

PARTICIPATING ADDENDUM

to the

Commercial Card Solution

Washington State Contract #00612

For Fleet Cards

Issued on behalf of NASPO ValuePoint

Between

U.S. Bank National Association

and

The State of Colorado



**PARTICIPATING ADDENDUM
to NASPO ValuePoint
Commercial Card Solutions Contract Category 2 – Fleet Cards
Administered by the State of
Washington with
U.S. Bank National Association
Contract No. #00612
And The State of Colorado**

1. PARTIES AND SCOPE

This Participating Addendum, including all of its attached exhibits and other documents incorporated by reference (the "Participating Addendum"), is entered into by and between U.S. Bank National Association (the "Contractor"), and the State of Colorado (the "State"). This Participating Addendum covers participation in the Commercial Card Solutions Contract Category 2 – Fleet Cards led by the State of Washington (the "Contract"), for use by State agencies and other entities located in the State authorized by the State's statutes to utilize State contracts with the prior approval of the State's chief procurement official. The specific Goods and Services provided under the Contract are listed in Exhibit B, Product Descriptions. The State and the Contractor may be individually referred to as a "Party" or collectively as the "Parties".

This Participation Addendum provides the following commercial card products and associated services offered under the WSCA-NASPO Commercial Card Contract 00612-Category 2 to be provided by the Contractor to the State of Colorado and eligible entities participating in the State of Colorado Fleet Card Program: Fleet Card (Corporate Liability).

2. PARTICIPATION

Use of specific NASPO ValuePoint cooperative contracts by agencies, Political Subdivisions and other entities (including cooperatives) authorized by the State's statutes to use State contracts are subject to the prior approval of the State's chief procurement official. Issues of interpretation and eligibility for participation are solely within the authority of the State's chief procurement official.

3. STATE MODIFICATIONS TO CONTRACT AND APPLICABILITY

To the extent not modified by this Participating Addendum, all terms and conditions of the Contract shall apply to this Participating Addendum. If any term of this Participating Addendum conflicts with the Contract, then this Participating Addendum shall control for all transactions between the State and the Contractor under this Participating Addendum. All terms defined in the Contract shall have the meaning given to them in the Contract, except for those terms specifically defined differently in this Participating Addendum.

4. INCENTIVE SHARE SCHEDULE.

Incentive Shares will be paid quarterly within sixty (60) days following the last day of each Calendar Quarter:

Quarter 1: January 1 - March 31st

Quarter 2: April 1 - June 30th

Quarter 3: July 1 - September 30th

Quarter 4: October 1 - December 31st

5. INCENTIVE SHARE CALCULATION.

If Participating Entity does not earn a minimum of \$75.00 for combined incentive share components 1-3 per quarter it will forfeit its Incentive Share for that quarter.

6. COMMENCEMENT OF THE NEW INCENTIVE SHARE OPPORTUNITY FOR EACH PARTICIPATING ENTITY.

The first Incentive Share payment pursuant to this Participating Addendum, if any is earned, shall be made within sixty (60) days after the end of the first Agreement Quarter. The first Agreement Quarter is defined as the first full Calendar Quarter which consists of the three month calendar period beginning in January, April, July, or October following the effective date of the participating addendum.

7. PRIMARY CONTACTS AND PERSONNEL RESPONSIBILITIES

The primary contacts for this Participating Addendum are the individuals named in this section. Either Party may change its primary contacts or primary contacts contact information by notice submitted to the other party in writing, without a formal amendment to this Participating Addendum within 30 days following the date on which the change occurs. The Contractor's primary contact shall be ultimately responsible for ensuring that all Services are completed in accordance with this Participating Addendum.

Primary Contact for the State:

Amy Risley
Department of Personnel & Administration
1525 Sherman St
3rd floor
Denver, CO 80203
303-866-5663
amy.risley@state.co.us

Primary Contact for the Contractor:

Mark Hess Relationship Manager
U.S. Bank
901 Marquette Avenue South
EP-MN-A16S
Minneapolis, MN 55402
612-436-6544
mark.hess1@usbank.com

Primary Contact for the Contractor:

John Reber
US Bank Voyager
738 Hwy 6 South
Suite 700
Houston, TX 77079
832-486-1225
john.reber@usbank.com

In addition to the primary contact in this section, the Contractor shall also provide an individual who is ultimately responsible for the creation and submission of the quarterly volume report described in Exhibit A. This individual, as named in this section, shall ensure that all required quarterly volume reports are accurate and delivered by the appropriate due date for that quarterly volume report. The Contractor may change this individual or their contact information by notice submitted to the other party in writing, without a formal amendment to this Participating Addendum within 30 days following the date on which the change occurs.

Individual Responsible for Quarterly Volume Report Creation and Submission:

Mark Hess
U.S. Bank
901 Marquette Avenue South
EP-MN-A16S
Minneapolis, MN 55402
612-436-6544
mark.hess1@usbank.com

8. PARTICIPANTS

The Contract and this Participating Addendum control all accounts established under this Participating Addendum.

9. ATTACHED EXHIBITS AND INCORPORATED DOCUMENTS

All of the exhibits listed in this section are attached to this Participating Addendum and are incorporated herein by reference.

- A. Colorado Special Provisions in §13 of Participating Addendum Exhibit A, State Specific Terms
- B. The provisions of the main body of this Participating Addendum
- C. All other sections of Participating Addendum Exhibit A, State Specific Terms
- D. Participating Addendum Exhibit B, Product Descriptions

- E. Participating Addendum Exhibit C, Applicable Card Fees and Rebate Schedule
- F. Participating Addendum Exhibit D, Political Subdivision Addendum
- G. Participating Addendum Exhibit E, U.S. Bank Fleet Card Program Agreement – Category 2
- H. Participating Addendum Exhibit F, Participating Entity Agency Addendum.



10. EXCEPTIONS TO CONTRACT

- A. Replace the word "Client" in the Contract Section 3.1 and Replace with "Entity."
- B. Delete "Debt" and replace with "Charges".
- C. Delete Exhibit E Section 6 Pricing is negotiated through Contract only.
- D. In the event of a conflict, Exhibit A Section 4 Subsection B, Interest, will control over Exhibit E Section 7, Finance Charges, and Section 8, Delinquency.
- E. Delete Exhibit E Section 8 Delinquency "twenty five (25) days" and replace with "forty five (45) days" per Colorado law (~~§24-30-202(24)~~, CRS, as amended).
- F. Revise Exhibit E Section 11A Term, Termination and Suspension with the addition of "coterminous with the NASPO ValuePoint Contract" between the words "thereafter" and "until".
- G. Revision of Exhibit E Section 13 Indemnification B by adding the following words to the beginning of the sentence "Except for damages associated with injury to persons (including death) and property".

11. ORDER OF PRECEDENCE

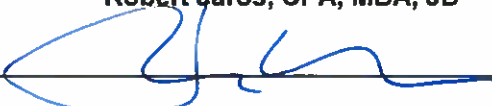
- A. The provisions of this Participating Addendum govern the relationship of the Parties. In the event of conflicts or inconsistencies between this Participating Addendum and its exhibits and attachments, including, but not limited to, those provided by Contractor, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:
 - a. Colorado Special Provisions;
 - b. Colorado's Participating Addendum ("PA");
 - c. The State of Washington on Behalf of WSCA-NASPO Cooperative Purchasing Program Commercial Card Solutions Contract #00612, Category 2 – Fleet Cards
 - d. Applicable Card Fees and Rebate Schedule;
 - e. U.S Bank Contract Terms and Conditions; and
 - f. Approved portions of Contractor's response to this Solicitation dated January 24, 2013.
- B. State and Participating Entities are not subject to provisions incorporated in any terms and conditions appearing on Contractor's or Subcontractor's website, or any provision incorporated into any other document or agreement between the Parties that: (a) requires the State or Participating Entity to indemnify Contractor or any other Party, or (b) is in violation of State laws, regulations, rules, fiscal rules, policies, or other State or Participating Entity requirements as deemed solely by the State or Participating Entity,

THE PARTIES HERETO HAVE EXECUTED THIS PARTICIPATING ADDENDUM

<p>CONTRACTOR U.S. Bank National Association By: Michael C. Leppones Title: Vice President</p> <p> _____ *Signature</p> <p>Date: <u>8/18/16</u></p>	<p>STATE OF COLORADO John W. Hickenlooper, Governor Department of Personnel and Administration State Purchasing Office June Taylor, Executive Director</p> <p> _____ By: Cindy Lombardi, State Purchasing and Contracts Director</p> <p>Date: <u>8/22/2016</u></p>
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ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

§24-30-202 C.R.S. requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or an authorized delegate.

<p>STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By:  _____</p> <p>Name: <u>JOSEPH WEBER</u></p> <p>Effective Date: <u>08-22-16</u></p>
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PARTICIPATING ADDENDUM EXHIBIT A, STATE SPECIFIC TERMS

1. AUTHORITY

Authority to enter into this Participating Addendum exists in the Colorado Procurement Code, 24-101-101 *et. seq.* C.R.S., and its associated rules.

2. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **"Addendum Quarter"** means a three (3) month period beginning with the first such period following the effective date of the Participating Addendum.
- B. **"Addendum Year"** means a twelve (12) month period beginning with the first such period following the effective date of the Participating Addendum.
- C. **"Charge-off"** means any amount due and owing to U.S. Bank or its Affiliates by Participating Entity that remains unpaid for one hundred fifty (150) days after the date that it was first billed.
- D. **"Client Held Days"** means the number of days from billing cycle date to the date U.S. Bank applies payment (annual per statement cycle average).
- E. **"Client Held Days Payment Performance"** means the average speed of repayment of Charges made for each Addendum Year and will be calculated as File Turn Days Payment Performance less fifteen (15) days.
- F. **"Confidential Information"** means any and all information that is normally considered confidential in nature, and includes, but is not limited to, PCI and all State Records not subject to disclosure under the Colorado Open Records Act, §§24-72-200.1, *et seq.* C.R.S. ("CORA").
- G. **"Charges"** means charges, fees costs and expenses incurred or all amounts charged to an Account including, without limitation, all amounts related to charges that are owed to U.S. Bank by Customer, its Affiliates, Participants, or Cardholders.
- H. **"File Turn Days"** means the number of days from the date U.S. Bank posts a charge transaction to the date payment for that transaction is posted, inclusive of the beginning and ending dates.
- I. **"Fraudulent Charges"** means those Charges which are not initiated, authorized or otherwise requested by Participating Entity, its Participants, and/or a Cardholder by any means (electronic, telephonic or written) and do not directly or indirectly benefit Participating Entity, its Participants, and/or a Cardholder.
- J. **"Goods"** means any movable material acquired, produced, or delivered by Contractor as set forth in this Participating Addendum or the NASPO ValuePoint Contract, and shall include any movable material acquired, produced, or delivered by Contractor in connection with the Services.
- K. **"Incentive Share"** means actual monies paid to each Participating Entity based on volume and speed of pay.
- L. **"Large Ticket Transaction"** means a transaction which qualifies for an incentive interchange rate that is lower than the standard interchange provided on a card transaction. Transaction size to qualify will vary over time with interchange rate changes set by card networks. Large ticket interchange rates may require the merchant to provide additional enhanced data to qualify for the lower rate, however exceptions to this requirement can occur.
- M. **"Net Annual Charge Volume"** means all charges set forth on the Statements furnished for all Accounts, less fees, cash advances, Fraudulent Charges, chargebacks, charges qualifying for large transaction interchange rates and amounts Charged-off by U.S. Bank with respect to such Accounts as uncollectible for each Addendum Year.
- N. **"Participating Entity"** means Participating States and those entities that have signed a Participation Addendum.

- O. **"Participating Entity Agencies"** means those Participating Entity departments and agencies that rely upon the Participating Entity for funding, or are appropriated funds by the Participating Entity for the charges on the Accounts issued to the employees of those departments and agencies. In order for Participating Entity Agencies to participate in the Fleet Card Program, the Participating Entity will furnish to U.S. Bank a Participating Entity Agency Addendum listing those agencies allowed to participate. The Participating Entity has the right to exclude any agencies from the Fleet Card Agreement by providing written notice to U.S. Bank at any time.
- P. **"PCI"** means payment card information including any data related to credit card holders' names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- Q. **"Political Subdivision"** means financially independent government entities such as cities and counties. State incurs no financial obligations on behalf of Political Subdivisions.
- R. **"Quarterly Sales Volume"** means all Charges set forth on the Billing Statements furnished for all Accounts, less Fees, Cash Advances, Fraudulent Charges, Charge-backs, and amounts Charged-off by Contractor with respect to such accounts as uncollectible for each quarter (3 calendar months).
- S. **"Services"** means the services to be performed by Contractor as set forth in this Participating Addendum or the NASPO ValuePoint Contract, and shall include any services to be rendered by Contractor in connection with the Goods.
- T. **"State Fiscal Year"** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- U. **"State Purchasing Director"** means the position described in the Colorado Procurement Code and its implementing regulations.
- V. **"State Records"** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- W. **"Subcontractor"** means third-parties, if any, engaged by Contractor to aid in performance of the Work. The term "Subcontractor" includes, but is not limited to, any dealers, distributors, partners or resellers engaged by the Contractor to perform the Work.
- X. **"Work"** means the delivery of the Goods and performance of the Services described in this Contract.

Any term used in this Participating Addendum that is defined in another Exhibit or in the main body of this Participating Addendum shall be construed and interpreted as defined in that portion of this Contract.

3. TERM

A. Term of WSCA/NASPO Contract

The initial term of the WSCA-NASPO Contract term is five years from January 1, 2014 through December 30, 2018, with the option to extend for up to two years at the mutual agreement of Washington and U.S. Bank. The entire term shall not exceed seven years.

B. Initial Term - Work Commencement

The Parties' respective performances under this Participating Addendum shall commence on the Effective Date and shall terminate on the date on which the NASPO ValuePoint Contract terminates, unless this Contract is terminated earlier as described in this Participating Addendum or the State cancels its participation as described in the Contract (the "Term").

C. Extension of Term

If the term of NASPO ValuePoint Contract is extended for any reason, then that extension shall be automatically incorporated in this Participating Addendum and the Term of this Participating Addendum shall be automatically modified to account for that extension, so long as such extension complies with the Colorado Procurement Code.

4. PAYMENTS

A. Participating Entity Payments

Each Participating Entity will make its own payments under any Participating Addendum that it enters into. The State shall not be liable to the Contractor for any payments due under any Participating Addendum unless the State is a party.

B. Interest

Contractor shall allow State Participating Entities a minimum of thirty (30) days after receipt of an invoice to pay for products or Services provided by Contractor. State law and regulations provide that State payments made within forty-five (45) days are not considered delinquent, and unless otherwise agreed, State Participating Entities will pay interest on any unpaid balance beginning on the 46th day at the rate of one (1) percent per month on any unpaid balance until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are the subject of a good faith dispute regarding the obligation to pay all or a portion of the liability. (**\$24-30-202(24), CRS, as amended.**)

C. Rebate Payments

For each WSCA/NASPO quarter, the Contractor shall remit to the State a Rebate Schedule detailed in Exhibit C of the total spend by all Participating Entities under this Participating Addendum during that quarter.

D. Card Products Liability

Card Products are defined in Exhibit B. All card products offered under this Participating Addendum are corporate liability. Participating Agencies shall have no liability for lost or stolen cards or fraudulent use of any corporate liability cards following receipt by U.S. Bank of notice of such lost, stolen, or fraudulent use. Card liability and dispute procedures are further defined in Exhibit E, Section 5 (Liability) and Section 10 (Disputed Billings).

5. REPORTING - NOTIFICATION

A. Volume Reporting

The State will use a centralized method of tracking volume. Contractor shall provide a quarterly volume report to the State within 60 calendar days following the end of the WSCA/NASPO quarter that the report covers. The quarterly volume report shall be submitted in a form as directed by the State, which may be modified by the State from time to time. The quarterly volume report shall contain, at a minimum, all of the following:

- A. A summary volume report that includes, but is not limited to, all of the following for the quarter that the report covers:
 - a. The total spent by each type of Participating Entity under this Participating Addendum.
 - b. The total of the list cost of all items purchased by each type of Participating Entity under this Participating Addendum.
 - c. The total estimated cost savings for each type of Participating Entity under this Participating Addendum, calculated as the total list cost minus the total spent for that Participating Entity.
 - d. The total spend
 - e. The total sales of environmentally preferable products, as defined in the State's Environmentally Preferable Purchasing Policy, for each Participating Entity under this Participating Addendum.
 - f. The amount of the total administrative fee due to the State.
 - g. Any additional summary information as requested by the State, including but not limited to types and quantities of fuel, miles driven, locations purchased.
- B. A detail report that includes, but is not limited to, all of the following for each sale that occurred during the quarter that the report covers:
 - a. The name of the Participating Entity who the sale was made to.
 - b. The date of the sale.
 - c. A listing of each item purchased in the sale, including the name of the item, the quantity of the item, the unit price for the item, the extended cost for the item calculated by multiplying the unit price by the quantity, the list price per unit for the item, the extended list cost for the item calculated by multiplying the quantity by the list price, and the savings on the item calculated by subtracting the extended cost from the extended list cost.
 - d. Any other detail information as requested by the State.

B. Additional Operational Reporting

Upon request by the State, the Contractor shall provide operational reporting that includes all detailed and summary transaction, historical or payment information related to the State or any of the Participating Entities as requested by the State. The Contractor shall provide all such additional reports within a reasonable amount of time following the State's request for that information.

Legal Notices In the event that a subpoena or other legal process commenced by a third party in any way concerning the Equipment or Services provided pursuant to the Contract is served upon Contractor or State, such party agrees to notify the other party in the most expeditious fashion possible following the receipt of such subpoena or legal process. Contractor and State further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

C. Performance Outside the State of Colorado or the United States, C.R.S. § 24-102-206

To the extent not previously disclosed in accordance with §24-102-206, C.R.S., Contractor shall provide written notice to the State's primary contact described in this Participating Addendum, within

20 days of the earlier to occur: (1) Contractor's decision to perform Services outside of the State of Colorado or the United States; or (2) its execution of an agreement with a Subcontractor to perform, Services outside the State of Colorado or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado or the United States and the reason why it is necessary or advantageous to perform such Services at such location or locations. Knowing failure by Contractor to provide notice to the State under this section shall constitute a breach of this Participating Addendum.

6. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

"Confidential Information" means any and all information that is normally considered confidential in nature, and includes, but is not limited to, all State Records not subject to disclosure under the Colorado Open Records Act, §§24-72-200.1, et seq. C.R.S. ("CORA"). Contractor shall hold and maintain any and all Confidential Information provided to Contractor or made available to Contractor by the State or its Participating Entities in confidence for the sole and exclusive benefit of the State or Participating Entity that provided such Confidential Information. Contractor shall not, without prior written approval of the State, use for Contractor's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Participating Addendum. Contractor shall provide for the security of all Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines including, without limitation, the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI. Any request or demand to Contractor by any third party for the State's Confidential Information shall be immediately forwarded to the State's primary contact described in the Participating Addendum.

B. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Contractor in violation of §6.A of this Exhibit A may be cause for legal action by third parties against Contractor, the State, or their respective agents. Contractor shall indemnify, defend, save, and hold harmless the State, its employees, agents and assignees, against any and all third party claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by the State in relation to any act or omission by Contractor, or its employees, agents, assigns, or Subcontractors in violation of §6.A of this Exhibit A.

7. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Contractor shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the Work. Such a conflict of interest would arise when a Contractor or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State or a Participating Entity, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Participating Addendum or any Order.

B. Apparent Conflicts of Interest

Contractor acknowledges that with respect to this Participating Addendum, even the appearance of a conflict of interest will be harmful to the State's interests. Absent the State's prior written approval, Contractor shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Contractor's obligations under this Participating Addendum.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Contractor is uncertain whether a conflict or the appearance of a conflict has arisen, Contractor shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a

disclosure statement or to follow the State's direction in regard to the apparent conflict constitutes a breach of this Participating Addendum.

8. BREACH

A. Defined

The failure of a Party to perform any of its obligations in accordance with this Participating Addendum, in whole or in part or in a timely or satisfactory manner, shall be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, the aggrieved party shall give written notice of breach to the other Party's primary contact described in this Participating Addendum. If the notified Party does not cure the breach within 60 days after receipt of written notice, or, if a cure cannot be completed within 60 days but cure of the breach has not begun within 60 days and has not been pursued with due diligence, the non-breaching party may exercise any of the remedies set forth in §9 of this Exhibit A. Notwithstanding any provision of this Participating Addendum to the contrary, neither party, in its discretion, need provide notice or a cure period and may immediately terminate this Participating Addendum with a minimum of 60 days' notice .

9. REMEDIES

A. State's Remedies

If Contractor is in breach under any provision of this Participating Addendum, the State, following the notice and cure period set forth in §8.B of this Exhibit A, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Participating Addendum and any remedies available by law or equity. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

A. Termination for Breach or Cause

In the event of Contractor's uncured breach, the State may terminate this entire Participating Addendum or any part of this Participating Addendum. Contractor shall continue performance of this Participating Addendum to the extent not terminated, if applicable.

a. Obligations and Rights

To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Contractor shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Participating Addendum's terms

b. Payments

The State shall pay Contractor for all Charges, fees, costs, and expenses incurred as of the date of termination. If, after termination by the State, the State agrees that Contractor was not in breach or that Contractor's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Participating Addendum had been terminated in the public interest.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Contractor shall remain liable to the State for any damages sustained by the State in connection with any breach by

Contractor, and the State may withhold payment to Contractor for the purpose of mitigating the State's damages. The State may withhold any amount that may be due Contractor as the State deems necessary to protect itself against loss including, without limitation, loss as a result of outstanding liens and costs incurred by the State in procuring from third parties replacement Work as cover.

B. Remedies Not Involving Termination

The State, in its discretion, may exercise the following additional remedies:

a. Suspend Performance

Suspend Contractor's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Contractor to an adjustment in price or cost or an adjustment in the performance schedule. Contractor shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Contractor after the suspension of performance.

b. Removal

Demand immediate removal from Work under this Participating Addendum of any of Contractor's employees, agents, or Subcontractors whom the State deems unacceptable or whose continued relation to this Participating Addendum is deemed by the State to be contrary to the public interest.

c. Intellectual Property

In the event that any Work infringes a patent, copyright, trademark, trade secret or other intellectual property right, Contractor shall, at the State's option (a) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (b) remove any infringing Work.

B. Contractor's Remedies

If the State is in breach of any provision of this Participating Addendum, Contractor, following the notice and cure period set forth in §8.B of this Exhibit A and the dispute resolution process in §10 of this Exhibit A shall have all remedies available to it at law and equity, including, but not limited to those listed in this Participating Addendum.

10. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Participating Addendum, to which the State is a party, which cannot be resolved by the designated Contract representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Contractor for resolution.

B. Resolution of Controversies

If the initial resolution described in §10.A of this Exhibit A fails to resolve the dispute within 60 Business Days, Contractor shall submit any alleged breach of this Participating Addendum to which the State is a party by the State to the purchasing director of State of Colorado, State Purchasing & Contracts Office for resolution in accordance with the provisions of §§24-109-101, 24-109-106, 24-109-107, and 24-109-201 through 24-109-206 C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the purchasing director, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

11. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S.

12. GENERAL PROVISIONS

A. Binding Effect

All provisions of this Participating Addendum, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

B. Counterparts

This Participating Addendum may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

C. Venue

The exclusive venue for all suits or actions related to this Participating Addendum shall be in the State of Colorado, in the City and County of Denver.

D. Modification

Except as otherwise provided in this Participating Addendum, any modification to this Participating Addendum shall only be effective if agreed to in a formal amendment to this Participating Addendum, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Contract, other than contract amendments, shall conform to the policies promulgated by the Colorado State Controller.

E. Severability

The invalidity or unenforceability of any provision of this Participating Addendum shall not affect the validity or enforceability of any other provision of this Participating Addendum, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Participating Addendum in accordance with the intent of the Participating Addendum.

F. Survival of Certain Participating Addendum Terms

Any provision of this Participating Addendum that imposes an obligation after termination or expiration of the Participating Addendum shall survive the termination or expiration of the Participating Addendum and shall be enforceable by the other Party.

G. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under C.R.S. §§39-26-701, *et seq.* (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any Political Subdivision of the state imposes such taxes on Contractor. Contractor shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Contractor may wish to have in place in connection with this Participating Addendum. Some Purchasing Entities may be subject to taxes for Orders, but in no event shall the State have liability to the Contractor for any such taxes.

H. Third Party Beneficiaries

Except for the Parties' respective successors and assigns permitted under this Participating Addendum, this Participating Addendum does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties, except for rights explicitly provided for

Participating Entities or rights contained in a Participating Addendum. Enforcement of this Participating Addendum and all rights and obligations hereunder are reserved solely to the Parties, except for rights explicitly provided for Participating Entities or rights contained in a Participating Addendum. Any services or benefits which third parties receive as a result of this Participating Addendum are incidental to the Contract, and do not create any rights for such third parties, except for rights explicitly provided for Participating Entities or rights contained in a Participating Addendum.

I. Standard and Manner of Performance

Contractor shall perform its obligations under this Participating Addendum in accordance with the accepted standards of care, skill and diligence in Contractor's industry, trade, or profession.

J. Additional Insured

The Contractor shall ensure that the State is added as an additional insured on the Commercial General Liability and Commercial Automobile Liability policies required under the Contract.

13. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-1)

Notwithstanding anything to the contrary in this Participating Addendum, in the event of a conflict, these special provisions shall supersede and control over all terms of the Contract and all other terms of this Participating Addendum.

A. CONTROLLER'S APPROVAL. C.R.S. §24-30-202(1).

This Participating Addendum shall not be valid until it has been approved by the Colorado State Controller or designee.

B. FUND AVAILABILITY. C.R.S. §24-30-202(5.5).

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

No term or condition of this Participating Addendum shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, C.R.S. §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b).

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Participating Addendum. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

State shall perform its duties hereunder as an independent contractor and not as an employee. Neither State nor any agent or employee of State shall be deemed to be an agent or employee of the Contractor. State and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the Contractor and the Contractor shall not pay for or otherwise provide such coverage for State or any of its agents or employees. Unemployment insurance benefits will be available to State and its employees and agents only if such coverage is made available by State or a third party. State shall pay when due all applicable employment taxes

and income taxes and local head taxes incurred pursuant to this Participating Addendum. State shall not have authorization, express or implied, to bind the Contractor to any agreement, liability or understanding, except as expressly set forth herein. State shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the Contractor, and (iii) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

Both parties shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Participating Addendum. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Participating Addendum, to the extent capable of execution.

G. BINDING ARBITRATION PROHIBITED.

Neither party agrees to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Participating Addendum or incorporated herein by reference shall be null and void. Both parties also agree to a waiver of jury trial.

H. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.

State or other public funds payable under this Participating Addendum shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Participating Addendum and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Participating Addendum, including, without limitation, immediate termination of this Participating Addendum and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. C.R.S. §§24-18-201 and 24-50-507.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Participating Addendum. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

J. VENDOR OFFSET. C.R.S. §§24-30-202(1) and 24-30-202.4.

Subject to C.R.S. §24-30-202.4(3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in C.R.S. §39-21-101, et seq.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action.

K. PUBLIC CONTRACTS FOR SERVICES. C.R.S. §8-17.5-101, et seq.

Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Participating Addendum and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Participating Addendum, through participation in the E-Verify Program established under Pub. L. 104-208 or the State verification program established pursuant to C.R.S. §8-17.5-102(5)(c). Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Participating Addendum or enter into a contract with a Subcontractor that fails to certify to Contractor that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Participating Addendum. Contractor (i) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Participating Addendum is being performed, (ii) shall notify the Subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Participating Addendum, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to C.R.S. §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the State program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Contractor fails to comply with any requirement of this provision or C.R.S. §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this Participating Addendum for breach and, if so terminated, Contractor shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. C.R.S. §24-76.5-101, et seq.

Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of C.R.S. §24-76.5-101 et seq., and (iii) has produced one form of identification required by C.R.S. §24-76.5-103 prior to the effective date of this Contract.

PARTICIPATING ADDENDUM EXHIBIT B, PRODUCT DESCRIPTIONS

U.S. BANK PRODUCT DESCRIPTIONS

- 1. U.S. Bank Fleet Card.** The U.S. Bank Fleet Card on the Voyager Network is a Corporate Liability charge card designed for purchases of motor fuels and other products and services by fleet vehicle operations using a transaction processing, reporting and payment system established by U.S. Bank.

PARTICIPATING ADDENDUM EXHIBIT C - APPLICABLE CARD FEES AND REBATE SCHEDULE

	Fees Applicable to Purchase, Corporate and One Card	Charge
1.	Annual Card Fee	\$0.00
2.	Non-Sufficient Funds Fee, all Products, per occurrence	\$15.00
3.	Logo Embossing Fee; a two-week delay may occur with Card issuance and implementation	\$0.00
4.	Delinquency Fee, Purchasing or One Cards and Enhancements <ul style="list-style-type: none"> • Not Paid by Due Date on entire past due amount • Not Paid by each subsequent Billing Cycle on the entire past due amount • Minimum Late Fee 	1.0% 2.5% \$2.00
5.	Delinquency Fee, Corporate <ul style="list-style-type: none"> • Not Paid by Due Date on entire past due amount • Not Paid by each subsequent Billing Cycle on the entire past due amount • Minimum Late Fee 	0.0% 2.5% \$2.00
6.	Travel Accident Insurance Fee. Common Carrier Travel Accident Insurance for Corporate and/or One Cards is provided at no charge with a benefit amount of two hundred fifty thousand U.S. Dollars (\$250,000.00). Entity and/or Participant must notify U.S. Bank of the use of Central Billing Accounts for booking of travel to ensure appropriate insurance coverage is in place.	\$0.00
7.	Foreign Transaction Fee, all Products. Fee applies to transactions taking place outside the United States not in U.S. Dollars. U.S. Bank reserves the right to raise fee with sixty (60) days prior written notice to Entity.	2.5%

	Fees Applicable to Fleet Card The following fees will only be assessed for those customers with few than 200 Fleet Cards and monthly billings of less than \$17,000.000. The following fees are subject to change without prior notice.	Charge
1.	Account Set Up – one time fee	\$0.00
2.	Fleet Card Fees – monthly fee dependent on number of cards <ul style="list-style-type: none"> • 7-25 cards • 26-100 cars • 101-200 cards 	\$0.00 \$0.00 \$0.00
3.	Invoice, including statement, payments, adjustments and taxes	\$0.00
4.	Driver Report	\$0.00
5.	Exception Report	\$0.00
6.	Service Station Activity Report	\$0.00
7.	Product Purchase Summary	\$0.00
8.	FleetCommander Online web access by user	\$0.00
9.	Card delivery charge when overnight delivery service used	\$20.00
10.	Expense Summary by Business Unit	\$0.00
11.	Logo Embossing Fee; a two-week delay may occur with Card issuance and implementation.	\$0.00
12.	Foreign Currency Fee. a foreign currency conversion fee ("Foreign Currency Conversion Fee") for transactions made outside the United States; the Statement will reflect the conversion into U.S. Dollars on transactions that occurred in a different currency and an applicable exchange rate for such conversions.	2.0%

13.	<p>Finance Charges. Assessed on balances not paid by due date on statement at a periodic rate in accord with Entity's state rate as set forth herein and based on the Average Daily Balance ("ADB").</p> <p>To calculate, U.S. Bank will take the beginning balance on Entity's account each day, add debits and any new purchases (except in the states of IL, ME, MA, MN, MS, MT, and NM) from the date of posting (if the New Balance is not received), then subtract any payments or credits, returned check fees, and unpaid Finance Charges. The result will be the "Daily Balance." U.S. Bank will then add all the Daily Balances for the billing cycle and divide by the total number of days in the billing cycle. The result will be the "Average Daily Balance."</p>	Periodic Rate APR
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PARTICIPATING ADDENDUM EXHIBIT C

MINIMUM REQUIREMENTS

If Any Entity does not earn at least \$75.00 in Incentive Share for Fleet Card Incentive Share Components 1 through 2 will forfeit Incentive share for the preceding quarter.

Any Incentive Share payment made pursuant to the Contract will be net of accumulated Charge-offs resulting from participation in Contractor programs regardless of whether the underlying Contract between the parties is valid or has been terminated.

In the event that the Card Program or the Contract is terminated prior to the completion of the Initial Term or prior to the completion of any Agreement Quarter after the completion of the Initial Term by Entity without cause, or by Contractor with cause, and/or the sole provider provision of this Contract is violated, in addition to any other remedies available to Contractor, this Incentive Share opportunity shall immediately terminate and no Incentive Share shall be paid to Entity.

Any Charge-offs in excess of the net Incentive Share from one (1) Agreement Quarter will be subtracted from one (1) or more of the following Agreement Quarters. Upon termination of the Contract, if the net Incentive Share is a negative dollar amount due to Charge-offs, Contractor may request, and Entity agrees to reimburse, Contractor up to the dollar amount previously paid by Contractor to Entity within thirty (30) days of the termination of the Contract.

Incentive Share	Rebates Applicable to Fleet Card	Rebate BPS	Paid
1	Participating Entity Volume-Entity will receive a basis point (percentage) of their quarterly sales volume. The Formula to determine quarterly volume incentive share: <u>Quarterly sales volume per entity - qualifying large ticket volume X basis points (percentage) = Entity Quarterly Volume Incentive</u>	130	Quarterly
2	Entity Prompt payment-A prompt payment incentive will be offered and is designed to provide an incentive to each entity when Entity Held Days is less than 45 days. Entity held days cannot be less than zero (0) The Prompt Payment Incentive is based solely on the Client Held Days Payment Performance for each Entity for each Agreement Quarter (3 calendar months). The Formula to determine Prompt Payment Incentive: (45 – Entity Held Days) / 45 x 0.0045 x Quarterly Sales Volume	45 (1bp/day)	Quarterly
3	All WSCA-NASPO States Annual Volume Incentive(per State) \$50,000,000 - \$100,000,000 \$100,000,001 - \$300,000,000 \$300,000,001 - \$500,000,000 \$500,000,001 - \$1,000,000,000 Note: Notwithstanding the foregoing, if a Political Subdivision in a non-participating state is allowed to join the contract, the Annual Aggregate State rebate	40 41 43 45	Annual

	<i>component will be negotiated between the Bank, WSCA/NASPO and that Political Subdivision so long as the net bps available for this component are not diminished.</i>		
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MINIMUM REQUIREMENTS

Any Entity does not earn at least \$75.00 in Incentive Share for Category 1 Incentive Share Components 1 through 3 and Category 2 Incentive Share Components 1 through 2 will forfeit Incentive share for the preceding quarter.

Any Incentive Share payment made pursuant to the Contract will be net of accumulated Charge-offs resulting from participation in Contractor programs regardless of whether the underlying Contract between the parties is valid or has been terminated.

In the event that the Card Program or the Contract is terminated prior to the completion of the Initial Term or prior to the completion of any Agreement Quarter after the completion of the Initial Term by Entity without cause, or by Contractor with cause, and/or the sole provider provision of this Contract is violated, in addition to any other remedies available to Contractor, this Incentive Share opportunity shall immediately terminate and no Incentive Share shall be paid to Entity.

Any Charge-offs in excess of the net Incentive Share from one (1) Agreement Quarter will be subtracted from one (1) or more of the following Agreement Quarters. Upon termination of the Contract, if the net Incentive Share is a negative dollar amount due to Charge-offs, Contractor may request, and Entity agrees to reimburse, Contractor up to the dollar amount previously paid by Contractor to Entity within thirty (30) days of the termination of the Contract.

PARTICIPATING ADDENDUM EXHIBIT D, POLITICAL SUBDIVISION ADDENDUM

This Political Subdivision Addendum ("**Political Subdivision Addendum**") constitutes an addendum to the Participating Addendum dated _____ entered into by U.S. Bank National Association ("**U.S. Bank**") and the State of _____ ("**State**") ("**Participating Addendum**") which constitutes an addendum to the WSCA-NASPO Contract dated January 1, 2014 between U.S. Bank and the State of Washington. This Political Subdivision Addendum is entered into by U.S. Bank and the Political Subdivision identified herein and supersedes like and similar agreements for any Card Product or Card Product Enhancement selected in Section 8 herein. This Political Subdivision Addendum shall become effective upon signing by U.S. Bank ("**Effective Date**").

RECITALS

- A. The State has entered into the Participating Addendum for the purpose of making available a Fleet Card Program as described in the Participating Addendum for use by the State, its Agencies and Political Subdivisions;
- B. The State is willing to permit Political Subdivision to participate in the Card Program provided that Political Subdivision assumes all responsibility and liability for Political Subdivision's performance of the terms and conditions of the Participating Addendum as if Political Subdivision was the entity signing the Participating Addendum. The State shall not bear liability or responsibility for Political Subdivision under the Participating Addendum or this Political Subdivision Addendum; and
- C. Political Subdivision has received a copy of the Participating Addendum from the State, and after a thorough review of the Participating Addendum, desires to participate as a Political Subdivision under the Participating Addendum. Political Subdivision assumes all responsibility and liability for Political Subdivision's performance of the terms and conditions of this Political Subdivision Addendum, as well as the Participating Addendum, as if Political Subdivision was the entity signing the Participating Addendum, but Political Subdivision shall not be liable for the acts and omissions of the State under the Participating Addendum or this Political Subdivision Addendum.

AGREEMENT

Now therefore, in consideration of the foregoing Recitals, the mutual premises and covenants set forth in the Participating Addendum, which are incorporated herein by reference, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, all parties agree as follows:

- 1. **Definitions.** Capitalized terms used in this Political Subdivision Addendum and not otherwise defined in this Political Subdivision Addendum are used with the same respective meanings attributed thereto in the Participating Addendum.
- 2. **Political Subdivision Responsibility and Warranty.** Political Subdivision agrees to accept and perform all duties, responsibilities and obligations required of State as set forth in the Participating Addendum. Cards shall be issued to designated employees of Political Subdivision upon execution of this Political Subdivision Addendum by Political Subdivision and U.S. Bank. Political Subdivision warrants that it possesses the financial capacity to perform all of its obligations under the Participating Addendum and this Political Subdivision Addendum.
- 3. **Financial Information.** In order to determine credit qualifications for Political Subdivision, Political Subdivision shall provide U.S. Bank with the last three (3) years of audited financial statements with this signed Political Subdivision Addendum. Political Subdivision shall provide to U.S. Bank annual financial statements thereafter. U.S. Bank will review the financial statements and notify Political Subdivision of the approval or decline of its credit qualification. If such financial statements can be independently obtained by U.S. Bank, Political Subdivision will not be required to provide such financial statements.
- 4. **Payment.** Political Subdivision shall make payment to U.S. Bank for all Debt incurred by Political Subdivision and its Cardholders as provided in the Participating Addendum. "**Debt**" means all amounts

charged to a card and/or account including without limitation all amounts related to purchases, fees and other Charges that are owed to U.S. Bank by Political Subdivision, its Cardholders.

5. **Purpose of Card Use.** Political Subdivision declares that cards shall be used for official Political Subdivision purchases only, and shall not be used for individual consumer purchases or to incur consumer debt.
6. The notice address for Political Subdivision is:

Attn:

7. **Governing Law.** Except as provided to the contrary herein, the law of the State and applicable federal laws and regulations shall apply to all services provided by U.S. Bank under this Political Subdivision Addendum.
8. **Authority.** The representations, warranties and recitals of Political Subdivision set forth in this Political Subdivision Addendum and the Participating Addendum constitute valid, binding and enforceable agreements of Political Subdivision. All extensions of credit made to Political Subdivision pursuant to this Political Subdivision Addendum and the Participating Addendum will be valid and enforceable obligations of Political Subdivision and Political Subdivision shall pay to U.S. Bank all Debts incurred by Political Subdivision in accordance with the terms of the Participating Addendum and this Political Subdivision Addendum. The execution of this Political Subdivision Addendum and the performance of the obligations hereunder and under the Participating Addendum are within the power of Political Subdivision, have been authorized by all necessary action and do not constitute a breach of any contract to which Political Subdivision is a party or is bound.
9. **Authorization.** Political Subdivision certifies to U.S. Bank that the person executing this Political Subdivision Addendum is authorized by Political Subdivision in accordance with its organization rules and applicable law to bind Political Subdivision to the terms and conditions of this Political Subdivision Addendum, including the authority to incur Debt in the name of Political Subdivision.
10. **Execution.** By signing below, the individual(s) signing this Political Subdivision Addendum is/are acting in his or her capacity as an authorized signing officer of Political Subdivision and not in his or her personal capacity, and certifies and warrants that (1) all action required by Political Subdivision's organizational documents to authorize the signer(s) to act on behalf of Political Subdivision in all actions taken under this Political Subdivision Addendum, including but not limited to, the authority to incur Debt on behalf of Political Subdivision, has been taken, (2) each signer is empowered in the name of and on behalf of Political Subdivision to enter into all transactions contemplated in this Political Subdivision Addendum and (3) the signatures appearing on all supporting documents of authority, if any, are authentic.
11. **Reliance.** Political Subdivision has read, understands and agrees to all terms and conditions in this Political Subdivision Addendum, and U.S. Bank is entitled to act in reliance upon the authorizations and certifications set forth herein.

IN WITNESS WHEREOF, the parties have, by their authorized representatives, executed this Political Subdivision Addendum.

Dated this _____ day of _____,
20____

By Political Subdivision:

SAMPLE
(Name)

(Signature of Authorized Signer)

SAMPLE
(Printed Name of Authorized Signer)

SAMPLE
(Printed Title of Authorized Signer)

Dated this _____ day of _____,
20____

By U.S. Bank:

SAMPLE

(Signature of Authorized Signer)

SAMPLE
(Printed Name of Authorized Signer)

SAMPLE
(Printed Title of Authorized Signer)

Approved as to form:

(Signature of Attorney for Political
Subdivision)

SAMPLE
(Printed Name of Attorney)

Before completing the Certificate of Authority, please read:

- If the document being signed was "approved as to form" by an attorney, it is not necessary to complete the attached Certificate of Authority (C of A).
- If the document was not "approved as to form" by an attorney, please complete the attached C of A (page 4).
- Be sure to date all documents upon signing. Undated documents cannot be accepted and will be returned for dating.

**Signing Instructions for
Certificate of Authority**

Note that three (3) different individuals must sign and date the C of A. If the Political Subdivision does not have three individuals who are authorized to sign on behalf of the Political Subdivision, please refer to page 5 for instructions.

Section 1 Organizational Information- Enter the legal Political Subdivision name and the tax ID number on the C of A. Note: The legal name of the Political Subdivision name is required. The legal name is usually the name on the Political Subdivision's financial statements.

Section 2 Authorized Persons - The individual who signed the Political Subdivision Addendum must complete and sign in Section 2.

Section 3 Execution Requirement - Check only one box in Section 3 to indicate how many individuals (either 1 or 2) that the Political Subdivision requires to sign legal documents on behalf of the Political Subdivision.

Section 4 Execution - No action required.

Section 5 Certification - Two (2) individuals must sign and date Section 5 as well as insert their names and titles. Note: The individual(s) who signed in Section 2 cannot sign in Section 5 or this document is invalid.

- An officer of the Political Subdivision ("Officer One") is required to sign the top area of Section 5 attesting to the signatures in Section 2.
- One other officer of the Political Subdivision ("Officer Two") must sign the bottom area of Section 5 attesting to the signature of Officer One.

Please see examples below:

5. Certification. I certify that I am the Secretary and I am acting in my official capacity as an authorized officer who has been given the authority by the Political Subdivision to certify that the Authorized Person(s) has/have the full power and authority under applicable law and the governance rules relating to the Political Subdivision to execute and deliver to U.S. Bank, on behalf of the Political Subdivision, and to bind the Political Subdivision under, the Documents for the purpose of establishing and extending the Services. I also certify that the name(s) and title(s) of the Authorized Person(s) set forth above are correct and that the signature appearing beside each name is a true and genuine specimen of his/her signature.

John Doe

↑ Printed Name of the secretary of the Political Subdivision↑ (Cannot be an Authorized Person listed in Section 2)

↑ Signature of the Secretary of the Political Subdivision↑

:e

I certify that I am an officer of the Political Subdivision, and as such, I certify that the above-named Secretary is acting in such capacity on behalf of the Political Subdivision, the signature below is my genuine signature and the signature above is the genuine signature of such Secretary.

Jane smith, Treasurer

↑ Printed Name & Title of Individual Signing Below ↑ (Cannot be an Authorized Person listed in Section 2)

↑ Signature ↑ Attested by One (1) Other Individual of the Political Subdivision

te

CERTIFICATE OF AUTHORITY

1. **Organizational Information.** This Certificate of Authority has been completed on behalf of the following Political Subdivision (the "Political Subdivision"):

Political Subdivision Legal
Name: _____

Federal Tax Identification
Number: _____

2. **Authorized Persons.** In accordance with the governance rules relating to the Political Subdivision, the following individuals (the "**Authorized Person(s)**") are authorized, on behalf of the Political Subdivision, to execute and deliver to U.S. Bank National Association ("**U.S. Bank**") and/or its affiliates the applicable contract(s), any applicable addenda and/or amendments thereto and any other documents or writings required by U.S. Bank (collectively, the "**Documents**") for the purpose of establishing one (1) or more card programs, extending credit and providing related services to the Political Subdivision with U.S. Bank in the United States (collectively, the "**Services**"):

Name	Title	Signature

3. **Execution Requirements.** The governance rules relating to the Political Subdivision require the following number of Authorized Persons to sign the Documents for the Services (choose only one box):

- ☐ One (1) Authorized Person
☐ Two (2) Authorized Persons

4. **Execution.** By signing the Documents, each individual signing in his or her capacity as an authorized signing officer of the Political Subdivision and not in his or her personal capacity, certifies and warrants that (a) all action required by Political Subdivision's organizational documents to authorize the signer(s) to act on behalf of the Political Subdivision in all actions taken under the Documents, including but not limited to, the authority to incur debt on behalf of the Political Subdivision, has been taken, (b) each signer is empowered in the name of and on behalf of the Political Subdivision to enter into all transactions and Services contemplated in the Documents, and (c) the signatures appearing on all supporting documents of authority are authentic.

5. **Certification.** I certify that I am the _____ and I am acting in my official capacity as an authorized officer who has been given the authority by the Political Subdivision to certify that the Authorized Person(s) has/have the full power and authority under applicable law and the governance rules relating to the Political Subdivision to execute and deliver to U.S. Bank, on behalf of the Political Subdivision, and to bind the Political Subdivision under, the Documents for the purpose of establishing and extending the Services. I also certify that the name(s) and title(s) of the Authorized Person(s) set forth above are correct and that the signature appearing beside each name is a true and genuine specimen of his/her signature.

↑ Printed Name of the _____ of the Political Subdivision↑ (Cannot be an Authorized Person listed in Section 2)

↑ Signature of the _____ of the Political Subdivision↑ Date _____

I certify that I am an officer of the Political Subdivision, and as such, I certify that the above-named _____ is acting in such capacity on behalf of the Political Subdivision, the signature below is my genuine signature and the signature above is the genuine signature of such _____.

↑ Printed Name & Title of Individual Signing Below ↑ (Cannot be an Authorized Person listed in Section 2)

↑ Signature ↑ Attested by One (1) Other Individual of the Political Subdivision **Date**

**EXAMPLES TO Signing Instructions
for
Certificate of Authority (C Of A)**

EXAMPLE 1:

1. One (1) person is required to sign legal documents, and
2. Political Subdivision has more than two (2) authorized signatories who can attest to signatures of other signatories.

Addendum: Person A signs.
C of A Section 2: Person A completes and signs.
C of A Section 3: First box is checked.
C of A Section 5: Person B (preferably the Secretary) signs attesting to the signature of Person A
AND
Person C signs attesting to Person B's authority and signature.

EXAMPLE 2:

1. Two (2) people are required to sign legal documents, and
2. Political Subdivision has more than two (2) authorized signatories who can attest to signatures of other signatories.

Addendum: Persons A and B sign.
C of A Section 2: Persons A and B complete and sign.
C of A Section 3: Second box is checked.
C of A Section 5: Person C (preferably the Secretary) signs attesting to the signatures of Persons A and B
AND
Person D signs attesting to Person C's authority and signature.

EXAMPLE 3:

1. One (1) person is required to sign legal documents, and
2. Political Subdivision has only one (1) other authorized signatory who can attest to signatures of other signatories.

Addendum: Person A signs.
C of A Section 2: Person A completes and signs.
C of A Section 3: First box is checked.
C of A Section 5: Person B (preferably the Secretary) signs attesting to the signature of Person A.
NOTE: If the Secretary can sign the C of A, then they cannot be Person A; they must be Person B.
AND
Person A signs attesting to Person B's authority and signature.

EXAMPLE 4:

1. Two (2) people are required to sign legal documents, and
2. Political Subdivision has only one (1) other authorized signatory who can attest to signatures of other signatories.

Addendum: Persons A and B sign.
C of A Section 2: Persons A and B complete and sign.
C of A Section 3: Second box is checked.
C of A Section 5: Either Person A or B (preferably the Secretary) signs attesting to the signature of Persons A and B.

NOTE: If the Secretary can sign the C of A, than they must sign in Section 4 and the other person must sign in Section 5

AND

The Person who did not sign Section 4 signs attesting to the signing authority and signature of the person who did sign in Section 4, subject to the note above.

**PARTICIPATING ADDENDUM EXHIBIT E, U.S. BANK FLEET CARD PROGRAM AGREEMENT –
CATEGORY 2**

This Fleet Card Agreement (the “**Fleet Card Agreement**”) governs the U.S. Bank Fleet Program provided by the WSCA-NASPO Cooperative Purchasing Program Commercial Card Solutions Contract #00612, Category 2 (the “**Fleet Card Contract**”) and is an attachment to the Participating Addendum entered into by and between U.S. Bank National Association (“**U.S. Bank**”) and the Participating Entity which is a signatory to that Participating Addendum (“**Participating Entity**”).

1. **EFFECTIVE DATE.** The date of execution of the Fleet Card Contract by the latter of the State of Washington and U.S. Bank shall be the “**Effective Date**” of the Fleet Card Program.
2. **PARTICIPATION.** Certain entities designated by Participating Entity may participate in the Fleet Card Program.
 - A. “**Participating Entity Agencies**” means those Participating Entity departments and agencies that rely upon the Participating Entity for funding, or are appropriated funds by the Participating Entity for the charges on the Accounts issued to the employees of those departments and agencies. In order for Participating Entity Agencies to participate in the Fleet Card Program, the Participating Entity will furnish to U.S. Bank a Participating Entity Agency Addendum listing those agencies allowed to participate. The Participating Entity has the right to exclude any agencies from the Fleet Card Agreement by providing written notice to U.S. Bank at any time.
 - B. “**Political Subdivisions**” means any municipalities, counties, and institutions of higher education that do not rely upon the Participating Entity for funding. Political Subdivisions may participate in this Fleet Card Program upon credit approval by U.S. Bank and upon the signing and submission of a properly completed Political Subdivision Addendum.
3. **SCOPE OF FLEET CARD PROGRAM.** U.S. Bank issues charge cards and has established a transaction processing, reporting and payment system for purchases of motor fuels and other products and services by fleet vehicle operations. Participating Entity shall be responsible for selecting a personal identification number (“**PIN**”), a driver identification number (“**Driver ID**”), and/or a vehicle identification number (“**Vehicle ID**”) pursuant to the Fleet Card Program. Unless U.S. Bank notifies Participating Entity to the contrary, or a Fleet Card has been terminated as provided herein, all Fleet Cards will expire upon the expiration or termination of this Fleet Card Agreement.
4. **SOLE PROVIDER OF FLEET CARD SERVICES.** The Parties acknowledge and agree that U.S. Bank shall be the sole provider to Participating Entity of Fleet Cards and services pertaining to the Fleet Card Program.
5. **LIABILITY.**
 - A. Except as expressly provided to the contrary herein, Participating Entity shall be liable for all Charges incurred or arising by virtue of the use of a Fleet Card.
 - B. Participating Entity shall immediately, upon receipt of such information, notify U.S. Bank of any lost or stolen Fleet Cards, compromised Accounts or Account information or to cancel Fleet Cards, Accounts, or Account access. Such notification and/or request for cancellation can occur by telephone, in writing, or by any agreed to electronic means. Addresses and telephone numbers at the time of this writing appear at the end of this Section 5B. After notification has been made to U.S. Bank use of such Fleet Cards or Accounts is expressly prohibited. Failure to notify U.S. Bank immediately of lost or stolen Fleet Cards, compromised Accounts or Account information, or to request cancellation of Fleet Cards, Accounts or Account access, as required by this Section 5, may result in Participating Entity's liability for any Charges on such Fleet Cards or Accounts. Participating Entity shall not be liable for use of such Fleet Cards or Accounts following receipt by U.S. Bank of the notice required herein. Participating Entity agrees to assist U.S. Bank in determining the facts, circumstances and other pertinent information related to any loss or possible unauthorized use of Fleet Cards, Accounts or Account information, and to comply with such procedures as may be required by U.S. Bank in connection with the investigation. Such procedures may include the submission of pertinent information in writing, within sixty (60) days of the date of the loss. Notwithstanding the foregoing, U.S. Bank shall continue to process all claims for lost, stolen or unauthorized use of Fleet Cards or Accounts whether or not such information is submitted

within sixty (60) days of the loss. In any event, Participating Entity acknowledges that by complying with all such procedures losses by both parties may be limited. Additionally, notwithstanding the foregoing, since Cardholders have no liability to U.S. Bank for lost, stolen or cancelled Fleet Cards or Accounts, should Participating Entity separately hold a Cardholder liable for any such loss related to unauthorized use by someone other than the Cardholder, Participating Entity agrees to advise Cardholder, in advance, of any liability that may be imposed on a Cardholder and Participating Entity acknowledges that any such liability imposed on any Cardholder cannot exceed fifty U.S. dollars (\$50.00). U.S. Bank is not responsible for controlling the use of any Fleet Card(s), Account(s) or Account information, other than as specifically provided herein. Notification can be made by telephone to 800-987-6591, in writing to U.S. Bank at PO Box 13050 Overland Park, KS 66282-3050 OR by facsimile at 800-987-6592.

- C. Participating Entity agrees to use fraud controls provided by U.S. Bank and acknowledges that such use is required in order to exercise any recovery from U.S. Bank. At minimum, Participating Entity agrees to: (1) ensure that Account information and Fleet Cards are safeguarded and kept separate and apart from one another, and (2) have daily transaction and spending limits in place on Fleet Cards based on the spending needs of their drivers. U.S. Bank shall not be liable for any losses due to fraud if Participating Entity fails to demonstrate that both such fraud controls are in effect and actively used.
- D. Subject to the terms set forth this Section 5, U.S. Bank agrees it shall be liable for fraudulent charges incurred or arising by the use of Fleet Cards in the Fleet Card Program, however, U.S. Bank shall not in any event be liable for any employee or Cardholder misuse of a Fleet Card.

6. **PRICING.** Participating Entity shall pay to U.S. Bank the fees as set forth on Addendum A, attached hereto and made a part hereof. U.S. Bank reserves the right to renegotiate pricing in subsequent years of the Fleet Card Agreement if Participating Entity's estimated billing volume is substantially inaccurate.

7. **FINANCE CHARGES.** A Finance Charge can be avoided if U.S. Bank receives payment of Participating Entity's "**New Balance**" within twenty five (25) days of the statement closing date (the "**Statement Date**"). If Participating Entity's New Balance is not paid in full, a Finance Charge will be computed using the average daily balance ("**ADB**"). To arrive at the ADB, U.S. Bank will take the beginning balance on Participating Entity's Account each day, add debits and any new purchases (except in the states of IL, ME, MA, MN, MS, MT, and NM) from the date of posting (if the New Balance is not received), then subtract any payments or credits, returned check fees, and unpaid Finance Charges. The result will be the "**Daily Balance**." U.S. Bank will then add all the Daily Balances for the billing cycle and divide by the total number of days in the billing cycle. The result will be the ADB. The Finance Charge will be determined by multiplying the ADB by a Periodic (monthly) Rate for Participating Entity's state of mailing address as shown in Section 20, Notices, below.

State of Mailing Address	ADB	Periodic (monthly) Rate	Annual Percentage Rate
	ALL		

8. **DELINQUENCY.** The Fleet Card Account will become delinquent unless U.S. Bank receives the amount shown on the Statement as Total Payment Due, less any disputed amounts, before the next billing date (approximately twenty five (25) days). Any unpaid portion of the Total Payment Due will be shown on subsequent Statements as the "Past Due Amount." The Fleet Card Account will be suspended if any part of the Past Due Amount is unpaid for three (3) billing dates. In the event of Participating Entity's delinquency, U.S. Bank may elect to terminate this Fleet Card Agreement immediately upon notice to Participating Entity. Court costs plus reasonable attorney fees (as allowed by law) may be added to any delinquent balance referred to an attorney for collection.
9. **BILLING PROCEDURE.** U.S. Bank will send to Participating Entity a monthly billing statement (the "**Statement**"), which will itemize all charges for the billing period. The amount shown on the Statement as "**Total Payment Due**" shall be due and payable in U.S. Dollars upon Participating Entity's receipt of the Statement.
10. **DISPUTED BILLINGS.** Disputes regarding charges or billings hereunder shall be communicated by phone to U.S. Bank 1-800-987-6591. Written notice is not required but may be submitted to U.S. Bank by email to

fueldisputes@usbank.com. Whether by phone or in writing communications should include Participating Entity's and, if applicable, the Participant's name(s) and account number, the dollar amount of any dispute or suspected error and a description of the dispute or error. Any communication regarding a dispute or suspected error must be received by U.S. Bank within sixty (60) days after the date on the billing statement on which the disputed or incorrect charge first appeared. Disputed billings are categorized as, but not necessarily limited to, failure to receive goods or services charged, fraud, forgery, altered charges and charges incurred by telephone order where the authenticity of the charge is in question.

11. TERM, TERMINATION AND SUSPENSION.

- A. This Fleet Card Agreement shall remain in full force and effect for an initial term of five (5) years from the Effective Date of this Fleet Card Agreement, and shall continue thereafter, until terminated by either Participating Entity or U.S. Bank upon ninety (90) days prior written notice to the other Party. The effective date of termination shall be stated in such written notice of termination. All Fleet Cards and related accounts shall be deemed canceled effective upon termination of this Fleet Card Agreement.
- B. Notwithstanding the foregoing, either Party shall have the right to terminate this Fleet Card Agreement immediately, by written notice of such termination to the other Party, upon any one (1) or more of the following events:
 - (i) Dissolution or liquidation of the other Party;
 - (ii) Insolvency of the other Party or the filing of a bankruptcy or insolvency proceeding, the appointment of a receiver or trustee for benefit of creditors or the other Party enters into an arrangement with its creditors;
 - (iii) Any material and adverse change in the financial condition of the other Party;
 - (iv) Any failure to perform a material obligation of this Fleet Card Agreement.
- C. Upon termination of this Fleet Card Agreement for any reason, Participating Entity shall destroy all Fleet Cards. Participating Entity shall remain liable for all purchases, fees, Finance Charges and other charges incurred or arising by virtue of the use of a Fleet Card prior to the termination date.
- D. U.S. Bank shall have the right to suspend any and all services and obligations under this Fleet Card Agreement to Participating Entity in the event that: (i) Participating Entity has breached any term of this Fleet Card Agreement; (ii) the amount due from Participating Entity, as the result of purchases, fees, Finance Charges and other such charges, in the aggregate, exceeds the credit limit established pursuant to Section 16; or (iii) payment is not received by U.S. Bank within ninety (90) days after any Statement Date.
- E. Rights, obligations or liability, which arise prior to the suspension or termination of this Fleet Card Agreement, shall survive the suspension or termination of this Fleet Card Agreement.

12. CONFIDENTIALITY.

- A. U.S. Bank considers the Fleet Card Program to be a unique service involving proprietary information of U.S. Bank. Participating Entity agrees that Fleet Card Program reports, manuals, documentation and related materials (whether or not in writing) will be circulated only to persons, and only to the extent necessary, in order that Participating Entity may participate in the Fleet Card Program. Participating Entity and Participants agree to take all reasonable steps to safeguard such proprietary information and not to release such information to any person or party not essential to participation in the Fleet Card Program as herein described.
- B. U.S. Bank agrees that it will maintain all data relative to Participating Entity's account(s) under the Fleet Card Program as confidential information and will exercise the same standard of care and security to protect such information as U.S. Bank uses to protect its own confidential information. U.S. Bank agrees to use such data exclusively for the providing of services to Participating Entity and Participants hereunder and not to release such information to any other party; provided, however, that U.S. Bank may collect, maintain and, at its option, disseminate information and data concerning charge activity which does not contain any direct or indirect identification of Participating Entity or Participants.

13. INDEMNIFICATION.

- A. Except to the extent that any injury is due to Participating Entity's or a Participant's negligent acts or omissions, U.S. Bank shall indemnify and hold Participating Entity and Participants harmless against all losses, damages, costs, expenses and liability which may result in any way from any negligent or wrongful act or omission of U.S. Bank, its agents, employees and subcontractors. U.S. Bank shall

indemnify and hold Participating Entity and Participants harmless against demands, claims, suits, or proceedings alleging infringement of any patent of the United States, or any trademark, service mark, copyright or other proprietary right arising out of or incident to this Fleet Card Agreement.

- B. Bank shall in no event be liable to participating entity for any consequential, special, indirect, or punitive damages of any nature.**

14. WARRANTIES.

- A.** The Parties agree that the failure of any of the below representations and warranties to be true during the term of this Fleet Card Agreement shall constitute a material breach of this Fleet Card Agreement and the non-breaching Party will have the right, upon notice to the other Party, to immediately terminate this Fleet Card Agreement and all amounts outstanding hereunder shall be immediately due and payable.
- B.** Participating Entity warrants that:
- (i) The financial information and all other information provided to U.S. Bank by Participating Entity or its officers, employees, agents, successors and assigns is true, complete and accurate;
 - (ii) This Fleet Card Agreement constitutes a valid, binding and enforceable agreement of Participating Entity;
 - (iii) The transaction contemplated by this Fleet Card Agreement is within the scope of the normal course of business and does not require further authorization for Participating Entity to be duly bound by this Agreement;
 - (iv) The execution of this Fleet Card Agreement and the performance of its obligations under this Fleet Card Agreement are within Participating Entity's powers; have been authorized by all necessary action; and do not constitute a breach of any agreement of Participating Entity with any party;
 - (v) Participating Entity has and continues to comply with all applicable state and federal statutes, ordinances, rules, regulations and requirements of governmental authorities as they relate to the use of the Fleet Card and/or participation in the Fleet Card Program;
 - (vi) The execution of this Fleet Card Agreement and the performance of its obligations under this Fleet Card Agreement will not cause a breach by it of any duty arising in law or equity; and
 - (vi) Participating Entity possesses the financial capacity to perform all of its obligations under this Fleet Card Agreement.
- C.** U.S. Bank warrants that:
- (i) This Fleet Card Agreement constitutes a valid, binding and enforceable agreement of U.S. Bank;
 - (ii) The execution of this Fleet Card Agreement and the performance of its obligations under this Fleet Card Agreement are within U.S. Bank'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 agreement of U.S. Bank with any party;
 - (iii) U.S. Bank has and continues to comply with all applicable state and federal statutes, ordinances, rules, regulations and requirements of governmental authorities as they relate to the Fleet Card Program;
 - (iv) The execution of this Fleet Card Agreement and the performance of U.S. Bank's obligations under this Fleet Card Agreement will not cause a breach by it of any duty arising in law or equity; and
 - (v) U.S. Bank possesses the financial capacity to perform all of its obligations under this Fleet Card Agreement.

- 15. FINANCIAL INFORMATION.** Since this Fleet Card Agreement is for an extension of credit with a financial institution and not a vendor services agreement, Participating Entity shall provide information as requested by U.S. Bank to perform periodic credit reviews. Unless such information is publicly available or available through U.S. Bancorp (the parent company of U.S. Bank) or any of its subsidiaries, Participating Entity shall provide audited financial statements, prepared by Participating Entity's independent certified public accountant, as soon as available and in any event not later than one hundred twenty (120) days after the end of each fiscal year of State. In the event U.S. Bank requires additional information to conduct its review of State, Participating Entity agrees to provide to U.S. Bank such other information regarding the business, operations, affairs, and financial condition of Participating Entity as U.S. Bank may reasonably request. Such information may include, but is not limited to, quarterly financial statements, organizational charts, executive biographies and other formal documentation.

- 16. AGGREGATE PRODUCT CREDIT LIMIT AND ACCOUNT CREDIT LIMITS.** Subject to credit approval by U.S. Bank, an account credit limit (an “ACL”) for each Account and an aggregate product credit limit (the “PCL”) for all Accounts shall be established by U.S. Bank pursuant to this Fleet Card Agreement.
- A. Revising the PCL.** U.S. Bank, at its sole discretion, shall have the right to revise the PCL. U.S. Bank shall provide notice to Participating Entity of any decrease in the PCL which results in a revised PCL that is lower than the aggregate current amount outstanding on all Accounts. Upon such notice, Participating Entity shall have ten (10) days to make a payment to U.S. Bank that is sufficient to reduce the aggregate current amount outstanding to an amount that is equal to or less than the revised PCL.
- B. Revising ACLs.** U.S. Bank, at its sole discretion, shall have the right to revise any ACL.
- (i) **Participating Entity Accounts.** U.S. Bank shall provide notice to Participating Entity of any decrease in an ACL which results in a revised ACL that is lower than the aggregate current amount outstanding on the Account. Upon such event, Participating Entity shall have ten (10) days to make a payment to U.S. Bank on the Account that is sufficient to reduce the aggregate current amount outstanding for such Account to an amount that is equal to or less than the revised ACL.
- (ii) **Fraudulent Activity.** U.S. Bank may revise any ACL and/or limit spending activity on any Account for which fraudulent activity is suspected.
- 17. REGISTERED MARKS AND TRADEMARKS.** Participating Entity and U.S. Bank each recognize that they have no right, title or interest, proprietary or otherwise, in or to the name or any logo, copyright, service mark or trademark owned or licensed by the other Party. Participating Entity and U.S. Bank each agree that, without prior written consent of the other Party, they will not use the name or any name, logo, copyright, service mark or trademark owned or licensed by the other Party.
- 18. SURVIVABILITY OF PAYMENT OBLIGATIONS, RIGHTS AND REMEDIES.** The obligation of Participating Entity to make payments as herein set forth shall continue until fully performed. Any rights and remedies Participating Entity or U.S. Bank may have with respect to each other arising out of either Party's performance of services or obligations hereunder shall survive the expiration or termination of this Fleet Card Agreement.
- 19. GOVERNING LAW.** The validity, interpretation and performance of this Fleet Card Agreement will be controlled by and construed under the laws of the State of where Participating Entity is located (without giving effect to the conflict of law principles thereof) and applicable federal laws.
- 20. NOTICES.** Except with respect to notices relating to the status of individual Fleet Cards which may be established in writing between U.S. Bank and Participating Entity or a Participant, all notices, requests and other communication provided for hereunder must be directed to the other Party at the respective addresses indicated below and, unless otherwise specified herein, must be in writing, postage prepaid or hand delivered or delivered by telecopy. Either Party may, by written notice to the other, change its address indicated below.

U.S. Bank	Participating Entity
U.S. Bank National Association Corporate Payment Systems Mail Code EP-MN-A17S 901 Marquette Avenue Minneapolis, MN 55402 U.S.A. Attn: CPS Contract Services	

- 21. EMPLOYMENT OF AGENTS.** U.S. Bank may, in its sole discretion, employ agents to perform part or all of its obligations under this Fleet Card Agreement at any time without the consent of Participating Entity; provided, however, that such action shall not affect its obligations to Participating Entity hereunder.
- 22. MISCELLANEOUS.**
- A. Complete Agreement; Amendments.** This Fleet Card Agreement constitutes the complete understanding between the Parties with respect to the subject matter hereof and all prior oral or written

communications and agreements with respect thereto are superseded. No failure on the part of either Party to exercise, and no delay in exercising any right under this Fleet Card Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right under this Fleet Card Agreement preclude any other or further exercise thereof or the exercise of any other right.

- B. Successors and Assigns.** This Fleet Card Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns; provided, however, that this Fleet Card Agreement may not be assigned by either Party without the prior written approval of the other Party or its designate, which shall not unreasonably be withheld or delayed.
- C. Severability.** Should any provision of this Fleet Card Agreement be declared invalid for any reason, such decision shall not affect the validity of any other provisions, which other provisions shall remain in force and effect as if this Fleet Card Agreement had been executed with the invalid provision(s) eliminated. The Parties shall use their best efforts to agree upon a valid substitute provision in accordance with the purpose of this Fleet Card Agreement and the intent of the Parties.
- D. USA PATRIOT Act.** In order to comply with the requirements of the USA PATRIOT Act, U.S. Bank requires Participating Entity to provide its legal entity name, street address, taxpayer identification number and other information that will allow U.S. Bank to identify Participating Entity prior to establishing an account for such entity. U.S. Bank reserves the right to require that Participating Entity promptly provide to U.S. Bank sufficient identification documents upon request in connection with USA PATRIOT Act compliance.
- E. Headings.** The headings of the sections of this Fleet Card Agreement are intended for the convenience of the Parties only and shall in no way be held to explain, modify, amplify or aid in the interpretation of the provisions hereof.

EXHIBIT F

PARTICIPATING ENTITY AGENCY ADDENDUM

This Participating Entity Agency Addendum ("Agency Addendum") modifies Participating Addendum #_____, dated _____, 20____ (the "Participating Addendum") to allow the Participating Entity Agencies listed herein OR on Schedule A to participate under the Participating Addendum. The State of Colorado is liable for all charges, fees, costs, and expenses incurred by the Participating Entity Agencies and responsible for ensuring that all Participating Entity Agencies listed comply with the terms of the Participating Addendum.