson ATM Auth. Signature      Date

Signature      Date

X \_\_\_\_\_

X \_\_\_\_\_

Print Name

Print Name

***Hudson ATM***

Address

***15 Hillsworth Avenue***

\_\_\_\_\_

Kingston, NY 12401

\_\_\_\_\_

**EXHIBIT "A"**

SITE: \_\_\_\_\_

TYPE OF BUSINESS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

- I. DATE OF INSTALLATION OF ATM: \_\_\_\_\_
- II. CARDHOLDER SURCHARGE: \_\_\_\_\_
- III. AMOUNT PAYABLE TO PROPRIETOR: \_\_\_\_\_
- IV. WORKING CASH FOR THE ATM TO BE PROVIDED BY: \_\_\_\_\_

**ATM OWNER: Hudson ATM**

X \_\_\_\_\_

Hudson ATM Auth. Signature      Date

X \_\_\_\_\_

Print Name

**PROPRIETOR:**

X \_\_\_\_\_

Signature                                      Date

X \_\_\_\_\_

Print Name

\_\_\_\_\_

*Phone: (845)-853-6605*

Fed. Tax ID or SS Number

*Hudson ATM*

Address

*15 Hillsworth Avenue*

\_\_\_\_\_

Kingston, NY 12401

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