

**Participating Addendum
to Contract #00612 Issued on behalf of
the Western States Contracting Alliance (WSCA-NASPO)**

**Commercial Card Solutions
For Purchasing, Travel, One Cards, Declining Balance, and Fleet Cards**



WSCA-NASPO Contract 00612 - Commercial Card Solutions – Participating Addendum

1. **Scope.** This Participating Addendum between the Participating Entity signing below and U.S. Bank National Association ("U.S. Bank") governs the commercial card program offered pursuant to the WSCA-NASPO Contract between the State of Washington ("Washington") and U.S. Bank.
2. **Term of WSCA-NASPO Contract.** The initial term of the WSCA-NASPO Contract term is five years, from January 1, 2014 through December 31, 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.
3. **Effective Date and Term of Participating Addendum.** The Participating Addendum is effective upon signing by the latter of the parties. The term of the Participating Addendum shall run through the termination of the WSCA-NASPO Contract or until the Participating Addendum is terminated, whichever occurs earlier.
4. **Incorporation of Documents and Order of Precedence.** The following documents are incorporated into this Participating Addendum in the order of precedence stated here. These terms take precedence over the terms of the WSCA-NASPO Contract.
 - Appendix 1:** State Specific Terms and Conditions
 - Appendix 2:** U.S. Bank Commercial Card Master Agreement
 - Appendix 3:** Applicable Card Fees and Rebate Information
 - Appendix 4:** Standard Contract Definitions
5. **WSCA-NASPO Contract.** The WSCA-NASPO Contract can be found on the following website:
<http://www.aboutwsca.org/contract.cfm/contract/13wn-2006>
6. **Products.** The Participating Entity shall mark those products on the following list it is requesting to use.
 - ☒ **One Card with Corporate Liability** (*Travel Accident Insurance is included with this product*)
 - ☐ Central Billing Accounts (Central Travel Account/Event Planner/Central Relocation)
 - ☐ Managed Spend Declining Balance functionality)
 - ☐ Emergency Response Cards
7. **Incentive Share Schedule.** Incentive Shares will be paid quarterly within 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
8. **Incentive Share Calculation.** If Participating Entity that 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.
9. **Commencement of the New Revenue Share Opportunity for each Participating Entity.** The first revenue share payment pursuant to this Participating Addendum, if any is earned, shall be made within sixty 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.
10. **Final Revenue Share Opportunity Pursuant to the First WSCA contract for Renewing Entities.** U.S. Bank shall pay to each entity signing a Participating Addendum that is also currently participating under the Master Services Agreement number 5-06-99-01 dated October 19, 2006 between the State of California and U.S. Bank ("the First WSCA Contract") a final revenue share pursuant to the terms of the First WSCA Contract, if any is earned, calculated from the beginning of the final Agreement Quarter of that entity's participation in the First WSCA Contract to the last day of that Agreement Quarter (the "Final Revenue Share Payment"). The Final Revenue Share Payment, if any, shall be made within sixty days after the end of the final Agreement Quarter under the First WSCA Contract.

11. PRIMARY CONTACTS

Contractor -- Category 1 –P-Card, One Cards, and Declining Balance/Managed Spend Card

Name:	Paul Erickson
Contractor:	U.S. Bank
Address:	901 Marquette Ave., Minneapolis, MN 55402
Telephone:	612-436-6532
Email:	Paulw.erickson@usbank.com

Participating Entity

Name:	Rick Dorvall
State:	Montana
Participating Entity:	State of Montana
Address:	125 N. Roberts St.
Telephone:	406-444-3366
Email:	rickdorvall@mt.gov

12. CONTRACT SIGNATURES. In witness whereof, the parties have executed this Participating Addendum.

Dated this 20 day of October, 2014

By **PARTICIPATING ENTITY:**

State of Montana
(Participating Entity Name)


(Signature of Authorized Signer)

Steve Balamonte
(Printed Name of Authorized Signer)

Administrator, General Services Division
(Printed Title of Authorized Signer)

Dated this 9 day of October, 2014

By **U.S. BANK:**

U.S. Bank National Association
(U.S. Company Name)


(Signature of Authorized Signer)

Kelly M. Caspers
(Printed Name of Authorized Signer)

Vice President
(Printed Title of Authorized Signer)

Approved as to form:


(Signature of Attorney for Entity)

Mike Manion
(Printed Name of Attorney)

Please email PDF copy of this fully executed document to PA@wsca-naspo.org to provide documentation of participation.

WSCA-NASPO Contract 00612 - Commercial Card Solutions – Participating Addendum
Appendix 1 – State Terms and Conditions

State of Montana Modifications or Additions to the Commercial Card Master Agreement:

COOPERATIVE PURCHASING: Under Montana law, public procurement units, as defined in 18-4-401, MCA, have the option of cooperatively purchasing with the State of Montana. Public procurement units are defined as local or state public procurement units of this or any other state, including an agency of the United States, or a tribal procurement unit. Unless the bidder/offeree objects, in writing, to the State Procurement Bureau prior to the award of this contract, the prices, terms, and conditions of this contract will be offered to these public procurement units. However, the State Procurement Bureau makes no guarantee of any public procurement unit participation in this contract.

ACCESS AND RETENTION OF RECORDS: Contractor agrees to provide the department, Legislative Auditor, or their authorized agents access to any records necessary to determine contract compliance. (Section 18-1-118, MCA). Contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of eight years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

ASSIGNMENT, TRANSFER AND SUBCONTRACTING: Contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Section 18-4-141, MCA.)

COMPLIANCE WITH LAWS: Contractor shall, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules, and regulations, including but not limited to, the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subcontracting or subcontracting by Contractor subjects subcontractors to the same provision. In accordance with 49-3-207, MCA, Contractor agrees that the hiring of persons to perform this contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing this contract.

NON-EXCLUSIVE CONTRACT: The intent of this contract is to provide state agencies with an expedited means of procuring supplies and/or services. This contract is for the convenience of state agencies and is considered by the State Procurement Bureau to be a "Non-exclusive" use contract. Therefore, agencies may obtain this product/service from sources other than the contract holder(s) as long as they comply with Title 18, MCA, and their delegation agreement. The State Procurement Bureau does not guarantee any usage.

REDUCTION OF FUNDING: The State must by law terminate this contract if funds are not appropriated or otherwise made available to support the State's continuation of performance of this contract in a subsequent fiscal period. (18-4-313(4), MCA.) If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this contract (whether at an initial contract payment level or any Contract increases to that initial level) in subsequent fiscal periods, the State shall terminate this Contract as required by law and the State will remain liable to U.S. Bank for those fees and charges already incurred at the time of termination. The State shall provide Contractor the date the State's termination shall take effect. The State shall not be liable to Contractor for any payment that would have been payable had the Contract not been terminated under this provision. This is Contractor's sole remedy. The State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

REGISTRATION WITH THE SECRETARY OF STATE: Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

VENUE: This interpretation of this Participating addendum or any order placed against the Master Agreement is governed by the laws of Montana without reference to Montana's conflict of laws principles. The parties agree that any litigation concerning this Participating addendum or an order placed against the Master Agreement must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Section 18-1-401, MCA.)

WSCA 00612 - Commercial Card Solutions – Participating Addendum
Appendix 2 – U.S. Bank Commercial Card Master Agreement

U.S. BANK COMMERCIAL CARD MASTER AGREEMENT

This Commercial Card Master Agreement (the "Agreement") governs the U.S. Bank Commercial Card Program provided by the WSCA-NASPO Cooperative Purchasing Program Commercial Card Solutions Contract #00612, Category 1 (the "Commercial Card Program") and is an attachment to the Participating Addendum entered into by and between U.S. Bank National Association ("U.S. Bank") and the Government Entity which is a signatory to that Participating Addendum ("Government Entity").

Participation in Commercial Card Program:

Certain entities designated by Government Entity may participate in the Commercial Card Program.

"Government Entity Agencies" means those Government Entity departments and agencies that rely upon the Government Entity for funding, or are appropriated funds by the Government Entity for the charges on the accounts issued to the employees of those departments and agencies. In order for Government Entity Agencies to participate in the Commercial Card Program, the Government Entity will furnish to U.S. Bank a Government Entity Agency Addendum listing those agencies allowed to participate. The Government Entity has the right to exclude any agencies from the Agreement by providing written notice to U.S. Bank at any time.

"Political Subdivisions" means any municipalities, counties, and Institutions of higher education that do not rely upon the Government Entity for funding. Political Subdivisions may participate in this Agreement upon credit approval by U.S. Bank and upon the signing and submission of a properly completed Political Subdivision Addendum.

I. CREDIT PROVISIONS

A. Financial Information. The establishment of a Commercial Card Program provides an extension of credit, and Government Entity shall provide sufficient information to enable U.S. Bank to perform periodic credit reviews.

1. **Political Subdivisions.** Each Political Subdivision must individually credit qualify and submit a signed, properly completed Political Subdivision Addendum to U.S. Bank.
2. **Financial Information for Government Entity and Political Subdivisions.** To become credit qualified, the Government Entity and each Political Subdivision will provide the last three (3) years of audited financial statements to U.S. Bank prior to the issuance of any cards and will provide annual financial statements on or before one hundred eighty (180) days after the end of the Government Entity or Political Subdivision's fiscal year. Political Subdivision should provide this first set of financial statements with their signed, completed Political Subdivision Addendum. U.S. Bank will review the financial statements and provide notice to each Political Subdivision of the approval or decline of their credit qualification. If satisfactory financial information can be found on the website of Government Entity or Political Subdivision, U.S. Bank will not require the Government Entity or such Political Subdivision to provide financial information that U.S. Bank can obtain on its own.

B. 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 Agreement.

1. **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 Government 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 event, Government 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.
2. **Revising ACLs.** U.S. Bank, at its sole discretion, shall have the right to revise any ACL.
 - a. **Government Entity Accounts.** U.S. Bank shall provide notice to Government 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, Government Entity shall have thirty (30) 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.

WSCA-NASPO Contract 00612 - Commercial Card Solutions – Participating Addendum
Appendix 2 – U.S. Bank Commercial Card Master Agreement

- b. **Cardholder Accounts.** U.S. Bank, at its sole discretion, shall have the right to revise any ACL and/or limit spending activity on any Cardholder Account. Based on the credit worthiness of Government Entity and/or its Cardholder, U.S. Bank, at its sole discretion, shall establish an ACL of no less than five hundred U.S. Dollars (\$500.00).
- c. **Fraudulent Activity.** U.S. Bank may temporarily revise any ACL and/or limit spending activity on any Account for which fraudulent activity is suspected.
- C. **ATM Access / Cash Advances.** Reserved.
- D. **Convenience Checks.** Reserved.

II. **U.S. COMMERCIAL CARD PROGRAMS**

- A. **Card Products.** U.S. Bank may provide the following Card Products to Government Entity and its Cardholders. Card Product availability and Card Products for which Government Entity has been approved are specified in the Participating Addendum.
 - 1. **U.S. Bank Corporate Card.** The U.S. Bank Corporate Card is a charge card designed for use by Cardholders to charge travel, entertainment and other goods and services that are related to the business activities of Government Entity. U.S. Bank also provides central travel accounts, which can be used for the same purpose, but without the issuance of a physical card.
 - 2. **U.S. Bank Managed Spend Card.** The U.S. Managed Spend Card is a specialized corporate liability card designed for use by Government Entities or Cardholders to charge business related goods and services. Government Entity may also elect to have Cards issued to family members relocating employees. Unless requested for a different duration, Managed Spend has a term of twelve (12) to thirty-six (36) months. U.S. Bank also provides Managed Spend Central Billing Accounts, which can also be used for business or relocation expenses. Based on the credit worthiness of the Government Entity and its Cardholder, U.S. Bank, at its sole discretion, shall establish a credit limit of no less than five hundred U.S. Dollars (\$500.00).
 - 3. **U.S. Bank One Card.** The U.S. Bank One Card is a charge card designed for use by Cardholders that combines Corporate and Purchase Card capabilities on a single Account. The One Card can be utilized for travel and entertainment related expenses as well as to charge goods and services related to the business activities of Government Entity.
 - 4. **U.S. Bank Purchase Card.** The U.S. Bank Purchase Card is a charge card designed for use by Cardholders to charge goods and services related to the business activities of Government Entity. U.S. Bank also provides central purchase accounts, which can be used for the same purpose, but without the issuance of a physical card.
- B. **Card and Account Issuance.** Government Entity shall designate to U.S. Bank Cardholders that are authorized to incur expenses on behalf of Government Entity during the term of this Agreement and who are to receive Cards and/or be issued Account numbers by submitting to U.S. Bank completed, duly authorized applications, in a format specified by U.S. Bank, such as through Access Online, including any applicable consents and/or authorizations from such Cardholders as may be required by the applicable local law, rule or regulation.
 - 1. **Exclusion.** U.S. Bank shall have the right to reject any Cardholder application in which the Cardholder may have sole and/or shared liability for any Debt incurred under this Agreement.
 - 2. **Card Delivery.** Unless Government Entity notifies U.S. Bank to the contrary, U.S. Bank shall issue Cards and/or Accounts directly to Cardholders.
 - 3. **Creation of Cards by Government Entity.** Government Entity has the ability to create Cards on its own through the use of Access Online. Such Cards can be created with or without an individual's name embossed on the face of the Cards. Acceptance of Cards without a name embossed on the face of the Cards is at the discretion of Merchants.
- C. **Billing and Payment.** U.S. Bank provides a variety of billing options. The availability of billing options may differ between Card Products. Billing option availability and the billing options for which Government Entity has been approved is specified herein in the Participating addendum. Government Entity or Cardholder shall pay the amount due on the Statement by the Due Date.
 - 1. **Individual Bill.** Cardholders receive a Statement at the conclusion of each Billing Cycle and are responsible for ensuring the balance due is paid by the Due Date. Government Entity may elect to receive one or more Summary Statements or reports showing all Transactions billed to Cardholder Accounts.

WSCA-NASPO Contract 00612 - Commercial Card Solutions – Participating Addendum
Appendix 2 – U.S. Bank Commercial Card Master Agreement

2. **Central Bill.** Each Transaction is either posted to a Cardholder Account and rolled up to a Central Account for billing or billed directly to a Central Account. Government Entity will receive one or more central account Statements at the conclusion of each Billing Cycle for all Cardholder and/or Central Account Transactions. With respect to Transactions posted to a Cardholder Account and rolled up to a Central Account, the Cardholder receives a memo Statement showing his/her respective Transactions but with no amount due. Government Entity receives a consolidated Statement, which includes the total amount due for all Cardholder Accounts and Central Accounts and is responsible for ensuring the balance due on the Statement is paid by the Due Date.
3. **Billing Disputes.** Billing disputes must be communicated in writing to U.S. Bank at the address specified in Section V.L. herein or the address provided on the Statement. U.S. Bank must receive written communication of a dispute within sixty (60) days of the date on the Statement on which the disputed or allegedly incorrect Transaction first appeared. Association regulations govern the resolution of all billing disputes.
4. **Merchant Category Disclaimer.** Upon request by Government Entity, U.S. Bank may either prevent or restrict usage of its Card Products to selected Merchants based on Merchant Category Code. To the extent this is requested, the following disclaimers apply:
 - a. **Limitation of Liability.** U.S. Bank can only enforce Merchant Category Code restrictions to the extent it receives accurate Merchant Category Code data with the Transaction authorization request. U.S. Bank has no liability for Transactions declined or approved contrary to the Intent of Government Entity.
 - b. **Incorrect Merchant Category Codes.** To the extent Government Entity believes a Merchant has not been assigned an accurate Merchant Category Code, U.S. Bank will advise the Association of the inaccuracy. Whether or not the Merchant Category Code is changed is dependent upon applicable Association regulations.
5. **Trailing Transactions.** Upon cancellation of an Account, the Government Entity and/or Cardholder must cancel the billing of all reoccurring Transactions to the Account.
- D. **Liability.** U.S. Bank provides a variety of liability options. The availability of liability options may differ between Card Products. Liability option availability and the liability option(s) for which Government Entity has been approved is/are specified in the Participating Addendum.
 1. **Corporate Liability.** Government Entity is solely liable to U.S. Bank for all billed Transactions.
 2. **Joint and Several Liability.** Government Entity and the Cardholder are jointly and severally liable to U.S. Bank for all billed Transactions.
 3. **Contingent Liability.** Cardholder is liable to U.S. Bank for all billed Transactions. Government Entity has contingent liability, which means Government Entity is liable for any billed Transactions that are legitimate business charges and have not been previously reimbursed by Government Entity to the Cardholder.
 4. **Liability Exceptions.** Government Entity may be liable for all billed Transactions, regardless of liability option specified in the Participating Addendum, in the following circumstances:
 - a. **Failure to Notify; Liability Exceptions.** Government Entity shall immediately notify U.S. Bank of any of the following:
 - (i) Termination of employment of any Cardholder;
 - (ii) Any lost or stolen Card for which the Government Entity has liability;
 - (iii) Any compromised Account for which the Government Entity has liability; or
 - (iv) Any compromised information regarding Cards, Accounts or other sensitive data including, but not limited to, Account numbers, personal identification numbers, passwords, or Cardholder Information.

Government Entity shall provide sufficient information as may be requested by U.S. Bank for U.S. Bank to act on such notifications. Failure of Government Entity to provide notification may result in Government Entity's or Cardholder's liability to pay for all Transactions on such Cards and/or Accounts notwithstanding any liability option specified in the Participating addendum. Liability is limited to period of time from when notification should have been received to when notification is actually received and only for those Transactions that U.S. Bank cannot either charge back to the Merchant or collect directly from the Cardholder. In any event, regardless of the liability option chosen, Cardholder's liability will not exceed fifty U.S. Dollars (\$50.00).

WSCA-NASPO Contract 00612 - Commercial Card Solutions - Participating Addendum
Appendix 2 - U.S. Bank Commercial Card Master Agreement

- E. **Delinquency.** If the amount shown on the Statement as the current amount due has not been paid to U.S. Bank by Government Entity and/or Cardholder by the Due Date, U.S. Bank shall have the following rights:
1. **Suspension.** U.S. Bank shall have the right to suspend any Account that is delinquent for a period exceeding two (2) Billing Cycles.
 2. **Cancellation.** U.S. Bank shall have the right to cancel any Account that is delinquent for a period exceeding three (3) Billing Cycles.
 3. **Late Fees.** U.S. Bank shall have the right to bill Late Fees on all delinquent Accounts, as specified in the Participating Addendum.
 4. **Collection Fees.** Each party is responsible for their own legal fees.

III. SECURITY AND CONFIDENTIALITY

- A. **Security.** U.S. Bank and the Government Entity shall safeguard information regarding Cards, Account numbers, passwords, personal identification numbers, and other sensitive information provided by U.S. Bank in a manner that is no less stringent than those applicable to each Party's own proprietary information. Each Party will utilize each Party's respective industry standards to maintain an appropriate information security program to prevent the unauthorized disclosure, misuse, alteration, or destruction of Confidential Information.
- B. **Confidentiality.** The Parties agree to the following provisions regarding the use and disclosure of Confidential Information:
1. **Confidential Information.** For purposes of this Agreement, "Confidential Information" means information supplied by one Party ("Disclosing Party") to the other Party ("Recipient") that is expressly or implicitly protected from unrestricted use by persons not associated with Disclosing Party.
 - a. **U.S. Bank Confidential Information.** U.S. Bank and Government Entity agree that the Commercial Card Program and/or Global Commercial Card Program is a unique service involving the exchange of proprietary and/or Confidential Information between the Parties. Government Entity agrees that Commercial Card Program and/or Global Commercial Card Program reports, manuals, documentation, and related materials shall be circulated by it only to the extent necessary for Government Entity to manage the Commercial Card Program or Global Commercial Card Program and/or use such information in connection with Government Entity's business.
 - b. **Government Entity Confidential Information.** U.S. Bank and Government Entity agree that any non-public financial information of Government Entity and any non-public data regarding Government Entity Accounts, Transactions, charges, spending volume or repayment terms is Confidential Information of Government Entity and such information shall be circulated by U.S. Bank only to the extent necessary for U.S. Bank to offer the Commercial Card Program and/or Global Commercial Card Program.
 2. **Restriction.** Government Entity and U.S. Bank agree to take all reasonable steps to safeguard the other Party's proprietary and Confidential Information and not to release such information to any person or Party not essential to participation in the Commercial Card Program and/or Global Commercial Card Program.
 3. **Care.** The Recipient shall provide the same care to avoid an unauthorized disclosure, misuse, alteration or destruction of Confidential Information of the Disclosing Party as it provides to protect its own similar proprietary information, but in no event, less than a reasonable standard of care.
 4. **Relief.** Because damages may be difficult to ascertain, the Parties agree that in the event of any violation of Section III.B., without limiting any other rights and remedies of each other, an injunction may be sought against the Party who has breached or threatened to breach the aforementioned Section.
 5. **Exceptions.** With respect to Confidential Information, U.S. Bank and Government Entity agree that the other may use and disclose such information for the following purposes:
 - a. **Normal Business Operations.** U.S. Bank and Government Entity may use and disclose such Confidential Information of the other as is required by normal business operations in connection with the Commercial Card Programs and as may be required by Association Operating Regulations.
 - b. **Legal and Regulatory Requirements.** U.S. Bank and Government Entity may use and disclose Confidential Information of the other to legal authorities, agents, auditors or regulators of U.S. Bank and Government Entity, respectively, or as otherwise may be required by law, rule or regulation.

WSCA-NASPO Contract 00612 - Commercial Card Solutions - Participating Addendum
Appendix 2 - U.S. Bank Commercial Card Master Agreement

- c. **Summarized Data.** U.S. Bank and Government Entity may use and disclose Data to any third party to the extent that such Data is aggregated, summarized, or otherwise presented in a manner that does not directly or indirectly identify such Data as attributable to U.S. Bank, Government Entity, and/or Cardholders.
- d. **Archived Data.** U.S. Bank and Government Entity are entitled to retain Confidential Information of the other for archival purposes as required in accordance with applicable law, rule or regulations.
- e. **Third Parties.** Government Entity acknowledges that portions of its Account and Transaction data are captured by third parties, including, but not limited to the Associations, third-party service providers, Merchants, and Merchant processors, during the course of normal business operations and that the confidentiality provisions of this Agreement do not extend to such third parties.

IV. TERM AND TERMINATION

- A. **Term.** This Agreement shall remain in effect for an initial "Base Period" of five (5) years beginning on the date indicated under the column labeled "Commencement Date" and shall continue thereafter until terminated by either party by giving (90) days prior written notice to the other Party. During the initial Base Period, however, as defined in the Participating Addendum, neither party may terminate this Agreement, in whole or in part, except by mutual consent or as otherwise provided under this Section.
- B. **Termination for Cause by Either Party.** Either Party shall have the right to immediately terminate this Agreement with respect to any Card Product and/or Ancillary Service provided on the Participating Addendum, or immediately terminate this Agreement in its entirety, by providing written notice of such termination to the other Party, upon one or more of the following events:
 - 1. Dissolution or liquidation of the other Party, or Parent thereof, if applicable;
 - 2. Insolvency of, the filing of a bankruptcy or insolvency proceeding with respect to, or the appointment of a receiver or trustee for the benefit of creditors of, the other Party, or Parent thereof, if applicable or the other Party enters into any other similar proceeding or arrangement for the general benefit of its creditors;
 - 3. Any failure to perform a material obligation of this Agreement;
 - 4. If any material statement, representation or warranty of a Party, its affiliates or Parent at any time furnished to the other Party is untrue in any material respect when made;
 - 5. A material breach of any other agreement entered into by the Parties.
- C. **Termination for Cause by Government Entity.** Government Entity shall also have the right to terminate this Agreement with respect to any Card Product and/or Ancillary Service provided on the Participating Addendum, or terminate this Agreement in its entirety, by providing ten (10) days prior written notice of such termination to U.S. Bank upon one or more of the following events:
 - 1. U.S. Bank's reduction of Government Entity's PCL and/or ACL, as defined in Section I. B., has materially and adversely affected Government Entity's utilization of any Card Product or the Commercial Card Program.
 - 2. U.S. Bank's failure to reasonably perform in accordance with a material term of any written proposal and/or presentation provided to Government Entity by U.S. Bank in contemplation of this Agreement, provided that:
 - a. Government Entity has worked with U.S. Bank to develop a sixty (60) day action plan to ensure U.S. Bank's performance materially complies with any aforementioned proposal and/or presentation; and
 - b. U.S. Bank has failed to successfully complete all deliverables agreed to in the action plan.
- D. **Termination for Cause by U.S. Bank.** U.S. Bank shall also have the right to terminate this Agreement with respect to any Card Product and/or Ancillary Service provided on the Participating Addendum, or terminate this Agreement in its entirety, by providing ten (10) days prior written notice of such termination to Government Entity upon one or more of the following events:
 - 1. A material adverse change in the business prospects or financial condition of the Government Entity.
 - 2. The overall relationship is unprofitable for U.S. Bank, provided that:
 - a. U.S. Bank has worked with Government Entity to develop a sixty (60) day action plan to return the relationship to profitability; and
 - b. Government Entity has failed to successfully complete all deliverables agreed to in the action plan.
- E. **Effect of Termination.** Upon termination of this Agreement, all applicable Cards, Accounts, and/or related services shall be deemed canceled as referenced in such termination notification. Such cancellation shall be effective upon notification of termination to the other Party as referenced herein. Upon termination, Government Entity shall instruct all Cardholders to destroy their Cards and/or any records of Account numbers.

WSCA-NASPO Contract 00612 - Commercial Card Solutions -- Participating Addendum
Appendix 2 -- U.S. Bank Commercial Card Master Agreement

U.S. Bank shall terminate all applicable services thereunder upon a stated termination date. Government Entity shall remain liable for all Debts arising from the use of a Card and/or Account prior to the termination date, in accordance with the liability options on the Participating Addendum.

- F. **Surviving Rights.** Rights, obligations and/or liabilities that arise prior to the termination of this Agreement with respect to any Card Product and/or Ancillary Service provided in the Participating Addendum, or termination of this Agreement in its entirety, shall survive any such termination.

V. **OTHER TERMS AND CONDITIONS**

- A. **Intellectual Property.** Government Entity and U.S. Bank each recognizes that it has no right, title or interest, proprietary or otherwise, in or to the name or any logo, or Intellectual Property owned or licensed by the other. Government Entity and U.S. Bank each agree that, without prior written consent of the other, it shall not use the name, any logo, or Intellectual Property owned or licensed by the other.
- B. **No Third Party Beneficiaries or Claims.** Any Commercial Card Program and/or Global Commercial Card Program provided to Government Entity by U.S. Bank is for the sole and exclusive benefit of Government Entity and no other persons or organizations shall have any rights and/or remedies arising under or in connection with this Agreement.
- C. **Limitation of Liability.** NEITHER GOVERNMENT ENTITY, U.S. BANK, NOR ANY PARTY'S AFFILIATES, REPRESENTATIVES AND ASSIGNS SHALL IN ANY EVENT BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES OF ANY NATURE (INCLUDING LOST PROFITS) EVEN IF SUCH PARTY HAD BEEN NOTIFIED OF THEIR POSSIBLE EXISTENCE.
- D. **Representations and Warranties.** Each Party represents and warrants with respect to such Party that:
1. This Agreement constitutes a valid, binding and enforceable agreement;
 2. The execution of this Agreement and the performance of the obligations hereunder are within such Party's powers; have been authorized by all necessary action; do not require action by or approval of any governmental or regulatory body, agency or official; and do not constitute a breach of any material agreement of such Party;
 3. The execution of this Agreement and the performance of the obligations hereunder shall not cause a material breach of any duty arising in law or equity; and
 4. As of the date of this Agreement, such Party possesses the financial capacity to perform all of its obligations under this Agreement.

The Parties agree that the failure of any of the above representations and warranties to be true during the term of this Agreement shall constitute a material breach of this Agreement and the non-breaching Party shall have the right to terminate this Agreement in accordance with Section IV.B.3.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, U.S. BANK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND OF MERCHANTABILITY, EITHER TO GOVERNMENT ENTITY OR TO ANY OTHER PERSON OR THIRD PARTY, WITH RESPECT TO THE COMMERCIAL CARD PROGRAM OR THE GLOBAL COMMERCIAL CARD PROGRAM PROVIDED BY U.S. BANK OR ITS REPRESENTATIVES OR WITH RESPECT TO SOFTWARE SERVICES PROVIDED OR MADE AVAILABLE TO GOVERNMENT ENTITY OR ANY OTHER PERSON FOR ITS USE BY U.S. BANK IN CONNECTION WITH THIS AGREEMENT AND ANY SERVICE THEREUNDER.

- E. **Modification or Amendment.** This Agreement shall not be modified or amended except by writing and signed by both Government Entity and U.S. Bank.
- F. **Severability.** Should any provision of this Agreement be declared invalid for any reason, such declaration shall not affect the validity of any other provision of this Agreement, which shall remain in full force and effect as if this Agreement had been executed with the invalid provision(s) eliminated. The Parties shall use their commercially reasonable efforts to agree upon a valid substitute provision in accordance with the purpose of this Agreement and the intent of the Parties.
- G. **Non-Waiver.** The failure of U.S. Bank or Government Entity to exercise any right, power or option arising under this Agreement, or to insist upon strict compliance with the terms of this Agreement shall not constitute a waiver of this Agreement with respect to any other or subsequent breach hereof, nor a waiver by either of U.S. Bank or Government Entity of its rights at any time thereafter to require exact and strict compliance with all the terms hereof.

WSCA-NASPO Contract 00612 - Commercial Card Solutions – Participating Addendum
Appendix 2 – U.S. Bank Commercial Card Master Agreement

- H. Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.
- I. Interpretation of this Agreement.** The Parties expressly agree that this Agreement shall not be construed more strongly against either Party regardless of which Party is more responsible for its preparation. This Agreement constitutes the entire agreement between the Parties concerning the matters addressed in this Agreement, and cancels and supersedes any prior agreements, undertakings, declarations or representations, written or verbal, in respect thereof. Unless the context otherwise requires, words importing the singular number shall include the plural and vice versa, words importing any gender include all genders and references to agreements and other contractual instruments shall be deemed to include all present or future amendments, supplements, restatements or replacements thereof or thereto. Headings are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- J. Sole Provider.** The Parties acknowledge and agree that U.S. Bank shall be the sole provider to Government Entity of the Card Products and Ancillary Services set forth in the Participating Addendum.
- K. Commercial Card Program and Card Issuance.** U.S. Bank has approved Government Entity for the Commercial Card Program in the United States and shall provide the products and options indicated in the Participating Addendum. Government Entity shall designate to U.S. Bank proposed employees who are anticipated to incur expenses on behalf of Government Entity and who are to receive Accounts, with or without Cards, by submitting completed, duly authorized applications, in a format specified by U.S. Bank, and with any applicable consents or authorizations from such Cardholder applicant as may be required herein or in such applications. If an Account is used for Purchases in a country other than the United States, the Statement shall reflect the conversion into U.S. Dollars of Transactions that occurred in a different currency and an applicable exchange rate for any such conversion. Due to fluctuations in foreign exchange rates, a credit transaction may not be in the same amount as the original debit transaction.
- L. Notice and Communication.** Except with respect to notices relating to the status of individual Cards and/or Accounts, all notices, requests and other communications provided for hereunder must be directed to the other Party at the respective addresses set forth below, unless otherwise specified herein, and must be in writing, postage prepaid or hand delivered. Notice is effective upon receipt of the notice. Either Party may change its address by written notice to the other Party.

U.S. Bank	Government Entity
U.S. Bank National Association Corporate Payment Systems Mail Code EP-MN-L26C 200 South Sixth Street Minneapolis, MN 55402 U.S.A. Attn: CPS Contract Services	State of Montana 125 N. Roberts St. PO Box 200135 Helena, MT 59620-0135 Attn: State Procurement Bureau

- M. USA PATRIOT Act.** In order to comply with the requirements of the USA PATRIOT Act, U.S. Bank may require Government Entity and Cardholders to provide their legal entity name, street address, taxpayer identification number and other information that will allow U.S. Bank to identify each Government Entity and Cardholders prior to establishing an Account under or in connection with the Agreement. U.S. Bank reserves the right to require that Government Entity and Cardholders promptly provide to U.S. Bank sufficient identification documents upon request and in connection with USA PATRIOT Act compliance.
- N. Governing Law.** Except as provided to the contrary herein, the law of the state in which Government Entity resides and applicable federal laws and regulations of the United States shall apply to all Commercial Card Program services provided by U.S. Bank under this Agreement. Notwithstanding the foregoing, the laws of the State of Minnesota and applicable federal laws and regulations of the United States shall govern Software Services provided to Government Entity under this Agreement.
- O. Interchange Rate.** The Revenue Sharing Opportunity described in this Agreement is based on current interchange rates determined by the Association. These interchange rates are subject to change by authorities outside the control of U.S. Bank. In the event of a decrease or increase in the Association's published interchange rates by five percent (5%) or more, U.S. Bank will have the right to replace the current Revenue Sharing Opportunity with a new Revenue Sharing Opportunity proportionate to the change of the revised interchange rates.

WSCA-NASPO Contract 00612 - Commercial Card Solutions – Participating Addendum
Appendix 2 – U.S. Bank Commercial Card Master Agreement

- P. Other Agreements and Regulations.** In addition to this Agreement, the products and services provided to Government Entity are subject to the following additional agreements and/or regulations:
- 1. Clearing House Operating Regulations.** Any applicable automated clearinghouse operating rules, including, without limitation, the National Automated Clearing House Association Operating Rules and Guidelines (collectively referred to as the "NACHA Rules");
 - 2. Association Operating Regulations.** Association operating rules and regulations, including, without limitation, Visa USA, Visa International, MasterCard USA, and MasterCard International; and
 - 3. Cardholder Agreement.** Each Cardholder may receive a Cardholder Agreement that governs the use of the Account. Activation of the Card or Account by the Cardholder and/or use of the Card or Account by the Cardholder constitutes concurrence with the terms and conditions of the Cardholder Agreement.
- Q. Disputes.** All disputes regarding Charges or billings for the U.S. Bank Commercial Card Program shall be communicated in writing through Access Online or by mail within sixty (60) days of statement date to U.S. Bank at the address set forth below:

U.S. Bank P.O. Box 6344 Fargo, ND 58125-6344 U.S.A.

- R. Customer Service.** Government Entity and Cardholders may call the following telephone numbers to report termination of employment of any Cardholder, lost or stolen Cards or compromised Accounts, or to ask questions about Commercial Card Program Services or U.S. Bank Accounts.

800-344-5696 (Program Services)	24 hours per day / 7 days per week
877-887-9260 (Cardholders, Software Customer Service)	24 hours per day / 7 days per week
877-452-8083 (Program Administrator, Software Customer Service)	6:30 a.m.-8:00 p.m., CST Monday-Friday

VI. DEFINITIONS

- A. Definitions.** All capitalized terms used in this Agreement are defined herein and shall have the following meaning:
- 1. "Account"** means any account established by U.S. Bank pursuant to this Agreement in the name of Government Entity, Government Entity Agencies or Political Subdivisions and/or Cardholders, to which Debt is charged, regardless of whether or not a Card is issued in conjunction with such account.
 - 2. "Affiliate"** means a Person that directly or indirectly controls, is controlled by, or is under common control with, the Person specified.
 - 3. "Ancillary Services"** means any additional services offered in conjunction with an Account, including but not limited to U.S. Bank Expense Management.
 - 4. "Association"** means, collectively, the Persons who govern commercial card issuance, including, without limitation, Visa USA, Inc., Visa International Service Association, Inc., MasterCard USA, and MasterCard International.
 - 5. "Billing Cycle"** means the period of time from which a Statement is generated until the next Statement is generated.
 - 6. "Card"** means, in connection with an Account, any commercial charge card issued by U.S. Bank pursuant to this Agreement in the name of Government Entity and/or Cardholders.
 - 7. "Cardholder"** means an individual employee of Government Entity, named as the holder of the Account or using the Account in the name of Government Entity, regardless of whether a physical card is issued in conjunction with the Account.
 - 8. "Cardholder Agreement"** means the U.S. Bank Cardholder agreement in standard form between U.S. Bank and the Cardholder.
 - 9. "Card Products"** means the standard U.S. Bank commercial card product offerings, including but not limited to the Purchase Card, Corporate Card, Managed Spend Card, Executive Card, One Card, Global Card.
 - 10. "Cash Advance"** means an advance of cash in the form of cash or check that, if permitted according to the terms of this Agreement, is charged to an Account.

WSCA-NASPO Contract 00612 - Commercial Card Solutions – Participating Addendum
Appendix 2 – U.S. Bank Commercial Card Master Agreement

11. **"Cash Advance Fee"** means the fee charged by U.S. Bank for a Cash Advance according to the terms of the Participating Addendum.
12. **"Central Billing Account"** means any Account used for consolidating Transactions from one or more other Accounts for centralized corporate billing purposes. Central Billing Account includes, but is not limited to **"Central Billing Accounts"**, **"Central Travel Accounts" (CTA)** and **"Central Travel System Accounts" (CTS)**.
13. **"Charge"** means any transaction posted to an Account that has a debit value, including without limitation, Purchases, Cash Advances, and Fees.
14. **"Charge-off"** means any amount due and owing that remains unpaid for one hundred fifty (150) days after the date that it was first billed.
15. **"Commercial Card Program"** means the Card Products and Ancillary Services offered by U.S. Bank or a Participating Bank.
16. **"Control"** or **"Controlled"** means, with respect to a Person, the possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership, membership or other ownership interests, by contract or otherwise) of such Person.
17. **"Convenience Checks"** means the drafts drawn against an Account by the Cardholder for Purchases.
18. **"Data"** means the information regarding or in connection with Accounts and/or Transactions associated with the Commercial Card Program and/or any such information provided by a Lead and/or Participating Bank associated with the Global Commercial Card Program.
19. **"Debt"** means all amounts charged to an Account including without limitation all amounts related to Charges that are owed to U.S. Bank by Government Entity, Government Entity Agencies and Political Subdivisions, and/or Cardholders.
20. **"Due Date"** means, with respect to a Statement, the date, as measured by the number of days after the Statement Date, for which the payment of Debt that is listed on the Statement is due.
21. **"Fees"** means all fees that are posted to an Account and due and payable to U.S. Bank by Government Entity, Government Entity Agencies and Political Subdivisions, and/or its Cardholders that are associated with any Commercial Card Program and/or Global Commercial Card Program, including but not limited to Cash Advance, Foreign Transaction and Late Fees.
22. **"Foreign Transaction Fee"** means the fee U.S. Bank charges on the amount of any Debt or other Transaction posted to an Account that is not in the same currency in which the Account is billed and which must be converted to the currency used for billing purposes.
23. **"Fraudulent Charges"** mean those Charges which are not initiated, authorized or otherwise requested by Government Entity and/or a Cardholder by any means (electronic, telephonic or written) and do not directly or indirectly benefit Government Entity and/or a Cardholder.
24. **"Intellectual Property"** or **"Intellectual Property Rights"** means any patent rights, copyrights, trade secrets, trade names, service marks, moral rights, know-how and any other similar rights or intangible assets recognized under any laws or international conventions, and in any country or jurisdiction in the world, as intellectual creations to which rights of ownership accrue, and all registrations, applications, disclosures, renewals, extensions, continuations or reissues of the foregoing now or hereafter in force.
25. **"Late Fee"** means the fees associated with any Debt that remains unpaid to U.S. Bank by Government Entity and/or Cardholders after the Due Date on the Statement.
26. **"MasterCard"** means MasterCard[®] USA, Inc., MasterCard International, and any other MasterCard entity identified in the Participating Addendum.
27. **"Merchant"** means any entity that has entered into an agreement that governs the acceptance of Cards.
28. **"Merchant Category Code"** means the code established by the Associations that identifies and classifies goods or services offered by a Merchant. Each Merchant designates its Merchant Category Code to the applicable Association.
29. **"Parent"** means any Person that Controls a Party.
30. **"Party"** means any one of U.S. Bank or Government Entity, and **"Parties"** means U.S. Bank and Government Entity.
31. **"Past Due Balance"** means, with respect to a Statement, the total amount of any Debt which remains unpaid to U.S. Bank by Government Entity and/or Cardholder after the Due Date specified on such Statement.

WSCA-NASPO Contract 00612 - Commercial Card Solutions – Participating Addendum
Appendix 2 – U.S. Bank Commercial Card Master Agreement

- 32. **"Person"** means any corporation, company, limited liability company, general partnership, limited partnership, limited liability partnership, unincorporated association, trust, joint venture, estate or other judicial entity or any governmental body.
- 33. **"Political Subdivision Addendum"** means the Commercial Card Program Political Subdivision Addendum used by Political Subdivisions to join Government Entity's Commercial Card Program.
- 34. **"Program Administrator"** means the employee designated by Government Entity to serve as the primary point of contact between Government Entity and U.S. Bank and shall be trained and have thorough knowledge of Commercial Card Programs offered by U.S. Bank to Government Entity.
- 35. **"Purchase"** means a purchase of goods and/or services that is charged to an Account.
- 36. **"Statement"** means, with respect to one or more accounts, a periodic billing Statement from U.S. Bank listing all Transactions posted to such Accounts.
- 37. **"Summary Statement"** means, with respect to one or more accounts, a billing Statement that provides only an aggregate amount of all Transactions posted to such Accounts.
- 38. **"Transaction"** means any activity posted to an Account, both debit and credits, including but not limited to Purchases, Cash Advances, Fees and payments.
- 39. **"U.S. Bank Expense Management"** means the automated expense management and reporting solution offered by U.S. Bank.
- 40. **"Visa"** means Visa[®] USA, Inc., Visa International Service Association, Inc. and any other Visa entity

WSCA-NASPO Contract 00612 - Commercial Card Solutions – Participating Addendum
Appendix 3 – Applicable Card Fees and Rebate Information

	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%

WSCA-NASPO Contract 00612 - Commercial Card Solutions - Participating Addendum
Appendix 3 - Applicable Card Fees and Rebate Information

Incentive Share	Rebates Applicable to Corporate Liability Purchase, Corporate, and One Cards (Individual Liability Corporate Cards are not included in Incentive Share Components 1, 2, and 3)	Rebate BPS	Paid
1	Each Participating Entity will receive a basis point (percentage) of their quarterly sales volume. The Formula to determine quarterly volume incentive share: <u>$\text{Quarterly volume sales per entity} - \text{qualifying large ticket volume} \times \text{basis points (percentage)} = \text{Participating Entity Quarterly Volume Incentive}$</u>	130	Quarterly
2	A Prompt Payment Incentive will be offered to each Entity. The Prompt Payment Incentive calculation is designed to provide an incentive to each Entity, when Client Held Days is less than forty-five (45) days. Client 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: <u>$(45 - \text{Client Held Days}) / 45 \times 0.0045 \times \text{Quarterly Sales Volume}$</u>		Quarterly
3	Large Ticket Incentive-Entity will receive an incentive for qualifying large ticket transactions. Qualifying large ticket transactions will be subject to the same speed of pay incentive. Contractor will provide a quarterly report identifying all qualifying large ticket transactions to each Entity. The formula for calculating Large Ticket Incentive is: <u>$\text{Qualifying Quarterly Large Ticket volume sales per Entity} \times \text{basis points (percentage)} = \text{Entity Large Ticket Volume Incentive}$</u>	75	Quarterly
4	Annual Sales Volume Incentive- Each participating state will receive an additional WSCA-NASPO Annual Sales Volume Incentive based on a tier established from all WSCA-NASPO participating states annual volume and applied to each state's annual sales volume. The formula for calculating WSCA-NASPO Annual Sales Volume Incentive is: <u>$\text{Participating state annual sales volume (all products)} \times \text{applicable basis points (percentage)} \text{ corresponding to the Tier established for the Annual Overall WSCA-NASPO Sales Volume (all product)} = \text{WSCA/NASPO Participating State Annual Sales Volume Incentive}$</u> <div style="text-align: right;"> \$500,000,000 - \$2,000,000,000 \$2,000,000,001 - \$3,000,000,000 \$3,000,000,001 - \$4,000,000,000 \$4,000,000,001 - \$5,000,000,000 </div> <i>Note: Notwithstanding the foregoing, if a political subdivision in a non-participating state is allowed to join the contract, the Annual Aggregate State rebate 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>	45 45 45 45	Annually

MINIMUM REQUIREMENTS

If 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 Base Period or prior to the completion of any Agreement Quarter after the completion of the Base Period 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.

STANDARD CONTRACT DEFINITIONS

1. **"Account"** means any account number to which charges and payments may be posted.
2. **"Addendum Quarter"** means a three (3) month period beginning with the first such period following the effective date of the Participating Addendum.
3. **"Addendum Year"** means a twelve (12) month period beginning with the first such period following the effective date of the Participating Addendum.
4. **"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.
5. **"Client Held Days"** means the sum of the daily balances for the quarter divided by the total Net Charge Volume for the quarter less fifteen (15) days and cannot be less than zero (0) days.
6. **"Client Held Days Payment Performance"** means the average speed of repayment of Charges made for each Addendum Year.
7. **"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.
8. **"Incentive Share"** means actual monies paid to each Participating Entity based on volume and speed of pay.
9. **"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.
10. **"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.
11. **"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).
12. **"Quarterly Large Ticket Volume"** means those Charges for each Agreement Quarter which the Association governing Customer's Card Program has determined qualify for large ticket interchange rates and which are processed by such Association using large ticket interchange rates, less credits, for each Agreement Year. All other Charges and all amounts related to Fees, Cash Advances, Convenience Checks, Fraudulent Charges, chargebacks and Charge-offs are excluded from Large Ticket Volume.

