

**AMENDMENT NO. 2
PROFESSIONAL SERVICES AGREEMENT**

This Amendment No. 2 ("**Amendment**") is entered into by The Regents of the University of California, a California public Corporation on behalf of the University of California ("**Customer**" or "**UC**" and may be referred to as a "Principal Procurement Agency" in material provided by OMNIA Partners) and U.S. Bank National Association ("**U.S. Bank**"). This Amendment shall be effective as of the date above U.S. Bank's signature block ("**Effective Date**").

RECITALS

- A.** Customer and U.S. Bank entered into the Professional Services Agreement #UCOP-319, dated January 1, 2018, as amended, supplemented or otherwise modified (collectively, the "**Agreement**" and may be referred to as a "Master Agreement" in material distributed by OMNIA Partners);
- B.** The parties desire to modify the Agreement to include a new pricing model for entities that are marketed to U.S. Bank for participation in a commercial card program; and
- C.** Customer and U.S. Bank now desire to modify the Agreement in the manner and on the terms and conditions set forth in this Amendment.

Now, therefore, for and in consideration of the mutual promises contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Customer and U.S. Bank agree to the following:

- 1. Definitions.** Capitalized terms used but not defined herein shall have the meaning given to such terms in the Agreement.
- 2. Piggyback Customers.** Section II.K, Piggyback Clause, is hereby amended and restated in its entirety as follows:

K. *Piggyback Clause.

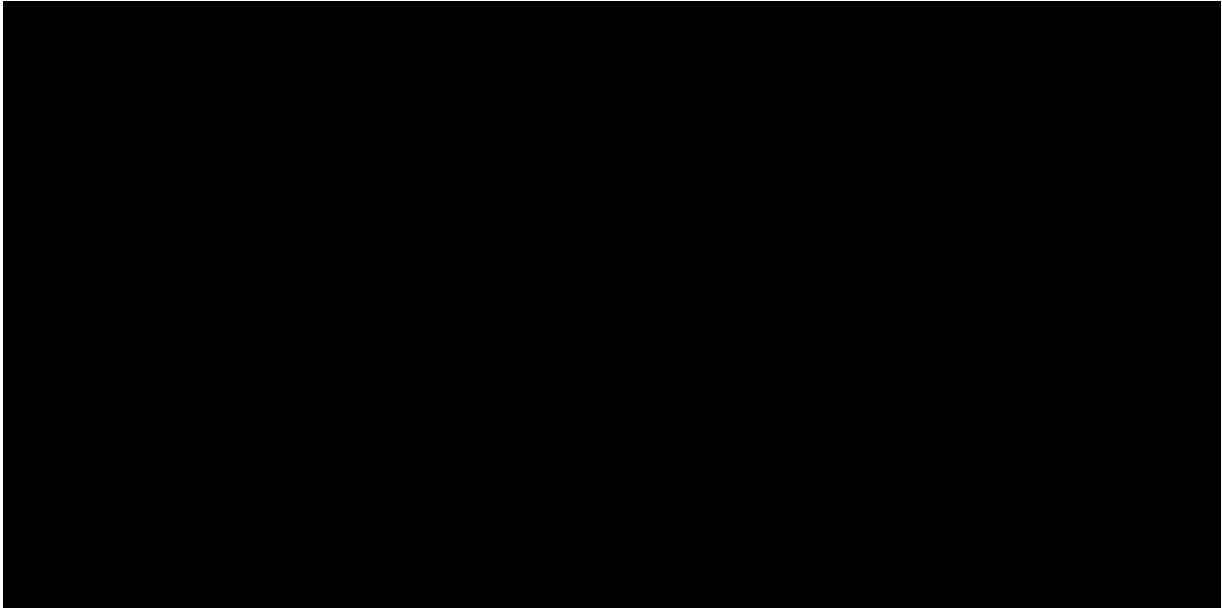
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



3. **Pricing.** The attached schedule is hereby added and incorporated into the Agreement at and as Schedule 6.
4. **Incorporation.** The recitals provided above and any schedules or exhibits attached hereto are incorporated in this Amendment by reference as if set forth at length.
5. **No Further Modifications; Full Force and Effect Conflicts.** Except as expressly modified in this Amendment, all other terms and conditions of the Agreement are acknowledged by the parties and remain in full force and effect. The terms of this Amendment control over any inconsistent terms of the Agreement.
6. **Third Party Consent.** Customer represents and warrants to U.S. Bank that the consent or approval of no third-party, including, without limitation, a lender, is required with respect to the execution of this Amendment, or if any such third-party consent or approval is required, Customer has obtained any and all such consents or approvals. Customer will indemnify and hold U.S. Bank harmless for any damage that may ensue due to a breach of this representation and warranty.

[Signature Page to Follow]

7. Authorization and Execution. This instrument may be executed and delivered by the parties electronically, and fully executed electronic versions of this instrument, or reproductions thereof, will be deemed to be original counterparts.

The signer represents and warrants that (i) he or she is authorized by an applicable bylaw, article or other corporate authority to enter into all transactions contemplated by this instrument, and (ii) the signatures appearing on all supporting documents of authority are authentic.

<p>Date: <u>June 23, 2022</u></p> <hr/> <p>By Customer:</p> <p><u>The Regents of the University of California</u> (Please Insert <u>Full</u> Legal Entity Name)</p> <p><u>E-SIGNED by Paul Williams</u> on 2022-06-23 11:55:23 CDT</p> <hr/> <p>(Signature of Authorized Signer)</p> <p><u>Paul Williams</u> (Printed Name of Authorized Signer)</p> <p><u>AVP & Chief Procurement Officer</u> (Printed Title of Authorized Signer)</p>	<p>Date: <u>May 27, 2022</u></p> <hr/> <p>By U.S. Bank:</p> <p><u>U.S. Bank National Association</u></p> <p><u>E-SIGNED by Scott R. Edstrom</u> on 2022-05-27 14:10:41 CDT</p> <hr/> <p>(Signature of Authorized Signer)</p> <p><u>Scott R. Edstrom</u> (Printed Name of Authorized Signer)</p> <p><u>Senior Vice President</u> (Printed Title of Authorized Signer)</p>
--	---

J.M.

Schedule 6
National Program Pricing

1. **Scope.** OMNIA Partners and U.S. Bank may market the products and services provided by U.S. Bank to prospective public sector entities and U.S. Bank may offer any such public sector entities marketed to U.S. Bank by OMNIA Partners a rebate opportunity similar to the opportunity set forth in this Schedule 6. Any rebate earned under this Schedule is independent of the rebates offered to Customer and shall not be considered in any calculation set forth in the Agreement. This Schedule 6 provides for the minimum rebate to be offered to a Participating Public Agency and is for illustrative purposes only. Under certain conditions, including, but not limited to large volume or competitive market conditions, U.S. Bank may make additional rebates and incentives available.
2. **Definitions.** Capitalized terms used but not defined herein shall have the meaning ascribed thereto in the Agreement. In addition, the following terms shall have the following meanings:
 - 1.1 **"Average Transaction Size"** means the Net Standard Charge Volume divided by the number of Charges that qualify as Net Standard Charge Volume.
 - 1.2 **"Charge-off"** means any amount due and owing to U.S. Bank by a Participating Public Agency, its Participants or Account holders related to the Agreement that is classified as a charge-off under U.S. Bank's then applicable accounting policies.
 - 1.3 **"Charge-off Adjustment"** means the difference between Charge-offs and one-half of Charge-off Recoveries.
 - 1.4 **"Charge-off Recovery"** means an amount equal to any monetary recovery related to a Charge-off.
 - 1.5 **"Combined Charge Volume"** means, for the applicable Rebate Period, the sum of Net Standard Charge Volume and Net Discount Charge Volume.
 - 1.6 **"Discount Interchange Rate Program"** means an interchange rate program where the rates assessed on particular transactions are less than the standard rates. Subcategories subject to differentiated discount volume percentage include transactions processed on large ticket program indicators and transactions assessed at network negotiated rates, all as reasonably determined by U.S. Bank. Transactions subject to Discount Interchange Rate Programs may change from time to time without notification to the Participating Public Agency.
 - 1.7 **"File Turn Days"** means the number of days from the date U.S. Bank funds a Charge to the date of payment, inclusive of the beginning and ending dates.
 - 1.8 **"File Turn Days Payment Performance"** means the weighted average File Turn Days for each Rebate Period.
 - 1.9 **"Net Discount Charge Volume"** means all Charges set forth on the Statement furnished for the Accounts in an Rebate Period that qualify for and have applied to them a Discount Interchange Rate Program, less credits, and net of Charge-off Adjustments for the same Rebate Period. All other Charges, fees, cash advances, fraudulent charges, and chargebacks are excluded from Net Discount Charge Volume.
 - 1.10 **"Net Standard Charge Volume"** means all Charges set forth on the Statements furnished for all Accounts in the Rebate Period other than those Charges qualifying for and having applied to them Discount Interchange Rate Program, less all credits, cash advances, fees, fraudulent charges, chargebacks (other than those counted as fraudulent charges) and net of Charge-off Adjustments for the same Rebate Period.
 - 1.11 **"Rebate Period"** means a 12-month period beginning with the first day of the first month following the Effective Date of the Agreement (or if the Effective Date is the first day of the month, on the Effective Date).
3. **Rebate.** Participating Public Agencies may earn a rebate for its One Card and/or Purchasing Accounts.
 - 3.1. **Conditions.** To be eligible for and to retain a rebate, a Participating Public Agency must: (i) satisfy all requirements in Table A; (ii) complete the Rebate Period in which a rebate is earned; (iii) not be subject to an uncured default at the time the rebate payment is due for such Rebate Period; and (iv) in the reasonable determination of U.S. Bank, based primarily upon Participating Public Agency's recent Account spend patterns, have a projected expectation of meeting the volume requirement in Table A for the next Rebate Period. If a Participating Public Agency fails

to satisfy the requirements of this section at the time of the scheduled rebate payment for a particular Rebate Period, U.S. Bank will not be required to pay a Participating Public Agency a rebate payment for such Rebate Period. If a Participating Public Agency's final net rebate is a negative amount, such Participating Public Agency shall reimburse U.S. Bank up to the amount of rebates U.S. Bank has previously paid to that Participating Public Agency.

Table A Requirements	
	One Card and/or Purchasing Accounts
File Turn Day Payment Performance	
Combined Charge Volume	
Minimum Rebate Earned	

3.2. Rebate Calculation. If a Participating Public Agency satisfies all the applicable Table A requirements in a Rebate Period, U.S. Bank will calculate a rebate for the same Rebate Period as follows:

- (a) U.S. Bank will multiply the Net Standard Charge Volume by the applicable percentage on Table B (Performance Percentage) of section 4. However, if the Net Standard Charge Volume for such Rebate Period is less than \$500,000, the amount under this subsection shall be deemed zero.
- (b) U.S. Bank will multiply the Net Discount Charge Volume by the applicable percentage on Table B (Performance Percentage) of section 4.
- (c) U.S. Bank will multiply the Net Standard Charge Volume by the applicable percentage on Table C (Net Standard Charge Volume Percentage) of section 4. However, if the Net Standard Charge Volume for such Rebate Period is less than \$2,000,000, the amount under this subsection shall be deemed zero.
- (d) U.S. Bank will multiply the applicable Net Discount Charge Volume by the applicable percentage on Table D (Net Discount Charge Volume Percentage) of section 4.
- (e) U.S. Bank will add the amounts arrived at in sections 3.2.(a)-(d) to arrive at Participating Public Agency's gross rebate for the Rebate Period.
- (f) U.S. Bank will apply Charge-off Adjustments and remedies, if any, to the gross rebate to arrive at Participating Public Agency's net rebate for the Rebate Period.

For the avoidance of doubt, Section 3.2(f) is only a component in the calculation of the rebate payable for a Rebate Period and does not constitute the netting of any Charge-offs or any other amounts due to U.S. Bank against payments due to OMNIA Participating Public Agency.

3.3. Payment. U.S. Bank will pay Participating Public Agency's net rebate within 90 days after the completion of the applicable Rebate Period. U.S. Bank will pay Participating Public Agency's final net rebate within 90 days after Participating Public Agency satisfies all Obligations and provides written instruction to U.S. Bank to close all Accounts. U.S. Bank may retain and will not be required to pay Participating Public Agency rebate payments less than \$3,500.00. U.S. Bank will not carry forward any rebate payment less than \$3,500.00.

4. Rebate Tables.

Table B Payment Performance Percentage					
File Turn Days Payment Performance	Performance Percentage	File Turn Days Payment Performance	Performance Percentage	File Turn Days Payment Performance	Performance Percentage



Table C	
Net Standard Charge Volume Percentage	
Net Standard Charge Volume	Volume Percentage

Table D
Net Discount Charge Volume Percentage
Net Discount Charge Volume

- 5. **No Compensation for Participating Public Agencies.** Any Participating Public Agency's Net Standard Charge Volume, Net Discount Charge Volume, and any other applicable performance metrics shall be excluded from all other compensation calculations made on behalf of Customer, including, without limitation, the compensation calculations made pursuant to Schedule 2, Schedule 3, or Schedule 4 of the Agreement.
- 6. **Interchange Rate.** U.S. Bank may modify the rebate calculations or values set forth in sections 3 and 4, if existing interchange rates or programs are modified, or if new interchange rates or programs are developed.
- 7. **Fee Table.**

FEES	
Description	Fee
Annual Account Fee	
Custom Card Design and Production	
Cash Advance Transaction Fee	
Convenience Checks	
Transaction fee	
Returned check fee	
Stop payment fee	
Copy fee	
Delinquency Fee	
Purchase Accounts and One Card Accounts	
Not paid by due date on the entire past due balance	
Not paid by each subsequent Billing Cycle on the entire past due balance	
Electronic Attachment Utility	
Executive Cards	
Executive Platinum Cards	
Expedited Card Delivery Fee	
Foreign Transaction Fee	
Logo Setup Fee	
Non-Sufficient Funds Fee	
Statements	
Paper Statement fee	
Statement copy fee	
Draft copy fee	

Exhibit A
Sample Form of Participating Public Agency Agreement
(Attached hereto)

The attached form of Participating Public Agency Agreement is for illustrative purposes only and U.S. Bank reserves the right to change the terms and conditions of such Participating Public Agency Agreement in its sole discretion and without notice to UC.

U.S. Bank National Public Sector Program Commercial Account Application Checklist



Any public agency, including state and local governmental entities, public primary, secondary and higher education entities, non-profit entities, or agencies for the public benefit located within the United States and registered with National Intergovernmental Purchasing Alliance Company d/b/a OMNIA Partners, is eligible for participation in the U.S. Bank National Public Sector Commercial Account Program (the "**Program**"). Please ensure the following materials are included and completed prior to submitting the U.S. Bank Commercial Account Application (the "**Application**").

ENSURE the Application is complete and accurate:

- Are all sections of the Application complete?
- Is the Application signed?

SUBMIT Financial Statements:

- Along with the Application, please attach or submit a copy of the following financial statements:
 - Annual financial statements (income statement, balance sheet and statement of cash flows) for the last three fiscal years
 - Current interim financial statements (income statement, balance sheet and statement of cash flows) for current year-to-date period (quarterly or monthly)
 - Comparable prior year-to-date interim financial statements (quarterly or monthly)

Note: The entity's name on the financial statements must match exactly the Customer's name on this Application.

For the protection of your sensitive information, documents containing sensitive information may be sent through Cisco Registered Envelope Service, the secure email system used by U.S. Bank.

SUBMIT Proof of Existence:

Before U.S. Bank can open an Account for any entity, U.S. Bank must verify the entity's existence. Accordingly, please submit a copy of at least one of the following unexpired documents in order for U.S. Bank to process this Application:

- (1) "certified" articles of incorporation;
- (2) government-issued business license;
- (3) signed partnership agreement or signed limited partnership agreement;
- (4) executed trust instrument;
- (5) signed operating agreement; or
- (6) signed articles of organization or association.

If such documents are unavailable, another document verifying Customer's proof of existence may be acceptable.

HELP us speed up the processing of your Application!

- If you are unsure of the legal name of Customer or the signer's title, please verify by calling your Controller's office.
- Hand deliver or send completed Applications and financial statements to your U.S. Bank Representative via express or courier services to avoid delays and ensure delivery.

THE FULL AND COMPLETE LEGAL NAME MUST BE INSERTED IN ALL AREAS THAT REQUIRE THE LEGAL NAME. VARIATIONS OR ABBREVIATIONS OF THE LEGAL NAME ON THIS DOCUMENT OR ANY ATTACHED OR ACCOMPANYING DOCUMENTS CANNOT BE ACCEPTED.

U.S. Bank National Public Sector Program Commercial Account Application

Section 1 – Customer Information

Customer's Legal Name

State of Incorporation/Organization

Federal Tax ID

Doing Business As ("DBA"), if any. Please list all DBAs. (attach separate page if needed)

Customer's Physical Address (PO Box not acceptable)

City

State

Postal Code

Program Contact Name

Contact Title

Contact Phone Number

Email Address (To Contact Customer Regarding Processing Of This Application)

Website Address

\$

Net Annual Sales

Official Start Date of Customer's Business

Industry Category: Deliveries Manufacturer Services Retail Wholesaler Other _____

Type of Organization: Corporation (Public) Corporation (Private) Partnership Government LLC LLP
 If any of the foregoing and non-profit Other _____

Do you have a line of credit with U.S. Bank or any other financial institution? YES NO
If yes, please provide the following information.

Name of Financial Institution Providing Line of Credit

Limit

Amount Currently Outstanding

Is Customer rated by Dun and Bradstreet (D&B)? Yes No If yes, D&B Number: _____

If not rated by D&B, Applications may be expedited by attaching a copy of Customer's Business License, Certificate of Good Standing, Tax Return and/or filings with Secretary of State.

Do you conduct business in a foreign country?: Yes No
If yes, list countries and nature of business conducted: _____

Section 2 – Product Selection and Optional Enhancements

Please Select One or More Products	
<input type="checkbox"/> Purchasing Accounts	<input type="checkbox"/> One Card™ Accounts
Only Corporate Liability	Only Corporate Liability
Estimated Annual Charge Volume	Estimated Annual Charge Volume
\$ _____	\$ _____
Number of Account Holders	Number of Account Holders
_____	_____
Benefits*	Benefits*
	Card Network benefits plus U.S. Bank supplemental common carrier travel accident benefits: <ul style="list-style-type: none"> • \$250,000 Standard Account • \$1,000,000 Executive Account
Optional Enhancements	Optional Enhancements
Event Planner account Managed Spend account Central Billing account	Event Planner account Managed Spend account Executive account Executive Platinum account FlexPerks® rewards account Central Billing account

* Benefits and protections offered by the Card Networks are established by the Card Networks outside of the control of U.S. Bank and may be changed from time to time. U.S. Bank's additional benefits may be changed from time to time. The details of such programs are outlined in brochures separately provided to Account holders.

** Available only for Corporate Liability

FOR U.S. BANK USE ONLY

CPS SALES

TM

BANKER'S
EMPLOYEE
ID

AGENT BANK or MARKETING PARTY, ADDRESS, CITY, STATE, ZIP

U.S. Bank National Public Sector Program Commercial Account Terms and Conditions



This National Public Sector Commercial Account Agreement (“**Agreement**”) is between the entity signing this Application as “**Customer**” and U.S. Bank National Association (“**U.S. Bank**”). Customer desires to retain U.S. Bank as its provider for commercial charge card and account services (the “**Program**”). If U.S. Bank approves Customer’s creditworthiness and this Application, the “**Effective Date**” of this Agreement will be the date this Agreement is signed by Customer.

Now, therefore, for and in consideration of the mutual promises contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Customer and U.S. Bank agree to the following:

1. **DEFINITIONS.** “**Account**” means a commercial charge card, regardless of the medium, issued pursuant to this Agreement. “**Billing Cycle**” means the period of time from the date a Statement is generated until the next Statement is generated. “**Charge**” means any transaction posted to an Account that has a debit value. “**Card Network**” means, as applicable, one of the following Card Networks whose marks are contained on the cards issued under this Agreement: Visa U.S.A. Inc. and Visa International, Inc., MasterCard International Incorporated or such other national card network with respect to which U.S. Bank becomes an issuer during the term of this Agreement. “**Corporate Liability**” means Customer is solely liable to U.S. Bank for all Obligations on corporate liability Accounts. “**Identification Information**” means legal names, physical street addresses, taxpayer identification numbers, dates of birth or other information or documentation required by U.S. Bank to confirm the identity of any entity or person. “**Intellectual Property**” or “**Intellectual Property Rights**” means any patent rights, inventions, design rights, copyrights, database rights, trade secrets, trade names, trademarks, service marks, moral rights, know-how and any other similar rights or intangible assets recognized under any laws or international conventions, and in any country or jurisdiction in the world, as intellectual creations to which rights of ownership accrue, and all registrations, applications, disclosures, renewals, extensions, continuations or reissues of the foregoing now or hereafter in force. “**Joint and Several Liability**” means Customer and the Account holder are jointly and severally liable to U.S. Bank for all Obligations accrued on the Account. “**Obligations**” means all Charges, fees, and any other activity posted to an Account. “**Participant**” means any entity wholly or majority owned or controlled (which is at least 51% or more of voting rights) by Customer that Customer authorizes and U.S. Bank approves for participation in the Program through execution of a Participant Agreement. “**Statement**” means, with respect to one or more Accounts, a periodic listing of all Obligations and payments posted to such Accounts.
2. **PRODUCTS AND SERVICES.** U.S. Bank operates the Program pursuant to which it issues Accounts that can be used to make Charges at participating merchants and agrees to provide Customer access to the Program. U.S. Bank agrees to provide Customer access to its online portal that allows Customer to, among other things, review Statements, establish and modify spend controls, obtain various reports in connection with the Program and, if available, make payments.
3. **FINANCIAL INFORMATION.** Customer shall provide its fiscal year-end financial statements as soon as available, but not later than 120 days following the end of Customer’s fiscal year. Customer shall provide additional information, upon request by U.S. Bank, regarding the business, operations, affairs, and financial condition of Customer, including reviews or audits of fiscal year-end financials performed by certified public accountants and Customer prepared quarterly financial statements.
4. **CREDIT.** U.S. Bank, at its sole discretion and without prior notice, may revise any credit limits or controls associated with this Program. U.S. Bank will endeavor to provide notice to Customer of any decrease in a credit limit. Customer shall make a payment to U.S. Bank within ten days of such notice, sufficient to reduce the Obligations to an amount equal to, or less than, the revised credit limit.
5. **FEES AND BILLING.**
 - 5.1. **Fees.** U.S. Bank may charge Customer the fees set forth in Schedule 1 – Fees attached hereto. Failure of U.S. Bank to apply any fee or charge set forth in this Agreement, at any time, does not preclude U.S. Bank from ever applying such fee or charge.
 - 5.2. **Billing.** Customer will receive an electronic Statement at the end of Customer’s Billing Cycle. Customer shall pay U.S. Bank the amount due as directed on the Statement. Customer shall pay U.S. Bank using an electronic payment method approved by U.S. Bank. Customer shall notify U.S. Bank of all disputes regarding Charges or billings for the Program, within 60 days of the Statement date, identifying the specific items and the basis for such dispute. All disputes must be submitted in accordance with the Card Network operating rules and regulations. If the amount owing under an Account (other than those subject to a bona fide dispute) has not been paid in full when due, the Account is delinquent. U.S. Bank may suspend any Account that is delinquent. U.S. Bank may recover any reasonable legal fees and other expenses incurred in collecting any delinquent amounts on an Account. If an Account is used for Charges in a currency other than the billing currency, the amount shown on the Statement for that Charge will be shown as a single amount that is the aggregate of (i) the amount of the Charge converted, in each case at the applicable exchange rate to the billing currency from the currency in which the Charge was made and (ii) the “Foreign Transaction Fee” on such amount as set forth in Schedule 1 – Fees. Due to fluctuations in foreign exchange rates, a credit may not be in the same amount as the original Charge.
6. **LIABILITY.** Customer shall only be permitted to request the issuance of Accounts in the name of the following parties: (i) in Customer’s or Participant’s own name, (ii) in the name of any Customer or Participant employee, (iii) in the name of any individual that is acting directly or indirectly as an independent contractor of Customer or Participant and (iv) in the name of any other individual provided on a temporary basis and so long as such individual has a bona fide connection to Customer or Participant (i.e. a temporary card issued to an employee candidate). Customer shall not request the issuance of Accounts for its subsidiaries (or employees of such subsidiaries) that are not Participants. U.S. Bank may refuse to issue an Account to any party that cannot satisfy U.S. Bank’s regulatory requirements referenced in Section 17 herein.

Customer is liable for all billed transactions and other Charges made by Customer, its Participants, and its Account holders. Regardless of the liability option selected in the Application, Customer is liable for: (i) all Charges originating outside the United States; (ii) all Charges made to an Account by any Account holder residing outside of the United States; or (iii) Customer’s failure to provide U.S. Bank with immediate notice of: (a) Customer’s termination of employment of any Account holder or removal of a Participant from the Program; (b) any lost, stolen, or compromised Account; or (c) any suspected or actual breach, or misuse of an Account or information regarding Accounts or other sensitive information. U.S. Bank is not responsible for controlling the use of any Accounts, other than as specifically provided herein. Customer shall take all necessary action through the available on-line tools under the Program to terminate the Accounts of any party that would not qualify for the issuance of an Account as set forth in this Section 6. Upon cancellation of an Account or termination of this Agreement, Customer shall cancel the billing of all reoccurring transactions to an Account. U.S. Bank is not liable for (i) any Account holder misuse of an Account; (ii) Charges declined or approved as a result of inaccurate merchant category codes used by a merchant; or (iii) any reoccurring transactions Customer has failed to cancel.

7. **SECURITY AND CONFIDENTIALITY.**
 - 7.1. Either party may receive or otherwise have access to Secured Information. “**Secured Information**” means information regarding Accounts, passwords, personal identification numbers, and other sensitive information or Confidential Information of either party. Each party shall maintain an information security program designed to (i) ensure the security, integrity and confidentiality of Secured Information; (ii) protect against any anticipated threats or hazards to the security or integrity of such Secured Information; (iii) protect against unauthorized access to

or use of such Secured Information that could reasonably result in harm to the person or entity that is the owner, user or subject of the Secured Information; and (iv) ensure the proper disposal of such Secured Information. Each party shall secure and protect the other's Secured Information using at least the same degree of care as it uses to secure and protect its own Secured Information, but no less than a reasonable degree of care as determined by the nature of this Agreement and the highest industry standards to prevent the unauthorized use, disclosure, or duplication of Secured Information. At a minimum, Customer will install and maintain commercially reasonable cybersecurity defenses against any feature, routine, or device that is intended or designed to (i) disrupt the operation of any U.S. Bank owned or licensed software or system, including any timeout functionality; (ii) cause any U.S. Bank owned or licensed materials, software, or system to be destroyed, altered, erased, damaged or otherwise made inoperable; or (iii) permit any person or entity to destroy, alter, erase, damage or otherwise render inoperable any U.S. Bank owned or licensed materials, software, or system, including, but not limited to, any cyber-attacks such as any computer virus, trap door, back door, time bomb, or malicious program. Furthermore, Customer will perform routine hygiene on its systems to ensure appropriate use of software locks, routine password checking, and CPU serial number checking.

- 7.2. Each party may have access to, and each party may provide to the other party, information the owner of such information regards as confidential or proprietary. "**Confidential Information**" includes information of a commercial, proprietary, or technical nature, whether now in existence or hereafter created. Confidential Information includes, but is not limited to, the following: (i) information marked as "confidential" or similarly marked, or information a party should, in the exercise of reasonable judgment, recognize as confidential; (ii) Intellectual Property of each party; (iii) Identification Information; (iv) the business, financial, or technical information of each party and its respective affiliates; (v) each party's business objectives, financial results, technological developments and other similar proprietary information and materials; and (vi) notes, memoranda, analyses, compilations, studies and other documents, whether prepared by either party or for either party, which contain or otherwise reflect Confidential Information. Confidential Information does not include information that (i) is already rightfully known to the recipient at the time it obtains Confidential Information from the disclosing party; (ii) is or becomes generally available to the public other than as a result of disclosure in breach of this Agreement or any other confidentiality obligations between the parties; (iii) is received on a non-confidential basis from a third party reasonably believed to be authorized to disclose such information without restriction and without breach of this Agreement; (iv) is contained in, or is capable of being discovered through examination of, publicly available records or materials; or (v) is developed by U.S. Bank or Customer without the use of any proprietary, non-public information provided by the other party.
- 7.3. U.S. Bank may (i) use and disclose Customer's Confidential Information to the extent necessary to maintain compliance with Card Network operating rules and regulations, applicable law or regulatory authorities; or (ii) use and disclose non-identifying data to any entity or third party to the extent such data is aggregated, summarized, or otherwise presented in a manner that does not directly or indirectly identify such data as attributable to Customer, its affiliates, or Account holders. Portions of Customer's Account and transaction data are captured by third parties, including, but not limited to, the Card Network, third-party service providers, merchants, and merchant processors during the course of normal business operations. All such third parties shall not be considered an agent of U.S. Bank for purposes of this Section 7. In the event the recipient receives notice of any order by a court or governmental agency to disclose any Confidential Information of the disclosing party, the recipient shall promptly notify the disclosing party so the disclosing party may seek an appropriate protective order. Notwithstanding the foregoing, U.S. Bank may be prohibited by a governmental agency from disclosing the governmental agency's request for Confidential Information and under such circumstances U.S. Bank is excused from notifying Customer of any disclosure of Confidential Information. Each party shall disclose Confidential Information only to the extent required by applicable law or regulatory authority.
- 7.4. Each party shall hold Confidential Information in confidence and disclose Confidential Information only to those employees, agents, subcontractors or individual contractors whose duties reasonably require access to such information. Each party must protect Confidential Information using at least the same degree of care as it uses to protect its own Confidential Information, but in no event less than a reasonable degree of care, to prevent the unauthorized use, disclosure, or duplication (except as required for backup systems) of such Confidential Information. Each party shall cause its agents, employees, subcontractors and independent contractors, to maintain Confidential Information in confidence and disclose such Confidential Information only for the purpose of performing its obligations, or exercising or enforcing its rights, under this Agreement, or as otherwise expressly permitted by this Agreement.
- 7.5. Upon termination of this Agreement, each party shall immediately, upon election of the disclosing party, return or destroy all Confidential Information in its direct or indirect possession or control that belongs to the disclosing party; provided, that U.S. Bank may retain particular transaction data with respect to the Accounts as is necessary to perform its billing functions and to maintain compliance with the Card Network operating rules and regulations. Upon written request, the recipient will provide the disclosing party written certification of destruction of Confidential Information. Any Confidential Information maintained in an electronic format shall be returned to the disclosing party in an industry standard format or, at the option of the disclosing party, deleted and removed from all computers, electronic databases and other media. Each party may retain one archived copy of Confidential Information solely for compliance purposes and subject to the terms of this Agreement.
- 7.6. Customer shall not make any "case study," testimonial, press release, or other public announcement regarding this Agreement or any activities performed hereunder, unless required to do so by applicable law. Customer and its affiliates shall obtain the prior written approval of U.S. Bank's Media Relations department for any press release that Customer seeks to release that contains U.S. Bank's identity. Customer shall provide U.S. Bank at least 15 business days to review and respond to any such request for approval.

8. DEFAULT.

- 8.1. Customer shall be deemed in default upon the occurrence of any of the following events (each a "**Customer Default**") (i) any violation of its obligations set forth in Section 7 (Security and Confidentiality) and Section 10 (Intellectual Property); (ii) any failure to make a payment on any Account as set forth in Section 5 (Fees and Billing); (iii) any default of any other agreement between U.S. Bank and any of Customer, a Participant, or Customer's affiliate that has not been cured in the time specified in the applicable agreement; (iv) any representations or warranties made in this Agreement fail to be true and correct at any time during this Agreement; (v) any violation of any other covenants, conditions, or provisions set forth in this Agreement; (vi) the filing of a bankruptcy or insolvency proceeding, the appointment of a receiver or trustee for benefit of creditors, or the entry into an arrangement with its creditors by Customer, a Participant or any guarantor of Customer's obligations hereunder (a "**Guarantor**"); (vii) Customer's or Guarantor's merger or amalgamation where it is not the surviving entity; (viii) Customer's or Guarantor's sale, or transfer of all or substantially all of its assets; or (ix) a Guarantor, if any, revokes its guaranty of Customer's obligations.
- 8.2. U.S. Bank will be in default upon the occurrence of any of the following events (each a "**U.S. Bank Default**") (i) any of U.S. Bank's representations or warranties made in this Agreement fail to be true and correct at any time during this Agreement; (ii) U.S. Bank materially violates of any covenants, conditions, or provisions set forth in this Agreement; or (iii) the filing of a bankruptcy or insolvency proceeding, the appointment of a receiver or trustee for benefit of creditors, or the entry into an arrangement with its creditors by U.S. Bank.
- 8.3. Customer shall cure any Customer Default arising under Section 8.1(ii) within five days after the payment became due. Customer shall cure any Customer Default arising under Section 8.1(i), (iii), (iv) or (v) within 30 days after notice of a Customer Default. Notwithstanding the foregoing, as Customer Default under Section 17 and a Customer Default arising under Sections 8.1(vi) – (ix) shall not be entitled to notice or the right to cure and U.S. Bank may immediately terminate this Agreement as a result of any such default. U.S. Bank shall cure any U.S. Bank Default arising under Section 8.2(i) or (ii) within 30 days after notice of a U.S. Bank Default. U.S. Bank shall not be entitled to cure a U.S. Bank Default under Section 8.2(iii).
- 8.4. Upon the occurrence of a Customer Default, after the notice and cure period have run, if any, without cure, in addition to any other remedies at equity or law, U.S. Bank may: (i) immediately terminate this Agreement or suspend or cancel any Accounts; (ii) retain and will not be required to pay Customer any amounts due pursuant to this Agreement (other than a return of prefunded amounts not applied to outstanding obligations); and (iii) demand and recover payment of any damage amount directly or indirectly related to any Customer Default, including any fees or losses sustained by U.S. Bank, and any reasonable court and legal costs incurred by U.S. Bank, to exercise its rights or remedies

under this Section 8. If Customer violates its obligations under Section 7 (Security and Confidentiality) or Section 10 (Intellectual Property), in the addition to the foregoing, U.S. Bank shall be entitled to injunctive relief in its favor and to specific performance without proof of actual damages and without the requirement of the posting of any bond or similar security, because U.S. Bank's remedies at law may be inadequate to protect U.S. Bank against immediate and irreparable harm caused by any anticipated or actual breach of Customer's obligations as set forth in Section 7 (Security and Confidentiality) or Section 10 (Intellectual Property), and because damages resulting from such a breach may be difficult to ascertain. Any delay or failure on the part of U.S. Bank to take action upon the occurrence of a Customer Default shall not constitute a course of dealing on the part of U.S. Bank, shall not constitute a waiver of such Customer Default or prevent U.S. Bank from taking action on such Customer Default or any other Customer Default in the future. For the avoidance of doubt, the adjustment of the credit limits or controls described in Section 4 (including requiring security or prefunding) are independent rights and are not dependent upon the existence of a Customer Default.

8.5 Upon the occurrence of a U.S. Bank Default, after the notice and cure period have run, if any, without cure, in addition to any other remedies at equity or law, Customer may: (i) immediately terminate this Agreement; and (ii) demand and recover payment of any damage amount directly related to any U.S. Bank Default. Any delay or failure on the part of Customer to take action upon the occurrence of a U.S. Bank Default shall not constitute a course of dealing on the part of Customer, shall not constitute a waiver of such U.S. Bank Default or prevent Customer from taking action on such U.S. Bank Default or any other U.S. Bank Default in the future.

9. **TERM, TERMINATION AND SUSPENSION.** This Agreement will remain in effect for five years measured from the first day of the month following the Effective Date (or if the Effective Date is the first day of the month, from the Effective Date) (the "**Agreement Term**"). This Agreement will automatically extend at the end of the Agreement Term for successive one year periods, unless either party provides at least 180 days written notice of termination prior to the expiration of the then current term. During the Agreement Term or any successive term thereafter neither Customer nor U.S. Bank may terminate this Agreement, except by mutual consent or as otherwise provided under this Agreement.

9.1. In addition to any rights arising under Section 8.4, U.S. Bank may terminate this Agreement (i) by providing ten days prior written notice of such termination to Customer upon U.S. Bank's determination that the relationship under this Agreement is unprofitable or (ii) immediately upon written notice to Customer, if there has been no material activity on Accounts for any 12 consecutive month period.

9.2. U.S. Bank may immediately (i) suspend or cancel any Account if U.S. Bank is unable to verify the identity of the Account holder or owner of the Account, based on the Identification Information submitted to U.S. Bank, or if U.S. Bank is unable to verify providing services to an Account holder or Participant does not pose a risk to U.S. Bank of violating any applicable law, statute, or regulation; and (ii) terminate this Agreement if U.S. Bank, in its sole discretion, determines provision of services under this Agreement is counter to any existing, new, or amended law, regulation, regulatory interpretation, anticipated regulatory interpretation, or any enforcement of existing, new, or amended law, regulation, regulatory interpretation, or anticipated regulatory interpretation.

9.3. The following provisions shall survive termination of this Agreement: Section 5 (Fees and Billing); Section 7 (Security and Confidentiality); Section 8 (Default); Section 10 (Intellectual Property); Section 12 (Indemnification); Section 13 (Limitation of Liability); Section 14 (Notices); Section 16 (Governing Law); Section 27 (Set-Off); Section 28 (Cumulative Remedies); and Section 30 (Waiver of Jury Trial). Without limiting or affecting the foregoing, any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall survive termination and shall remain in full force and effect.

10. INTELLECTUAL PROPERTY.

10.1. U.S. Bank, or its affiliates, is the owner or licensee of any and all Intellectual Property or other proprietary right associated with U.S. Bank products and services including, but not limited to, the Program, related materials, and derivatives. Customer shall not use, copy, redistribute, publish, or retransmit any portion of U.S. Bank products or Intellectual Property without the express written consent of U.S. Bank. Customer shall not change or delete any proprietary notices contained on or in any written or electronic materials supplied by or through U.S. Bank. Nothing in this provision grants any ownership right to Customer. U.S. Bank remains the sole owner of any and all its Intellectual Property.

10.2. Subject to Customer's compliance with this Section 10, U.S. Bank grants Customer and any Participant a non-exclusive, non-transferable license to use and access Accounts on U.S. Bank's or its third party licensor's software. U.S. Bank or its third party licensors may, from time to time, provide updates of the software. The updates replace the software initially licensed to Customer and do not constitute an additional license to use the software. Customer shall permit U.S. Bank reasonable access to any records, systems, or operations to ensure Customer is in compliance with the license granted in this Section 10.

10.3. U.S. Bank, or its third party licensors, retains all rights, title, and ownership of the Accounts (but not the Account data) and software, any documentation provided with the Accounts or software, and any works derived from the software that contain all or part of the software or U.S. Bank or its third party licensors' Intellectual Property. U.S. Bank asserts the Accounts and software is protected by copyright and may be protected by patent, trademark, or other proprietary rights and laws of the United States or other jurisdictions. Any property rights not granted in this Section 10 are reserved by U.S. Bank or its third party licensors. Customer and Participant may not (i) reverse engineer, decompile, or disassemble the software or bypass or disable any copy protection or encryption; (ii) reformat or make derivative works from the software; (iii) transmit all or any part of the software by any means, media, or manner that would present the risk of unauthorized access, except as provided by U.S. Bank; (iv) disclose part or all of the software to any third parties, except as explicitly authorized by U.S. Bank; (v) use all or part of the software to advise, consult, or otherwise assist any third parties except as explicitly authorized by U.S. Bank; and (vi) otherwise use the software in any manner that would compete in any way with U.S. Bank's business.

11. **WARRANTIES.** Each party respectively represents and warrants, at all times during this Agreement, that (i) this Agreement is valid, binding, and enforceable against itself; (ii) execution of this Agreement and the performance of the obligations hereunder are within such party's powers; have been authorized by all necessary action; do not require action by or approval of any governmental or regulatory body, agency, or official; and do not constitute a breach of any material agreement of such party; (iii) execution of this Agreement and the performance of the obligations hereunder will not cause a material breach of any duty arising in law or equity; (iv) the transaction contemplated by this Agreement is within the scope of the normal course of business, and does not require further authorization for such party to be bound by this Agreement; (v) each party possesses the financial capacity to perform all of its obligations under this Agreement; and (vi) each party shall comply with all requirements of this Agreement and all applicable laws, rules, regulations, and requirements of governmental authorities related to the Program. Customer represents and warrants, at all times during this Agreement, that (i) the material information provided by Customer to U.S. Bank is true, complete, and accurate; (ii) Customer shall use Accounts, and shall instruct its Account holders to use Accounts, solely for business purposes; (iii) Customer has received any and all necessary consents from Account holders, prior to providing U.S. Bank with any Account holder Identification Information; (iv) the consent of no third party, including, without limitation, a lender, is required with respect to the execution of this Agreement, or if any such third party consent or approval is required, Customer has obtained any and all such consents or approvals; (v) Customer shall comply with, and shall cause its affiliates, Participants and Account holders to comply with, (A) the terms and conditions of any applicable Cardholder Agreement, Account holder Agreement, Privacy Agreement, or End User License Agreement that governs the use of an Account (collectively, the "**End User Agreements**") (which U.S. Bank may amend from time to time without notice to the Account holder, but U.S. Bank will provide Account holders with notice of any material change to the End User Agreements), (B) Card Network operating rules and regulations; and (C) any applicable automated clearinghouse operating rules or regulations, including, without limitation, the National Automated Clearing House Association Operating Rules, Guidelines of the Canadian Payments Association (Payments Canada) operating rules and guidelines (if applicable), or any related or successor operating rules; and (vi) Customer will not, in connection with the services contemplated by this Agreement or in connection with any other business transactions involving U.S. Bank, receive compensation, make, offer, or promise to make any payment or transfer anything of value, directly or indirectly if such compensation, payment, or transfer would have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business, in breach of any applicable laws, statutes, regulations, and codes relating to anti-kickback, anti-bribery, and anti-corruption. This paragraph shall not, however, prohibit

normal and customary business entertainment of nominal value or the giving of business mementos of nominal value.

Except as expressly provided herein, U.S. Bank makes no warranties, express or implied, in law or in fact, including, without limitation, the implied warranties of fitness for a particular purpose and of merchantability, either to Customer or to any other party, in connection with this Agreement, or with respect to software products provided or made available to Customer for its use by U.S. Bank, in connection with this Agreement.

- 12. INDEMNIFICATION.** Customer agrees to indemnify and hold harmless U.S. Bank and its agents, officers, directors, employees, contractors and subcontractors from any third party claims, actions, demands, damages, injuries, injunctions, suits, fines, penalties, costs, and expenses and liability whatsoever (including reasonable legal fees), arising out of (i) the infringement by Customer or any third party of any Intellectual Property or other property or contract right of any other entity; (ii) the violation of any law, rule, regulation or authority by Customer, Participant, Account holders or any third party; (iii) any gross negligence or intentional act of Customer, Participant or Account holders, including, but not limited to, Customer's, Participant's or an Account holder's transmission of incorrect, illegible, duplicate, or fraudulent data to U.S. Bank; or (iv) any Customer Default. U.S. Bank shall notify Customer of any claim that is asserted and each action or suit that is filed or served, and provide Customer with a copy of any written documentation received in relation with the claim, for which U.S. Bank is seeking indemnification pursuant to this Section 12, provided, however, that failure to give such notice shall not relieve Customer of its indemnification obligations. Customer may thereafter assume control of such claim, *provided* that U.S. Bank shall have the right to participate in the defense or settlement of such claim. U.S. Bank may employ counsel at its own expense to assist with any such claim; however, if such counsel is necessary because of a conflict of interest of either Customer or its counsel or because Customer does not assume control, Customer shall bear the expense of such counsel. Customer may not settle any claim, admit to any liability, or consent to any judgment with respect thereto without the consent of U.S. Bank (which consent may not be unreasonably withheld, delayed or rejected).
- 13. LIMITATION OF LIABILITY.** U.S. Bank and its affiliates are not liable for any consequential, special, indirect, or punitive damages of any nature (including lost profits) regardless of whether such parties have been advised of the possibility of such damages. U.S. Bank is not liable for any damages under the Program that exceed the fees U.S. Bank collected during the 12 months immediately preceding the alleged liability.
- 14. NOTICES.** Any notice required to be given to a party pursuant to this Agreement shall be in writing and will be deemed received either (i) two days after the date of mailing if sent by overnight, registered, or certified mail, return receipt requested, or (ii) one day after the date of mailing if sent by a national overnight courier service. Notices shall be sent to the following addresses: to U.S. Bank at U.S. Bank National Association, Corporate Payment Systems, Mail Code EP-MN-A17S, 901 Marquette Ave., Minneapolis, MN 55402, U.S.A. Attn: CPS Contract Manager and to Customer at the address stated on the Application. Either party may change its notification address at any time by written notice to the other.
- 15. ASSIGNMENT AND TRANSFER.** Customer shall not assign or otherwise transfer or delegate its rights, obligations, or duties under this Agreement without U.S. Bank's prior written approval at its sole discretion. For the purposes of this provision, "transfer" refers to a merger, acquisition, consolidation, divestiture, change in control, asset transfer, amalgamation, proceeding under bankruptcy laws, or any other transfer, reorganization, or sale (in whole or in part) of Customer. To the fullest extent not prohibited by applicable law, Customer will notify U.S. Bank in advance of any material change (and if prohibited, within 15 days after such change) to any information provided to U.S. Bank at any time in contemplation or in furtherance of this Agreement, including, without limitation, Customer's primary business, legal organization (e.g., partnership, corporation, etc.) or any change resulting from a transfer as described above. Customer shall promptly provide any information requested by U.S. Bank associated with the request for approval.
- 16. GOVERNING LAW AND VENUE.** The laws of the state of Minnesota and applicable federal laws and regulations of the United States, apply to any dispute arising out of this Agreement, its subject matter, or its formation. The parties shall bring any dispute or claim arising out of or related to this Agreement before a state or federal court in the city of Minneapolis, Minnesota.
- 17. COMPLIANCE WITH APPLICABLE STATUTES AND REGULATIONS.** The parties will maintain compliance with all statutes and regulations applicable to the products and services contemplated under this Agreement, including all economic sanctions laws, anti-money laundering laws, and trade restrictions imposed by the United States, United Nations, European Union or Canada, and U.S. Bank policies related thereto. U.S. Bank may require Identification Information for Customer, its affiliates, its Participants, and any authorized signers, beneficial owners, Account holders or directors of Customer and its affiliates and Participants. Customer shall promptly provide any such required Identification Information to U.S. Bank.
- 18. FORCE MAJEURE AND EXCUSABLE DELAY.**
 - 18.1.** Except for payment obligations under this Agreement, neither party is responsible for performance delays or failures resulting from acts of God, acts of civil or military authority, fire, flood, strikes, war, epidemics, shortage of power, telecommunications or Internet service interruptions or other acts or causes reasonably beyond the control of that party. The party suffering the force majeure event will (i) implement its applicable disaster recovery plan to the extent appropriate, and practicable; (ii) give the other party prompt notice of the occurrence of a force majeure event; (iii) use diligent efforts to re-commence performance as promptly as commercially practicable pursuant to its disaster recovery plan; and (iv) provide periodic updates to the other party regarding its efforts to re-commence performance, until performance has re-commenced in accordance with this Agreement.
 - 18.2.** Either party may terminate this Agreement, upon written notice to the other, if the non-terminating party is unable to perform a material portion of its obligations, as a direct result of a force majeure event, for more than 30 consecutive days. Delay in either party's performance is excused to the extent its performance is delayed solely due to an act or omission of the other party.
- 19. CHANGE IN TERMS OF THIS AGREEMENT.** U.S. Bank may change the terms and conditions of this Agreement at any time upon written notice to Customer. If permitted by applicable law, the changes will apply to existing Account balances as well as future transactions. If Customer refuses to accept the changes, Customer must notify U.S. Bank, in writing and within 30 days from the date of the notice, that it refuses to accept the changes and elects to terminate this Agreement. Should Customer terminate this Agreement pursuant to this Section 19, all Obligations will immediately become due and payable by Customer to U.S. Bank, according to the terms of this Agreement.
- 20. INTERPRETATION.** The parties expressly agree this Agreement will not be construed more strongly against the drafting party. This Agreement constitutes the entire agreement between the parties, concerning the matters addressed in this Agreement, and cancels and supersedes any prior agreements, undertakings, declarations, or representations, written or verbal, in respect thereof. Headings are inserted for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- 21. SEVERABILITY.** Should any provision of this Agreement be declared invalid for any reason, such declaration will not affect the validity of any other provision of this Agreement, which will remain in full force and effect, as if this Agreement had been executed with the invalid provision eliminated. The parties shall use their commercially reasonable efforts to agree upon a valid substitute provision in accordance with the purpose of this Agreement and the parties' intent.
- 22. NO WAIVER.** No failure or delay, by either party to exercise any right, power, or privilege provided under this Agreement or by applicable law, will operate as a waiver thereof; nor will any single or partial exercise of any such right, power, or privilege preclude any future exercise of any other right, power, or privilege.

- 23. RELATIONSHIP OF THE PARTIES.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement creates an agency, partnership, joint venture, or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party has authority to contract for or bind the other party in any manner whatsoever.
- 24. RELATIONSHIP BETWEEN U.S. BANK AND THIRD PARTY SERVICE PROVIDERS.** U.S. Bank may enter into agreements with third parties, for the purpose of marketing and advertising U.S. Bank's products and services and providing other services to U.S. Bank. U.S. Bank may compensate the third parties based on revenue generated instead of a flat fee for such services. The products or services provided to Customer pursuant to this Agreement may include products or services subject to such compensation paid to third parties. To the extent Customer was referred to U.S. Bank by such third party, Customer authorizes U.S. Bank to release Customer's Confidential Information to such third party (and its agents) for purposes of communicating or computing any revenue or fees that may be due from U.S. Bank to such third party.
- 25. DELEGATION.** U.S. Bank may delegate duties herein to one or more third parties without Customer approval or consent, so long as, U.S. Bank remains responsible for the conduct of and payment to such third parties.
- 26. NO THIRD PARTY BENEFICIARIES OR CLAIMS.** Except as stated in this Agreement, and with reference to any successors or assigns, any services provided under this Agreement are for the sole and exclusive benefit of Customer and Participants, if any, and nothing in this Agreement will be deemed to create any third party beneficiary rights in any person or entity not party to this Agreement.
- 27. SET-OFF.** U.S. Bank may set-off any amounts Customer owes to U.S. Bank pursuant to this Agreement or any other agreement between the parties or their affiliates against any amounts due to Customer by U.S. Bank or its affiliates.
- 28. CUMULATIVE REMEDIES.** Except as expressly provided elsewhere in this Agreement, each party's rights and remedies under this Agreement are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that party.
- 29. INCORPORATION.** The following are incorporated into this Agreement by reference as if set out at length herein:
- 29.1.** U.S. Bank National Public Sector Program Commercial Account Application.
 - 29.2.** Schedule 1 – Fees.
 - 29.3.** Schedule 2 – Rebate.
- 30. WAIVER OF JURY TRIAL.** Customer and U.S. Bank hereby waive all rights to trial by jury in any proceeding relating to this Agreement.
- 31. AUTHORIZATION AND EXECUTION.** This Agreement may be executed and delivered electronically, and fully executed electronic versions of this Agreement, or reproductions thereof, will be deemed to be original counterparts.

The signer represents and warrants that (i) he or she is authorized by an applicable bylaw, article, resolution or other corporate authority to enter into all transactions contemplated by this Agreement, and (ii) the signatures appearing on all supporting documents of authority are authentic

In witness whereof, Customer has executed this Agreement.

DATE: _____

Signature of 1st Authorized Signer

Printed Name of 1st Authorized Signer
(Full legal name, first, middle and last name)

Printed Title of 1st Authorized Signer

Signature of 2nd Authorized Signer (**ONLY** if required by Customer's organizational guidelines)

Printed Name of 2nd Authorized Signer
(Full legal name, first, middle and last name)

Printed Title of 2nd Authorized Signer



Schedule 1 – Fees

FEES	
Description	Fee
Annual Account Fee	
Custom Card Design and Production	
Cash Advance Transaction Fee	
Convenience Checks	
Transaction fee	
Returned check fee	
Stop payment fee	
Copy fee	
Delinquency Fee	
Purchase Accounts and One Card Accounts	
Not paid by due date on the entire past due balance	
Not paid by each subsequent Billing Cycle on the entire past due balance	
Electronic Attachment Utility	
Executive Cards	
Executive Platinum Cards	
Expedited Card Delivery Fee	
Foreign Transaction Fee	
Logo Setup Fee	
Non-Sufficient Funds Fee	
Statements	
Paper Statement fee	
Statement copy fee	
Draft copy fee	

Schedule 2 – Rebate

1. **Rebate Opportunity.** U.S. Bank offers Customer the opportunity to earn a rebate for its commercial card products selected in section 2 (Product Selection and Optional Enhancements) of the Agreement as set forth below.
2. **Definitions.** Capitalized terms used but not defined herein shall have the meaning ascribed thereto in the Agreement. In addition, the following terms shall have the following meanings:
 - a. **"Average Transaction Size"** means the Net Standard Charge Volume divided by the number of Charges that qualify as Net Standard Charge Volume.
 - b. **"Charge-off"** means any amount due and owing to U.S. Bank by Customer, its Participants or Account holders related to the Agreement that is classified as a charge-off under U.S. Bank's then applicable accounting policies.
 - c. **"Charge-off Adjustment"** means the difference between Charge-offs and one-half of Charge-off Recoveries.
 - d. **"Charge-off Recovery"** means an amount equal to any monetary recovery related to a Charge-off.
 - e. **"Combined Charge Volume"** means, for the applicable Rebate Period, the sum of Net Standard Charge Volume and Net Discount Charge Volume.
 - f. **"Discount Interchange Rate Program"** means an interchange rate program where the rates assessed on particular transactions are less than the standard rates. Subcategories subject to differentiated discount volume percentage include transactions processed on large ticket program indicators and transactions assessed at network negotiated rates, all as reasonably determined by U.S. Bank. Transactions subject to Discount Interchange Rate Programs may change from time to time without notification to Customer.
 - g. **"File Turn Days"** means the number of days from the date U.S. Bank funds a Charge to the date of payment, inclusive of the beginning and ending dates.
 - h. **"File Turn Days Payment Performance"** means the weighted average File Turn Days for each Rebate Period.
 - i. **"Net Discount Charge Volume"** means all Charges set forth on the Statement furnished for the Accounts in an Rebate Period that qualify for and have applied to them a Discount Interchange Rate Program, less credits, and net of Charge-off Adjustments for the same Rebate Period. All other Charges, fees, cash advances, fraudulent charges, and chargebacks are excluded from Net Discount Charge Volume.
 - j. **"Net Standard Charge Volume"** means all Charges set forth on the Statements furnished for all Accounts in the Rebate Period other than those Charges qualifying for and having applied to them Discount Interchange Rate Program, less all credits, cash advances, fees, fraudulent charges, chargebacks (other than those counted as fraudulent charges) and net of Charge-off Adjustments for the same Rebate Period.
 - k. **"Rebate Period"** means a 12-month period beginning with the first day of the first month following the Effective Date of the Agreement (or if the Effective Date is the first day of the month, on the Effective Date).
3. **Rebate.** Customer may earn a rebate for its One Card and/or Purchasing Accounts.
 - 3.1. **Conditions.** To be eligible for and to retain a rebate, Customer must: (i) satisfy all requirements in Table A; (ii) complete the Rebate Period in which a rebate is earned; (iii) not be subject to an uncured Customer Default at the time the rebate payment is due for such Rebate Period; and (iv) in the reasonable determination of U.S. Bank, based primarily upon Customer's recent Account spend patterns, have a projected expectation of meeting the volume requirement in Table A for the next Rebate Period. If Customer fails to satisfy the requirements of this section at the time of the scheduled rebate payment for a particular Rebate Period, U.S. Bank will not be required to pay Customer a rebate payment for such Rebate Period. If Customer's final net rebate is a negative amount, Customer shall reimburse U.S. Bank up to the amount of rebates U.S. Bank has previously paid to Customer.

Table A Requirements	
	One Card and/or Purchasing Accounts
File Turn Day Payment Performance	
Combined Charge Volume	
Minimum Rebate Earned	

- 3.2. **Rebate Calculation.** If Customer satisfies all the applicable Table A requirements in a Rebate Period, U.S. Bank will calculate a rebate for the same Rebate Period as follows:
 - (a) U.S. Bank will multiply the Net Standard Charge Volume by the applicable percentage on Table B (Performance Percentage) of section 4. However, if the Net Standard Charge Volume for such Rebate Period is less than \$500,000, the amount under this subsection shall be deemed zero.
 - (b) U.S. Bank will multiply the Net Discount Charge Volume by the applicable percentage on Table B (Performance Percentage) of section 4.
 - (c) U.S. Bank will multiply the Net Standard Charge Volume by the applicable percentage on Table C (Net Standard Charge Volume Percentage) of section 4. However, if the Net Standard Charge Volume for such Rebate Period is less than \$2,000,000, the amount under this subsection shall be deemed zero.
 - (d) U.S. Bank will multiply the applicable Net Discount Charge Volume by the applicable percentage on Table D (Net Discount Charge Volume Percentage) of section 4.
 - (e) U.S. Bank will add the amounts arrived at in sections 3.2.(a)-(d) to arrive at Customer's gross rebate for the Rebate Period.
 - (f) U.S. Bank will apply Charge-off Adjustments and remedies, if any, to the gross rebate to arrive at Customer's net rebate for the Rebate Period.

For the avoidance of doubt, Section 3.2(f) is only a component in the calculation of the rebate payable for a Rebate Period and does not constitute the netting of any Charge-offs or any other amounts due to U.S. Bank against payments due to Customer.

3.3. Payment. U.S. Bank will pay Customer's net rebate within 90 days after the completion of the applicable Rebate Period. U.S. Bank will pay Customer's final net rebate within 90 days after Customer satisfies all Obligations and provides written instruction to U.S. Bank to close all Accounts. U.S. Bank may retain and will not be required to pay Customer rebate payments less than \$3,500.00. U.S. Bank will not carry forward any rebate payment less than \$3,500.00.

4. Rebate Tables.

Table B Payment Performance Percentage					
File Turn Days Payment Performance	Performance Percentage	File Turn Days Payment Performance	Performance Percentage	File Turn Days Payment Performance	Performance Percentage

Table C Net Standard Charge Volume Percentage		
Net Standard Charge Volume	Volume Percentage	

Table D	
Net Discount Charge Volume Percentage	
Net Discount Charge Volume	

5. **Rebate Payment Registration.** Customer shall register for ACH payments in the manner prescribed by U.S. Bank. U.S. Bank will not make any rebate payments until Customer has registered for ACH. If Customer fails to register for ACH by the completion of a Rebate Period, Customer forfeits any payment for that Rebate Period. Customer designates the following person to register Customer for ACH:

Rebate Payment Registration	
a) Authorized Person's Name	
b) Authorized Person's Email Address	

6. **Interchange Rate.** U.S. Bank may modify the rebate calculations or values set forth in sections 3 and 4, if existing interchange rates or programs are modified, or if new interchange rates or programs are developed.