

**Prosperity Bank ATM Operator Application and Agreement**

ISO Name: Carolina ATM Services, LLC

Processor: \_\_\_\_\_

Terminal ID: \_\_\_\_\_

(SELECT ONE)  New Merchant,  Change of Terminal ID,  Change of ATM Owner,  Change of Cash Owner

"Merchant" is the entity or individual on whose premises the automated teller machine(s) ("ATM(s)") will be located. By its signature below, Merchant agrees that it completed Section A of this Agreement with accurate information and that it will provide customers with access to an ATM(s).

"ATM Operator/Owner" \* who owns the "ATM(s)", and by its signature below, agrees that it completed Section B with accurate information and represents and warrants that it owns the ATM(s),

"ATM Operator/Cash Owner" \* who owns the cash placed in the ATM(s), and by its signature below, agrees that it completed Section C with accurate information and represents and warrants that it owns the cash in the ATM(s).

"ISO" is the Independent Sales Organization with which the ATM Operator/Owner and/or ATM Operator/Cash Owner is affiliated. By its signature below, the ISO agrees that each ATM is being deployed pursuant to the ATM ISO Sponsorship Agreement ("ISO Agreement") between the Bank and the ISO, which is hereby incorporated by reference.

**Application (Page 1 of 2) Merchants and ATM Operators signing this page agree to the terms on pages 1 & 2**

<b>SECTION A – Merchant / Location Information</b>										
1. Full Legal Name of Business where ATM is located			DBA (Name of the Business if other than Legal Name)				Location Telephone #			
2. Terminal Location – Address			City				State	ZIP		
3. I have read both pages of this Agreement and understand my obligations – Merchant and/or Location Owner Signature			Date	Please Print Full Name Clearly			<b>Merchant Certification</b> I own this ATM <input type="checkbox"/> , I do not own this ATM <input type="checkbox"/> I put CASH in this ATM <input type="checkbox"/> , I do not put CASH in this ATM <input type="checkbox"/>			
<b>SECTION B ATM Operator /Owner Information (If ATM Owner and ATM Cash Owner are different \$100.00 will be charged to process this application)</b>										
4. Who <u>owns</u> this ATM? ISO <input type="checkbox"/> , complete Section A, this line 4, and sign line 8 Merchant <input type="checkbox"/> , or Third Party <input type="checkbox"/> Complete all of Section B			Business Name				How is the company organized? Corp <input type="checkbox"/> , Partnership <input type="checkbox"/> , LLC <input type="checkbox"/> , Nonprofit <input type="checkbox"/> , Tribal <input type="checkbox"/> , Sole Proprietor <input type="checkbox"/>			
5. Business Tax Identification #	Business Street Address			Business City			State	Zip		
6. ATM Owner First Name **			Owner Last Name		% Ownership of Terminal	Date of Birth	Social Security Number (Mandatory - <i>Please Print Clearly</i> )			
7. Current Home Address			City		State	Zip	Business/Location Telephone Number			
8. I have read both pages of this Agreement and understand my obligations - ATM Owner Signature***				Date	Drivers License # /State Issued	Have you ever been a defendant in a criminal proceeding? Yes or No				
<b>SECTION C– ATM Operator*/Cash Owner Information (If ATM Owner and ATM Cash Owner are different \$100.00 will be charged to process this application)</b>										
9. Who <u>owns</u> the Cash in this ATM? ISO <input type="checkbox"/> , Funding Bank <input type="checkbox"/> , complete Section A, this line 9, and sign line 14, Merchant <input type="checkbox"/> , Third Party <input type="checkbox"/> Complete all of Section C			Business Name				How is the company organized? Corp <input type="checkbox"/> , Partnership <input type="checkbox"/> , LLC <input type="checkbox"/> , Nonprofit <input type="checkbox"/> , Tribal <input type="checkbox"/> , Sole Proprietor <input type="checkbox"/>			
10. Business Tax Identification #	Business Street Address			Business City			State	Zip		
11. What names are on the "Cash" Settlement Account?			1.			2.				
12. ATM CASH Owner First Name **			Owner Last Name		% Ownership of Cash	Date of Birth	Social Security Number (Mandatory - <i>Please Print Clearly</i> )			
13. Current Home Address			City		State	Zip	Business/Location Telephone Number			
14. I have read both pages of this Agreement and understand my obligations - ATM Cash Owner Signature***				Date	Drivers License # /State Issued	Have you ever been a defendant in a criminal proceeding? Yes or No				
<b>SECTION D – ISO Certification – ISO certifies that the information provided herein was obtained from, the owner of the ATM, the Owner of the cash in the ATM and the Merchant location. The ATM will not be activated until (i) this fully executed Agreement has been submitted for underwriting and (ii) all of the other conditions and requirements for activation of the ATM as described in the ISO Agreement have been satisfied. If any information on this Application changes, an updated Agreement will be immediately provided.</b>										
Name of ISO				Signature of ISO				Date		
<p>* <b>ATM Operator</b> includes any company or individual that owns, leases or operates the ATM or that owns the cash placed in the ATM.</p> <p>** <b>Owner</b> includes any principal that owns more than 10% of the business. If more than one person owns more than 10%, copy this page and complete Sections B or C as appropriate.</p> <p>*** <b>Credit and Background Check:</b> Bank requires underwriting investigations. Each individual signing above represents and warrants that he has the authority to execute this Agreement in the capacity in which he/she is executing, whether as an individual or on behalf of a named entity. Bank and its nominees are hereby authorized to perform and/or obtain credit and background checks and investigatory reports on each Merchant, ATM Operator, and each principal involved in this Application, including without limitation, consumer credit reports and investigative consumer reports. The nature and scope of these investigations may include, by way of example but not limitation, information concerning driving record, civil and criminal records, credit reports, identities, past addresses and social security numbers.</p> <p align="center"><i>This Agreement will be sent to CAROLINA ATM SERVICES, LLC. P.O. BOX 97515, Raleigh, NC 27624 or FAXED to (800) 298-5044</i></p> <p>[ ] \$50 If Merchant or Third Party is an ATM Operator                  [ ] \$100 If there are two different entities on application (i.e. cash loader different than owner) and both are requiring new due diligence.                  [ ] \$10 if both ATM and CASH is owned by the ISO or if this is a 2nd location by an individual who has previously had due diligence completed by Merchant Underwriting.                  \$_____ Total Charge</p> <p align="center"><b><i>Mail check payable to "CAROLINA ATM SERVICES, LLC., P.O.BOX 97515, Raleigh, NC 27624                  Incomplete or illegible applications will be returned, and will be subject to an additional charge!</i></b></p>										

THIS ATM Operator Application and Agreement (this "Agreement") is between Prosperity Bank, having a location at 1401 Avenue Q, Lubbock, Texas 79401, ("Bank"), the ISO, each ATM Operator (jointly and severally), and Merchant, as described in the Application on the reverse side, which is also a part of this Agreement.

1. **Recitals:** Bank is a member of electronic fund transfer systems ("Networks"). Bank sponsors the ISO with the Networks to enable the ISO to deploy the ATMs. Each ATM Operator owns, leases, operates or provides cash to the ATMs covered by this Agreement.
2. **Definitions:**
  - a. **Laws** means the applicable (i) federal and state statutes and (ii) rules, regulations, requirements, orders and policies and pronouncements ("Regulations") of the FDIC, OCC, FRB, Texas Department of Banking and other federal and state agencies ("**Regulatory Authorities**") having jurisdiction over any activities being conducted pursuant to this Agreement, and (iii) federal or state or local administrative or judicial opinions by courts having jurisdiction over any activities being conducted pursuant to this Agreement.
  - b. **Rules** means the operating rules, regulations, by-laws, and other written documents of the Networks that govern the deployment of ATMs as a part of the Networks systems.
  - c. **Material Adverse Condition** means any ATM Operator or any principal of an ATM Operator is the subject of: (i) a criminal felony prosecution or conviction; (ii) an excessive federal or state tax lien; (iii) an administrative or enforcement proceedings commenced by any state or federal Regulatory Authority; (iv) multiple misdemeanors relating to fraud, gaming, or illegal drugs.
3. **Warranties.** ATM Operator and Merchant represent and warrant to the Bank and the ISO:
  - a. All information contained in this Agreement and in all other documents now or hereafter furnished is true and correct in all material respects.
  - b. Each lawfully operates, is validly existing, and is in good standing under the laws of the State where formed and is authorized to do business in each State in which the nature of the activities make such authorization necessary or required.
  - c. As executed, this Agreement is a valid and binding obligation of each ATM Operator and Merchant and is enforceable in accordance with its provisions.
  - d. There is no Material Adverse Condition that exists other than those that have previously been disclosed in writing to Bank.
4. **Covenants:** ATM Operator covenants and agrees with the Bank and the ISO as follows:
  - a. This Agreement and the deployment of the ATMs are subject to the Rules and Laws as they may be imposed or amended from time to time. In the event of conflict between the terms and conditions of this Agreement and the terms and conditions of any Rules or Laws, the Rules and Laws shall control.
  - b. ATM Operator will remain in compliance at all times with all Rules of each applicable Network and all Laws, including without limitation Regulations of each Regulatory Authority having jurisdiction over the Bank, and/or the deployment and operation of the ATMs, including without limitation all federal and state consumer protection laws and the Bank's interpretation of same;
  - c. ATM Operator shall promptly inform ISO and Bank in writing of any changes in any information provided by this Agreement, such as by way of example only and not in limitation, business name change, business telephone and/or address change, or any other relevant information regarding ATM Operator and the deployment of the ATMs.
  - d. ATM Operator shall immediately make a full written disclosure to the Bank upon the occurrence of a Material Adverse Condition at any time during the continuation of this Agreement.
5. **Deactivation and Termination:** Bank may immediately deactivate the ATMs and terminate the rights of the parties to deploy the ATMs under this Agreement without prior written notice at any time the Bank determines in its sole discretion that: (i) the ISO or any ATM Operator has failed to satisfy all of the underwriting requirements, (ii) the occurrence of a Material Adverse Condition, (iii) the ISO or an ATM Operator is otherwise in default under this Agreement or (iv) the ISO is in default under the ISO Agreement. Additionally, either party may terminate this Agreement, at any time for any reason, or for no reason, upon thirty (30) days prior written notice given to each other party.
6. **Waiver/Indemnification of ATM Operator:**
  - a. Each ATM Operator, jointly and severally, agrees to reimburse Bank immediately upon demand for all expenses, charges, fees, fines or penalties incurred or assessed upon Bank by any entity, Network or Regulatory Authority, for any failure by any ATM Operator to comply with any Rules or Laws in connection with the deployment or operation of the ATMs contemplated by this Agreement and/or transactions processed at such ATMs, and Bank shall have the right to settle these items by deducting, setting off, or applying same against any and all transaction fees payable to ATM Operator.
  - b. Each ATM Operator, jointly and severally, agrees to defend and indemnify and hold Bank and all affiliates of Bank, and their respective officers, directors, employees and agents and their respective heirs, executors, successors and assigns, ("**Bank Group**") harmless from and against any and all liability, obligation, loss, cost, claim, demand, penalty, judgment, cause of action and expense of any kind or nature whatsoever (collectively "**Claims**") (including, without limitation, the cost of investigating any Claims, the cost of litigation, amounts paid in settlement, and reasonable attorneys' fees), imposed on, incurred by or asserted against any one or more of The Bank Group arising from, attributable to, or in any way connected with, (i) acts or omissions of an ATM Operator, including without limitation those related to the deployment or operation of the ATMs, (ii) any negligence or other wrongful act or omission of the ATM Operator, (iii) actions taken or omitted by Bank in accordance with or in good faith reliance on information or instructions provided by ATM Operator, (iv) any breach by ATM Operator of this Agreement and (v) any failure by ATM Operator to comply with all applicable Rules and Laws. Bank shall not be liable for any acts or omissions on the part of the ISO or ATM Operator and shall not be responsible for any losses or damages incurred by or caused by the ISO or the ATM Operator. The provisions of this section 6 shall survive termination of this Agreement.
7. **Merchant Also Agrees.** Merchant additionally covenants and warrants:
  - a. The ATMs may not be moved to another location.
  - b. No warranties of transactions, applicability, performance, or income were provided by Bank to Merchant or any other party.
  - c. Merchant is the owner of the premises or it holds a valid lease on the premises, and it has a right to conduct business on the premises for a greater length of time than the term of this Agreement.
  - d. If Merchant moves from this location, Merchant will notify ISO of such fact in writing at least 60 days before the move, and this Agreement at Bank's option will be replaced or modified to apply to the new location.
  - e. To provide a clean, safe place for cardholders to use the ATMs, mindful of cameras, street windows, or other hazards where the card or PIN could be compromised.
  - f. To maintain an adequate inventory of supplies if required by the ISO to do so.
  - g. To cooperate in providing good service on the ATMs, but shall not allow anyone other than authorized personnel to open, perform service, or repair without ISOs prior written consent.
  - h. Not to provide assistance to a cardholder with entering a PIN number, touch a card or money withdrawn from the ATMs and will only instruct cardholder to contact Issuing Bank if they have a problems using the ATMs, or to contact the Acquirer at the telephone number located on the ATMs which details Bank information.
8. **Equipment – ATM Operator/Owner** as described in Section B of the Application also covenants and agrees as follows:
  - a. Equipment provided under this Agreement is placed in service with the assurance that the equipment has not been altered or subject to unauthorized modifications or tampering at the time placed into service and is in compliance with and will remain in compliance with all system standards; and
  - b. ATM Operator is in compliance with and will remain in compliance with applicable PCI PIN Security Requirements and the use of PCI approved EPPs for the ATMs.
  - c. Scrip terminals, if approved by Bank in its sole discretion, will be activated and operated only in compliance with the Rules of each Network.
9. **ATM Cash Owner** as described in Section C of Application also agrees that terms, conditions and fees for placing cash in ATMs are outside this Agreement. The cash owner is responsible if cash is stolen, lost or destroyed and is required to keep sufficient amounts of cash in the ATMs. A clear record of account withdrawals/ISO settlement may be required to show that the cash was obtained solely from the resources of the cash owner and no third party. If the Merchant is the cash owner, it may not use third parties to obtain and place cash in an ATM.
10. **Assignment:** Neither ATM Operator nor Merchant may assign any rights or duties created by this Agreement without the ISO's and Bank's prior written consent. A transfer of control of a majority interest in ATM Operator or Merchant's entity shall be deemed such an assignment. Bank may assign this Agreement.
11. **Compliance:** ATM Operator and Merchant will comply with all applicable Laws in the performance of its duties under this Agreement.
12. **Texas Law/Venue:** This Agreement shall be construed in accordance with the laws of the State of Texas, notwithstanding its choice of law provisions. Any proceeding related directly or indirectly to this Agreement whether in contract, tort or otherwise, shall be brought in a state of federal court situated in Harris County, Texas and each party consents to and waives any objection to personal jurisdiction and of venue in such courts.
13. **Waiver of Right of Trial by Jury:** Each party hereby waives any right to trial by jury with regard to any claim, counterclaim or other action or proceeding filed by any of them, whether in contract, tort or otherwise, related directly or indirectly to this Agreement.
14. **Binding Effect:** This Agreement is binding upon and inures solely to the benefit of the parties hereto and their respective heirs, executors, permitted successors and permitted assigns.
15. **No Authority of ATM Operator and ISO:**
  - a. The ATM Operator is not an agent for Bank and has no authority to obligate Bank to any person or entity or to otherwise act for and on behalf of Bank in any way or manner.
  - b. The ISO is not an agent for Bank and has no authority to obligate Bank to any person or entity or to otherwise act for and on behalf of Bank in any way or manner.
  - c. The relationship between ISO and Bank and between ATM Operator or Merchant and Bank is that of an independent contractor, and nothing herein contained shall be construed or inferred to create the relationship of employer and employee, partnership, joint venturer, agency, consultant or any other relationship between Bank and the ISO or between Bank and any ATM Operator or Merchant.
16. **Survival.** Expiration or termination of this Agreement shall not release any ATM Party of its respective obligations of payment, warranty, governing law, and waiver of jury trial, and from the confidentiality and indemnity provisions hereof.

Agreement to be submitted to:  
Carolina ATM Services LLC  
P.O. Box 97515  
Raleigh, NC 27624

ISO Initials \_\_\_\_\_  
Terminal# \_\_\_\_\_