

STATE OF CALIFORNIA
PARTICIPATING ADDENDUM NO. 7-14-99-22
WASHINGTON WSCA-NASPO COMMERCIAL CARD SOLUTIONS
CONTRACT 00612-CATEGORY 1
U.S. Bank National Association (Contractor)

This Participating Addendum Number 7-14-99-22 is entered into between the State of California, Department of General Services (hereafter referred to as "State" or "DGS") and U.S. Bank National Association (hereafter referred to as "Contractor" or "U.S. Bank") under the State of Washington WSCA-NASPO Commercial Card Solutions Contract Number 00612-Category 1.

1. SCOPE

A. This Participating Addendum includes the following commercial card products and associated services offered under the WSCA-NASPO Commercial Card Contract 00612-Category 1 to be provided by the Contractor to the State of California Purchase Card (CAL-Card) Program:

- Purchase Card (with Corporate Liability)
- Managed Spend Card (Purchase Card with declining balance feature)
- Emergency Response Card (Purchase Card with extended activation feature)

Note: All other commercial card products offered under the Washington WSCA-NASPO Commercial Card Solutions Contract 00612-Category 1, including Corporate/Travel Cards and One Cards, are excluded from this Participating Addendum.

B. This Participating Addendum is available for all State of California state agencies and local governmental agencies as defined in Exhibit A, Section 1.B (Eligible Participating Agencies).

C. Each local governmental agency shall make its own determination whether this Participating Addendum and the WSCA-NASPO Commercial Card Contract are consistent with its procurement policies and regulations.

2. TERM

The term of this Participating Addendum shall begin upon signature approval by the State and end December 31, 2018, or upon termination, whichever occurs first.

The State will have the option to extend the term of this Participating Addendum in the event the Washington WSCA-NASPO Commercial Card Contract term is extended. Lead State amendments to extend the Washington WSCA-NASPO Commercial Card Contract term date are not automatically incorporated into this Participating Addendum. Any extension(s) to the term of this Participating Addendum will be through a written amendment upon mutual agreement between the State and the Contractor.

3. INCORPORATION OF DOCUMENTS

A. Lead State Agreement

State of Washington WSCA-NASPO Commercial Card Solutions Contract Number 00612-Category 1 is hereby incorporated by reference and made a part of this Participating Addendum.

B. Terms and Conditions

Terms and conditions of the following exhibits are hereby incorporated and made a part of this Participating Addendum:

- Exhibit A – CAL-Card Program Requirements (7 pages)
- Exhibit B – General Terms and Conditions (GTC 610 as modified) (3 pages)
- Exhibit C – Contractor Certification Clauses (CCC 307) (4 pages)
- Exhibit D – Agreement for Commercial Card Services (8 pages)
- Exhibit E – Incentives and Fees (3 pages)
- Exhibit F – Glossary of Terms (2 pages)

4. ORDER OF PRECEDENCE

In the event of any inconsistency between the articles, attachments, or provisions which constitute this agreement, the following descending order of precedence shall apply:

- 1) California Participating Addendum Number 7-14-99-22, including Exhibits A-F
- 2) Washington WSCA-NASPO Commercial Card Solutions Contract Number 00612-Category 1
- 3) Washington WSCA-NASPO Commercial Card Solutions Request for Proposal (RFP) 00612
- 4) Approved portions of the Contractor's Response to Washington WSCA-NASPO Commercial Card Solutions RFP 00612

5. CONTRACT MANAGEMENT

A. Contractor Primary Contact

The Contract Manager and primary point of contact for the Contractor shall be as follows:

Contractor: U.S. Bank National Association
Name: Courtney Hoppe
Phone: (310) 363-5850
E-Mail: Courtney.hoppe@usbank.com
Address: U.S. Bank National Association
901 Marquette Avenue
Minneapolis, MN 55402

Should the Contract Manager information change, the Contractor will provide written notice with the updated information to the State Contract Administrator no later than 10 calendar days after the change.

B. State Primary Contact

The State Contract Administrator for this Participating Addendum and primary point of contact for the State's CAL-Card Program shall be as follows:

Name: Julie Matthews
Phone: (916) 375-4612
Fax: (916) 375-4663
E-Mail: Julie.Matthews@dgs.ca.gov
Address: State of California
Department of General Services, Procurement Division
707 Third Street, 2nd Floor, MS 2-202
West Sacramento, CA 95605

Should the State Contract Administrator information change, the State will provide written notice with the updated information to the Contractor Contract Manager no later than 10 calendar days after the change.

6. AGREEMENT

This Participating Addendum with its exhibits and/or amendments, sets forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Participating Addendum with its exhibits and/or amendments, shall not be added to or incorporated into this Participating Addendum, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Participating Addendum and its exhibits and/or amendments shall prevail and govern in the case of any such inconsistent or additional terms.

7. AGREEMENT SIGNATURES

IN WITNESS WHEREOF, this Participating Addendum has been executed by the parties hereto.

STATE OF CALIFORNIA

CONTRACTOR

Department of General Services

U.S. Bank National Association

Agency Name

Contractor Name

CC Well for JB
Signature of Authorized Signer

K. Caspers
Signature of Authorized Signer

Jim Butler, Deputy Director

Kelly M. Caspers, Vice President

Printed Name and Title of Authorized Signer

Printed Name and Title of Authorized Signer

9/29/14
Date Signed

9/26/14
Date Signed

707 Third Street
West Sacramento, CA 95605

901 Marquette Avenue
Minneapolis, MN 55402

Address

Address

JB



[Handwritten signature]

EXHIBIT A – CAL-Card Program Requirements

1. CAL-CARD PROGRAM REQUIREMENTS

A. CAL-Card Program Overview

"CAL-Card" is the official registered name of the State's Purchase Card Program administered by the State of California, Department of General Services. The purpose of the CAL-Card Program is to provide eligible participating agencies with purchase card services for the acquisition of goods and services.

B. Eligible Participating Agencies

- 1) State of California state agencies and local government agencies are allowed to participate in the State's CAL-Card Program under this Participating Addendum through a subscription agreement process.
 - a. A "state agency" is any State of California government agency, department, bureau, board, or commission.
 - b. Pursuant to Public Contract Code §10298 and for purposes of this Participating Addendum, a "local government agency" is any city, county, district, or other local governmental body or corporation empowered to expend public funds for the acquisition of goods, information technology, or services. Further, for purposes of this Participating Addendum, reference to local government agencies will also include the California State Universities (CSU) and University of California (UC) systems.
- 2) State agencies may participate in the State's CAL-Card Program under this Participating Addendum upon the signing and submission of a properly completed Subscription Agreement, in the format specified by the State, incorporating all terms and conditions of the Participating Addendum.
- 3) Local governmental agencies may participate in the State's CAL-Card Program under this Participating Addendum upon credit approval by U.S. Bank and upon the signing and submission of a properly completed Local Agency Subscription Agreement. Each local governmental agency will be subject to credit approval by the Contractor as described in Exhibit D, Section 2.A (Financial Information). Local governmental agencies shall assume responsibility and liability for local governmental agency's performance of the terms and conditions of the Participating Addendum. The State shall not bear liability or responsibility for local governmental agencies participating under this Participating Addendum.
- 4) Upon execution of a properly completed Subscription Agreement and/or Local Agency Subscription Agreement with credit approval from the Contractor, the state agency and/or local governmental agency will become a "Participating Agency" and the provision of services by the Contractor to such Participating Agency will be governed by the terms of this Participating Addendum.

C. Card Products and Liability

Contractor will provide the following card products to Participating Agencies under the State's CAL-Card Program:

- Purchase Card (with Corporate Liability)
- Managed Spend Card (Purchase Card with declining balance feature)
- Emergency Response Card (Purchase Card with extended activation feature)

Card products are further defined in Exhibit D, Section 3.A (Card Products). All card products offered under this Participating Addendum for the State's CAL-Card Program are corporate liability. Participating Agencies shall have no liability for lost or stolen cards or fraudulent use of any corporate liability cards.

D. Statewide Transition and Implementation

Upon Participating Addendum execution, the Contractor will work with the State to transition current CAL-Card Participating Agencies to the new Participating Addendum. Contractor and State Contract Administrator will develop a transition plan specific to the CAL-Card Program to ensure that an efficient and effective transition takes place. Contractor will work with the State Contract Administrator to meet all required elements of the agreed to plan.

E. Agency Enrollment

Contractor will provide an agency enrollment process for new CAL-Card Program participants. Within 15 calendar days of Participating Addendum execution, the Contractor shall provide the State Contract Administrator with detailed agency enrollment process, procedures, and applicable forms for review.

F. Card Design

- 1) Contractor will be responsible for the embossing and printing of cards. The State will use a basic design as the standard card stock to be used by all CAL-Card participants that will identify the card as a State of California CAL-Card purchasing card. The State will be responsible for furnishing any necessary artwork (digital file) to the Contractor for changes to the standard design during the term of the Participating Addendum.
- 2) Participating Agency will have the ability to customize standard card stock with verbiage and/or logo embossing as described below:
 - a. State Agencies
 - Name – STATE OF CALIFORNIA, top, left side of card (required)
 - Program – CAL-Card, top, right side of card (required)
 - Phrase – FOR OFFICIAL USE ONLY, top, right side of card under CAL-Card (required)
 - Name – AGENCY/DEPARTMENT (required)
 - Name – CARDHOLDER NAME, (required)
 - Picture – LOGO/EMBLEM, (optional)
 - b. Local Government Agencies
 - Name – LOCAL GOVERNMENTAL AGENCY NAME, top, left side of card (required)
 - Program – CAL-Card, top, right side of card (required)
 - Phrase – FOR OFFICIAL USE ONLY, top, right side of card under CAL-Card (required)
 - Name – CARDHOLDER NAME, (required)
 - Picture – LOGO/EMBLEM, (optional)

G. Card Issuance

Contractor will mail cards issued to Participating Agency within five business days or sooner after the Contractor receives cardholder account set-up information. Cards will be issued in accordance with Exhibit D, Section 3.B (Card and Account Issuance).

H. Customer Support

- 1) Contractor will provide a dedicated customer service team to support the State's CAL-Card Program throughout the term of the Participating Addendum. Contractor will:
 - Provide qualified, highly skilled personnel and ensure personnel are familiar with all aspects of the State's CAL-Card Program.
 - Provide at least one designated Relationship Manager, available to the State Contract Administrator and Participating Agency Program Administrators Monday through Friday during regular business hours, for CAL-Card Program contract support and escalation issues.
 - Provide at least one designated Account Coordinator, available to Participating Agency Program Administrators Monday through Friday during regular business hours, to assist with day-to-day Participating Agency account management support.

- Provide a designated customer service team for cardholder support.
 - Provide a domestic and internationally toll-free phone number available to cardholders 24 hours a day, every day of the year for cardholder services.
 - Have an established escalation process.
- 2) Within 15 calendar days of Participating Addendum execution, the Contractor shall provide the State Contract Administrator with customer service information including but not limited to:
 - Relationship Manager information
 - Account Coordinator information
 - Customer service unit information
 - Any additional Contractor support contacts (i.e. technical support, cardholder support, etc.) provided for the CAL-Card Program.
 - 3) Should the customer service information or personnel change during the term of the Participating Addendum, Contractor will provide written notice to the State Contract Administrator 10 calendar days before changes or substitutions take place. Substitutions of personnel will include replacements with similar qualifications.
 - 4) The State reserves the right to request additional personnel and/or replacement of current personnel at any time. Contractor will be notified in writing at least 10 calendar days before additional personnel and/or replacement personnel are needed.

I. Training

- 1) Contractor will provide ongoing training for all CAL-Card Program participants throughout the term of the Participating Addendum including, at a minimum:
 - Online Web-based training for Participating Agency Program Administrators and Cardholders
 - Onsite/Classroom training for Participating Agency Program Administrators
 - Onsite User Group Forums
 - Written User Reference Guides
- 2) Contractor will work with the State Contract Administrator on a training plan to be offered for the CAL-Card Program including training types, schedule, user reference guides and additional training materials.

J. Purchase Card Data Management and Reporting System

Contractor shall provide its online (web-based) system, U.S. Bank Access Online®, to the State's CAL-Card Program participants for:

- Transaction data collection and management
- Administration of system accounts
- Reporting output and data transfer

Designated authorized personnel from the State and Participating Agency will be provided permissions within Access Online®.

K. Payment Terms

- 1) Contractor will be responsible for sending an itemized official invoice (statement) to each Participating Agency after the end of each billing cycle as designed for each of the accounts established for the Participating Agency.
- 2) The full amount of each Participating Agency's monthly balance or billing cycle balance, except for disputed or reported fraud items, will be due within forty-five (45) calendar days from the billing cycle date of the Contractor invoice. If the Invoice is not postmarked within three business days after the billing cycle, the pay term can be extended the equal number of days between the third day after the billing cycle and the actual latest postmark date of the Statement. Billing statements and billing disputes are further outlined in Exhibit D, Section 3.C (Billing and Payment).

- 3) Payment may be made to the Contractor via check, cash warrant, bank wire, automated clearing house, or electronic funds transfer at the Participating Agency's option.

L. Late Payment Penalties

Late payment penalties for undisputed payments not received by the Contractor within the specified periods will be determined as follows:

- 1) State Agencies – State agencies will be required to pay late payment penalties based on the California Prompt Payment Act (Government Code Section 927 et seq.). The penalty on any undisputed late payment shall be calculated in accordance with the penalty interest rate factor per day formula provided in the State of California Budget Letter 14-14, Late Payment Penalty Interest Rates (or its successor letter).
- 2) Local Governmental Agencies – Local governmental agencies may be subject to late payment penalties as described in Exhibit E, Section 6 (Card Fees), unless local governmental agency provides Contractor with codes and/or legal authority which would prohibit local governmental agency's ability to pay penalty fees under this Participating Addendum.

M. CAL-Card Program Website and User Instructions

The State will administer a website dedicated to the State's CAL-Card Program for program information, participation forms and additional resources available to Participating Agencies. In addition, the State Contract Administrator will administer a User Instructions guide for Participating Agencies. Contractor may be required to provide information to the State Contract Administrator for public posting on the dedicated CAL-Card Program website and/or User Instructions guide.

N. Participating Agency Responsibilities

- 1) All Participating Agencies shall prepare the necessary forms to participate in the CAL-Card Program as described in the Participating Addendum and posted User Instructions guide.
- 2) All Participating Agencies shall designate an Agency Program Administrator who will serve as the primary point of contact between the Participating Agency and U.S. Bank.
- 3) State agencies participating in the CAL-Card Program shall comply with all applicable procurement laws, regulations, policies, procedures, and best practices, including those discussed in the State Contracting Manuals and User Instructions guide.

O. Program and Transaction Data Reporting (for Participating Agencies)

- 1) Custom Financial Extract Files

Contractor shall provide, at no cost to the Participating Agency, the ability to download data from Access Online® and the automatic creation of batch upload files containing accounting data to Participating Agency's internal accounting systems to include, at a minimum, a custom interface file to any internal system(s) designated by the Participating Agency. Contractor will be required to provide custom extract files at the request of the State and/or Participating Agency. The custom extract file shall be created in such a manner that it can be imported into the Participating Agency's internal accounting/financial system with no special programming or manual entry of transaction data.

- 2) Financial Information System for California ("FI\$Cal")

Contractor will be required to provide custom interface files, at no cost to the State, for the State's financial management system ("FI\$Cal system"). The Contractor will work with State of California, FI\$Cal personnel to design, develop, test and implement the custom financial extract solution for the FI\$Cal system. The custom interface file shall be created in such a manner that it can be imported into the FI\$Cal system with no special programming or manual entry of transaction data. FI\$Cal and Contractor will be responsible for providing necessary items to complete work as determined between the parties including but not limited to tasks, deliverables, schedule, system security and file requirements.

P. CAL Card Program Reporting

Contractor will be required to provide the following reports to the State. State may request additional reporting information for CAL-Card Program activity during the term of the Participating Addendum and Contractor will work with State Contract Administrator to provide requested reports.

1) Usage/Rebate Report

Contractor shall provide an electronic Usage/Rebate Report to the State on a quarterly (3 calendar months) basis. The report shall provide incentive share (rebates) for each Participating Agency for the calendar quarter.

Report must contain at a minimum, but not limited to, the data elements identified below:

- Participating Agency Name
- Quarterly Volume Sales
- Quarterly Qualifying Large Ticket Volume
- Total number of Transactions
- Total number of Qualifying Large Ticket Transactions
- Calculated incentive share (rebates) for each Participating Agency
- Total actual incentive share (rebates) paid to Participating Agency

Report shall be provided to the State Contract Administrator, in Excel format via email, within 60 days following the last day of the quarter. Within 30 calendar days from Participating Addendum execution, the Contractor must submit a preliminary report to the State Contract Administrator for review.

2) Delinquency Report

Contract shall provide an electronic Delinquency Report to the State on a monthly basis. The report shall list Participating Agencies with balances past due greater than 45 calendar days, with subsequent suspension at 90 calendar days after the cycle close. Report shall be provided to the State Contract Administrator, in Excel format via email, within 15 calendar days following the last day of the calendar month.

3) Agency Program Administrator Contact Report

Contractor shall provide an electronic Program Administrator Contact Report to the State Contract Administrator on a quarterly (3 calendar months) basis and/or upon written request. The report shall provide Agency Program Administrator information (including agency name, contact name, email, and phone number) for each Participating Agency. Report shall be provided to the State Contract Administrator, in Excel format via email, within 60 calendar days following the last day of the quarter or within 10 calendar days of the State's written request.

Q. End-of-Life Transition

Contractor agrees that at the end of the Participating Addendum, should the State conduct another procurement and award a new contract, the Contractor will work with the State Contract Administrator to ensure that an efficient and effective transition takes place within nine months.

2. ADDITIONAL REQUIREMENTS

A. Insurance Certificates

Contractor shall furnish copies of certificates for all required insurance, as specified in the WSCA-NASPO Contract Number 00612-Category 1, to the State Contract Administrator within 30 calendar days of the Participating Addendum execution. Copies of renewal certificates for all required insurance shall be furnished within 30 calendar days after renewal date.

B. Darfur Certification

Pursuant to Public Contract Code §10475 et seq., if the Contractor has or within the previous three years has had business activities or other operations outside the United States, the Contractor must complete a Darfur Contract Act Certification stating they are not a scrutinized company as defined, or demonstrate Contractor has obtained permission under the statute. Contractor must provide required documentation to the State Contract Administrator within 15 calendar days of the State's written request.

C. Termination by Mutual Agreement

- 1) The State and Contractor may mutually agree to terminate this Participating Addendum at any time during the term of the Participating Addendum. Requests for mutual termination may be initiated by either party with written notice. The State and Contractor will mutually agree on the effective date of termination.
- 2) Upon termination of the Participating Addendum, each party will assist the other party in orderly termination of the agreement and transfer of all assets, tangible and intangible, as may facilitate the orderly, undisrupted business continuation of each party. Participating Agencies shall be responsible for payment of all amounts owed to Contractor related to charges incurred up until the effective date of termination.

D. Termination (By State or Participating Agency)

- 1) The State may terminate the Participating Addendum and any Participating Agency may terminate its respective Subscription Agreement for cause upon a reasonable and good faith determination that the Contractor failed to perform the material requirements of the agreement at the time and in the manner herein provided. In the event of a breach, the State or Participating Agency will send the Contractor a notice specifying the breach and providing the Contractor an opportunity to cure the breach within a period of time no less than 30 calendar days ("Cure Period"). If the breach is not cured within the Cure Period, the State will have the right to terminate the Participating Addendum and the Participating Agency will have the right to terminate its respective Subscription Agreement by notice to the Contractor.
- 2) The State may terminate the Participating Addendum without cause upon 60 calendar days advance written notice to the Contractor. Participating Agencies may terminate their respective Subscription Agreements without cause upon 30 calendar days advance written notice to the Contractor.
- 3) Upon termination of the Participating Addendum and/or Participating Agency's Subscription Agreement, each party will assist the other party in orderly termination of the agreement and transfer of all assets, tangible and intangible, as may facilitate the orderly, undisrupted business continuation of each party. Participating Agencies shall be responsible for payment of all amounts owed to Contractor related to charges incurred up until the effective date of termination.

E. Availability of Funds

This Agreement is valid and enforceable only if sufficient funds are made available by the Budget Act of the appropriate fiscal year for the purposes of this program. In addition, this Agreement is subject to any additional restriction, limitations or conditions enacted by the Legislature, which may affect the provisions, terms, or funding of this Agreement in any manner. In the event sufficient funds are not made available to the State, the State has the option to terminate the Agreement and Participating Agencies shall remain responsible for payment of all amounts owed to Contractor related to charges incurred up until the effective date of termination.

F. Contracts Funded by the Federal Government

It is mutually understood between the parties that this Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.

This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the current and/or subsequent years covered by this Agreement for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement in any manner.

The parties mutually agree that if the Congress does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds. The State has the option to terminate the Agreement or to amend the Agreement to reflect any reduction in funds. In the event of termination, Participating Agencies shall remain responsible for payment of all amounts owed to Contractor related to charges incurred up until the effective date of termination.

G. Federal Debarment

The Federal Department of Labor requires that State agencies, which are expending Federal funds of \$25,000 or more, have in the contract file a certification by the supplier that they have not been debarred or suspended from doing business with the Federal Government. Contractor must provide this documentation upon request.

H. News Releases

Unless otherwise exempted, news releases, endorsements, advertising, and social media content pertaining to this Participating Addendum or the State's CAL-Card Program shall not be made without prior written approval of the DGS.

EXHIBIT B – General Terms and Conditions (GTC 610 as modified)

1. APPROVAL

This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

2. AMENDMENT

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. ASSIGNMENT

This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. AUDIT

Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. INDEMNIFICATION

Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

6. DISPUTES

Contractor shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE (Stricken in its entirety—See Exhibit A, Section 2.D)

8. INDEPENDENT CONTRACTOR

Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION

The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE

During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES

The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS

Time is of the essence in this Agreement.

13. COMPENSATION

The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW

This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS

The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

- 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
- 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

- c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT

For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS

If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL-BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS

- a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
- b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)


20. LOSS LEADER

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT C – Contractor Certification Clauses (CCC 307)

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
U.S. Bank National Association		31-0841368
<i>By (Authorized Signature)</i>		
		
<i>Printed Name and Title of Person Signing</i>		
Kelly M. Caspers Vice President		
<i>Date Executed</i>	<i>Executed in the County of</i>	
9/26/14	Hennepin County	

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE

Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS

Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT

Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS

Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS

For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST

Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION

Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT

Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE

An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION

A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION

Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204

This form must be completed by all contractors that are not another state agency or other governmental entity.

EXHIBIT D – Agreement for Commercial Card Services

This exhibit identifies additional terms governing the U.S. Bank Commercial Card Program (the “**Commercial Card Program**”) provided by U.S. Bank National Association (“**U.S. Bank**”) to Participating Agencies for the State of California, Department of General Services (“**DGS**”) CAL-Card Program and is an attachment to the Participating Addendum.

Participation in Commercial Card Program:

Certain entities may participate in the Commercial Card Program as defined in Exhibit A, Section 1.B (Eligible Participating Agencies).

1. DEFINITIONS

A. Definitions. All capitalized terms used in this exhibit 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 Participating Agency 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.
- 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 Participating Agency and/or Cardholders.
- 7) “**Cardholder**” means an individual employee of Participating Agency, named as the holder of the Account or using the Account in the name of Participating Agency, regardless of whether a physical card is issued in conjunction with the Account.
- 8) “**Cardholder Account**” means an account number assigned to a Cardholder.
- 9) “**Cardholder Agreement**” means the U.S. Bank Cardholder agreement between U.S. Bank and the Cardholder.
- 10) “**Card Products**” means the standard U.S. Bank commercial card product offerings. For the purposes of the Participating Addendum, Card Products include the Purchase Card, Managed Spend Card, and Emergency Response Card.
- 11) “**Central Billing Account**” means any Account used for consolidating Transactions from one or more other Accounts for centralized corporate billing purposes. For the purposes of the Participating Addendum, Central Billing Accounts include Managed Spend Central Billing Account and Central Purchase Accounts.
- 12) “**Charge**” means any transaction posted to an Account that has a debit value, including without limitation, Purchases and Fees.
- 13) “**Charge-off**” means the entire amount due and owing to the Contractor by the Participating Agency that remains outstanding on an Account that was left unpaid for one hundred eighty (180) days after the Billing Cycle close date.
- 14) “**Commercial Card Program**” means the Card Products and Ancillary Services offered by U.S. Bank.
- 15) “**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.
- 16) “**Data**” means the information regarding or in connection with Accounts and/or Transactions associated with the Commercial Card Program.

- 17) **"Debt"** means all amounts charged to an Account including without limitation all amounts related to Charges that are owed to U.S. Bank by Participating Agency and/or Cardholders.
- 18) **"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.
- 19) **"Fees"** means all fees that are posted to an Account and due and payable to U.S. Bank by Participating Agency and/or its Cardholders that are associated with any Commercial Card Program. Fees include Foreign Transaction Fee and Late Fee.
- 20) **"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.
- 21) **"Fraudulent Charges"** mean those Charges which are not initiated, authorized or otherwise requested by Participating Agency and/or a Cardholder by any means (electronic, telephonic or written) and do not directly or indirectly benefit Participating Agency and/or a Cardholder.
- 22) **"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.
- 23) **"Late Fee"** means the fees associated with any Debt that remains unpaid to U.S. Bank by Participating Agency and/or Cardholders after the Due Date on the Statement.
- 24) **"MasterCard"** means MasterCard® USA, Inc., MasterCard International, and any other MasterCard entity identified in the Participating Addendum.
- 25) **"Merchant"** means any entity that has entered into an agreement that governs the acceptance of Cards.
- 26) **"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.
- 27) **"Parent"** means any Person that Controls a Party.
- 28) **"Party"** means any one of U.S. Bank or Participating Agency, and **"Parties"** means U.S. Bank and Participating Agency.
- 29) **"Past Due Balance"** means, with respect to a Statement, the total amount of any Debt which remains unpaid to U.S. Bank by Participating Agency and/or Cardholder after the Due Date specified on such Statement.
- 30) **"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.
- 31) **"Local Agency Subscription Agreement"** means the Commercial Card Program Local Agency Subscription Agreement used by local governmental agencies to join the Commercial Card Program.
- 32) **"Purchase"** means a purchase of goods and/or services that is charged to an Account.
- 33) **"Statement"** means, with respect to one or more accounts, a periodic billing Statement from U.S. Bank listing all Transactions posted to such Accounts.
- 34) **"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.
- 35) **"Transaction"** means any activity posted to an Account, both debit and credits, including but not limited to Purchases, Fees and payments.
- 36) **"Visa"** means Visa® USA, Inc., Visa International Service Association, Inc. and any other Visa entity identified in the Participating Addendum.

2. CREDIT PROVISIONS

- A. **Financial Information.** The establishment of a Commercial Card Program provides an extension of credit, and the State and each participating local governmental agency shall provide sufficient information to enable U.S. Bank to perform periodic credit reviews.

- 1) **State Agencies.** The State of California will be credit qualified as a single entity upon execution of the Participating Addendum. Individual state agencies will not be required to credit qualify on their own.
- 2) **Local Governmental Agencies.** Each local governmental agency must individually credit qualify and submit a signed, properly completed Local Agency Subscription Agreement to U.S. Bank.
- 3) **Financial Information for State and Local Governmental Agencies.** To become credit qualified, the State and each local governmental agency will provide the last three (3) years of audited financial statements to U.S. Bank prior to the issuance of any cards. U.S. Bank shall have the right to require the State or any local governmental agency to provide annual financial statements on or before one hundred eighty (180) days after the end of the fiscal year. The local governmental agency should provide this first set of financial statements with their signed, completed Local Agency Subscription Agreement. U.S. Bank will review the financial statements and provide notice to each local governmental agency of the approval or decline of their credit qualification. If satisfactory financial information can be found on a website, U.S. Bank will not require the State or local governmental agency 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 the Participating Agency of any decrease in the PCL. In the event a decrease in a PCL results in a revised PCL that is lower than the aggregate current amount outstanding on all Accounts, Participating Agency shall have 30 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. **Participating Agency Accounts.** U.S. Bank shall provide notice to the Participating Agency of any decrease in an ACL. In the event a decrease in an ACL results in a revised ACL that is lower than the aggregate current amount outstanding on the Account, Participating Agency shall have 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.
 - 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 Participating Agency 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.

3. U.S. COMMERCIAL CARD PROGRAMS

A. Card Products. U.S. Bank may provide the following Card Products to Participating Agency and its Cardholders.

- 1) **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 Participating Agency. U.S. Bank also provides Central Purchase 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 purchase card designed for use by Participating Agency or Cardholders to charge business related goods and services. Unless requested for a different duration, the Managed Spend Card 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 the same purpose, but without the issuance of a physical card.

Based on the credit worthiness of the Participating Agency, 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 Emergency Response Card.** The U.S. Bank Emergency Response Card is a corporate liability purchase card designed for use by Cardholders under unusual or special circumstances such as disaster relief/recovery efforts. Participating Agency provides the Emergency Response Card to Cardholders to charge goods and services against a Corporate billed account. Emergency Response Cards do not automatically deactivate. Cards are only cancelled with direction from a Participating Agency or upon termination of the Participating Agency's participation in the Commercial Card Program.

B. Card and Account Issuance. Participating Agency shall designate to U.S. Bank Cardholders that are authorized to incur expenses on behalf of Participating Agency 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) **Card Delivery.** U.S. Bank shall issue Cards and/or Accounts directly to Participating Agency's designated point of contact.
- 2) **Creation of Cards by Participating Agency.** Participating Agency 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. Participating Agency or Cardholder shall pay the amount due on the Statement by the Due Date in accordance with Exhibit A, Section 1.K (Payment Terms).

- 1) **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. Participating Agency 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. Participating Agency 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.
- 2) **Billing Disputes.** U.S. Bank must receive written communication of a dispute within 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. Billing disputes must be communicated in writing to U.S. Bank through Access Online, at the address provided on the Statement, or in another format as specified by U.S. Bank.
- 3) **Merchant Category Disclaimer.** Upon request by DGS and/or Participating Agency, 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 DGS and/or Participating Agency.
 - b. **Incorrect Merchant Category Codes.** To the extent DGS and/or Participating Agency 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.
- 4) **Trailing Transactions.** Upon cancellation of an Account, the Participating Agency and/or Cardholder must cancel the billing of all reoccurring Transactions to the Account.

D. **Liability.** Liability option for which Participating Agency has been approved is specified in Exhibit A, Section 1.C (Card Products and Liability).

- 1) **Corporate Liability.** Participating Agency is solely liable to U.S. Bank for all billed Transactions.
- 2) **Liability Exceptions.** Participating Agency 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.** Participating Agency 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 Participating Agency has liability;
 - (iii) Any compromised Account for which the Participating Agency 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.

Participating Agency shall provide sufficient information as may be requested by U.S. Bank for U.S. Bank to act on such notifications. Failure of Participating Agency to provide notification may result in Participating Agency'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 charge back to the Merchant. In any event, regardless of the liability option chosen, Cardholder's liability will not exceed fifty U.S. Dollars (\$50.00).

E. **Delinquency.** If the amount shown on the Statement as the current amount due has not been paid to U.S. Bank by Participating Agency 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 ninety (90) days from the Billing Cycle close date. The 90 day period is made up of forty five (45) day payment terms on the contract, and another forty five (45) day grace period.
- 2) **Cancellation.** U.S. Bank shall have the right to cancel any Account that is delinquent for a period exceeding one hundred eighty (180) days from the Billing Cycle close date, which is made up of the 45 day payment terms on the contract, and another 135 day grace period for collection efforts. If an Account remains unpaid for more than one hundred eighty (180) days after the Billing Cycle close date, U.S. Bank will also "charge off" the entire outstanding balance and deduct it from the Participating Agency's next quarterly rebate.
- 3) **Late Fees.** U.S. Bank shall have the right to bill Late Fees on all delinquent Accounts, as specified in Exhibit A, Section 1.L (Late Payment Penalties).

4. SECURITY AND CONFIDENTIALITY

A. **Security.** U.S. Bank and the Participating Agency 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 U.S. Bank and the Participating Agency 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 protected from unrestricted use by persons not associated with Disclosing Party.

is not cured within the Cure Period, then U.S. Bank has the right to terminate any Card Product and/or Ancillary Service provided to a Participating Agency, or terminate the Participating Agency's Subscription Agreement in its entirety, by written notice to the Participating Agency.

- 1) Dissolution or liquidation of the Participating Agency;
- 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 Participating Agency, or the Participating Agency enters into any other similar proceeding or arrangement for the general benefit of its creditors;
- 3) Material breach of any term or condition by Participating Agency.

B. Effect of Termination. Upon termination, all applicable Cards, Accounts, and/or related services shall be deemed canceled upon a stated termination date as referenced in the termination notification. Upon termination, Participating Agency shall instruct all Cardholders to destroy their Cards and/or any records of Account numbers and U.S. Bank shall terminate all applicable services thereunder upon a stated termination date. Participating Agency shall remain liable for all Debts arising from the use of a Card and/or Account prior to the termination date.

C. Surviving Rights. Rights, obligations and/or liabilities that arise prior to the termination of this Agreement or the Participating Agency's Subscription Agreement shall survive any such termination.

6. OTHER TERMS AND CONDITIONS

A. Intellectual Property. DGS, Participating Agency 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. DGS, Participating Agency 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 provided to Participating Agency by U.S. Bank is for the sole and exclusive benefit of Participating Agency 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 PARTICIPATING AGENCY, 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. 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 PARTICIPATING AGENCY OR TO ANY OTHER PERSON OR THIRD PARTY, WITH RESPECT TO THE COMMERCIAL CARD PROGRAM PROVIDED BY U.S. BANK OR ITS REPRESENTATIVES OR WITH RESPECT TO SOFTWARE SERVICES PROVIDED OR MADE AVAILABLE TO PARTICIPATING AGENCY OR ANY OTHER PERSON FOR ITS USE BY U.S. BANK IN CONNECTION WITH THIS AGREEMENT AND ANY SERVICE THEREUNDER.

E. 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.

F. Non-Waiver. The failure of U.S. Bank or Participating Agency 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 Participating Agency of its rights at any time thereafter to require exact and strict compliance with all the terms hereof.

- G. 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. 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.
- H. Foreign Transactions.** If an Account is used for Purchases or to obtain cash 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.
- I. USA PATRIOT Act.** In order to comply with the requirements of the USA PATRIOT Act, U.S. Bank may require Participating Agency 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 Participating Agency and Cardholders prior to establishing an Account under or in connection with the Agreement. U.S. Bank reserves the right to require that Participating Agency and Cardholders promptly provide to U.S. Bank sufficient identification documents upon request and in connection with USA PATRIOT Act compliance.
- J. Other Agreements and Regulations.** In addition to this Agreement, the products and services provided to Participating Agency 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.** Visa Association operating rules and regulations, including Visa USA and Visa 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. The Participating Addendum terms and conditions shall prevail and govern in the case of a conflict between the Cardholder Agreement and the Participating Addendum.

EXHIBIT E – Incentives and Fees

1. INTRODUCTION

This exhibit identifies the incentive share (rebates) and fees applicable under this Participating Addendum.

2. COMMENCEMENT OF THE NEW REVENUE SHARE OPPORTUNITY

The first revenue share payment pursuant to this Participating Addendum, if any is earned, shall be made within 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.

3. INCENTIVE SHARE (REBATES)

The Contractor will provide a Volume Sales Incentive, Prompt Payment Incentive, and Large Ticket Volume Incentive (Incentive Share Components #1-3) to Participating Agencies on a quarterly (3 calendar months) basis. The Contractor will provide an Annual Volume Sales Incentive (Incentive Component #4) to the State on an annual (calendar year) basis.

A. Incentive Share Component #1 – Volume Sales Incentive

A Volume Sales Incentive will be given to each Participating Agency. The Volume Sales Incentive is based on the total volume sales less qualifying large ticket volume sales for the individual Participating Agency for each quarter (3 calendar months).

The following formula will be used to determine the Volume Sales Incentive for each Participating Agency:

Volume Sales Incentive Calculation			
Quarterly Volume Sales – Quarterly Large Ticket Volume <i>(for individual participating agency)</i>	x	.0130 <i>(130 bps)</i>	= Participating Agency Quarterly Volume Sales Incentive

B. Incentive Share Component #2 – Prompt Payment Incentive

A Prompt Payment Incentive will be given to each Participating Agency. 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). Client Held Days means the sum of the daily balances for the quarter divided by the total Net Charge Volume for the quarter less 15 days. The Prompt Payment Incentive is based solely on the Client Held Days Payment Performance for each Participating Agency for each quarter (3 calendar months).

The following formula will be used to determine the Prompt Payment Incentive for each Participating Agency:

Prompt Payment Incentive Calculation			
$\frac{(45 - \text{Client Held Days})}{45}$	x	.0045 <i>(45 bps)</i>	x Quarterly Volume Sales <i>(for individual participating agency)</i>
			= Participating Agency Quarterly Prompt Payment Incentive

C. Incentive Share Component #3 – Large Ticket Volume Incentive

A Large Ticket Volume Incentive will be given to each Participating Agency. The Large Ticket Volume Incentive is based on the qualifying large ticket volume sales for the individual Participating Agency for each quarter (3 calendar months). Qualifying large ticket transactions will be subject to the Prompt Payment Incentive.

The following formula will be used to determine the Large Ticket Volume Incentive for each Participating Agency:

Large Ticket Volume Incentive Calculation			
Quarterly Large Ticket Volume <i>(for individual participating agency)</i>	x	.0075 <i>(75 bps)</i>	= Quarterly Large Ticket Volume Incentive

D. Incentive Share Component #4 – Annual Volume Sales Incentive

An Annual Volume Sales Incentive will be given to the State. The Annual Volume Sales Incentive is based on a tier rate (determined from the combined annual sales volume for all WSCA-NASPO Participating States) applied to the State’s annual sales volume.

The following formula will be used to determine the Annual Volume Sales Incentive for the State:

Annual Volume Sales Incentive Calculation			
State Annual Sales Volume <i>(all Participating Agencies)</i>	x	Applicable tier rate	= State Annual Sales Volume Incentive
Tier	Annual Overall WSCA-NASPO Participating States' Volume	Tier Rate	
1	\$500,000,000 - \$2,000,000,000	.0045 (45 bps)	
2	\$2,000,000,001 - \$3,000,000,000	.0045 (45 bps)	
3	\$3,000,000,001 - \$4,000,000,000	.0045 (45 bps)	
4	\$4,000,000,000 +	.0045 (45 bps)	

4. INCENTIVE SHARE PAYMENT SCHEDULE AND TERMS

A. Participating Agency Incentives (Incentive Share Components #1-3)

- 1) Incentive Share Components #1-3 (Volume Sales Incentive, Prompt Payment Incentive and Large Ticket Transaction Incentive) will be paid quarterly to the Participating Agency within 60 days following the last day of each calendar quarter.
 - Quarter 1: January 1 - March 31
 - Quarter 2: April 1 - June 30
 - Quarter 3: July 1 - September 30
 - Quarter 4: October 1 - December 31
- 2) Incentive Share Components #1-3 will be paid via check to each Participating Agency, unless the Participating Agency requires another form of payment.
- 3) Any Participating Agency that does not earn a minimum of \$75.00 for combined Incentive Share Components #1-3 per calendar quarter will forfeit its incentive share for that quarter.
- 4) In the event that the Participating Agency’s subscription agreement is terminated prior to the completion of any quarter (3 calendar months), payment for Incentive Share Components #1-3 shall be made to the Participating Agency within 60 days following the last day of the quarter in which the termination occurred for any incentive share earned prior to the termination date.
- 5) Payment made for Incentive Share Components #1-3 will be net of accumulated Charge-offs. "Charge-off" means the entire amount due and owing to the Contractor by the Participating Agency that remains outstanding on an Account that was left unpaid for one hundred eighty (180) days after the Billing Cycle close date.
- 6) Any Charge-offs in excess of the net Incentive Share Components #1-3 from one (1) calendar quarter will be subtracted from one (1) or more of the following calendar quarters.

B. State Incentives (Incentive Share Component #4)

Incentive Share Component #4 will be paid annually to the DGS within 60 days following the last day of the calendar year. Incentive Share Component #4 will be paid via check to the DGS, unless the DGS requires another form of payment.

In the event that the Participating Addendum is terminated prior to the completion of any calendar year, payment for Incentive Share Component #4 shall be made to the DGS within 60 days following the last day of the calendar year for annual volume sales which occurred prior to the Participating Addendum termination date.

5. INCENTIVE SHARE COMPONENT ADJUSTMENT (INTERCHANGE)

In the event the Visa U.S.A. Corporate and Purchasing Interchange Reimbursement Fees, including the Visa Large Purchase Advantage Fee Program, decrease or increase by five percent (5%) or more from the April 2014 published interchange rates, Contractor will have the right (but not obligation) to replace the current Revenue Sharing Opportunity with a new Revenue Sharing Opportunity proportionate to the change of the revised interchange rates. Contractor will provide written justification to the State Contract Administrator and propose a proportional change to the rebate, with proof of the change to the referenced interchange tables. The revenue sharing component will not change during the first year of the Participating Addendum.

6. CARD FEES

Applicable purchase card fees include:

Fee Description	Charge
1. Annual Card Fee	\$0.00
2. Non-Sufficient Funds Fee , per occurrence	\$0.00
3. Logo Embossing Fee (A two-week delay may occur with Card issuance and implementation)	\$0.00
4. Delinquency/Late Fee^{1/} (Local Governmental Agencies only) <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. Foreign Transaction Fee , per occurrence (Fee applies to transactions taking place outside the United States not in U.S. Dollars.)	2.5%

^{1/} Delinquency/Late fees are only applicable for local governmental agencies as described in Exhibit A, Section 1.L (Late Payment Penalties).

EXHIBIT F – Glossary of Terms

1. INTRODUCTION

Terms used throughout this Participating Addendum are defined below. Additional terms may be defined within individual exhibits.

2. DEFINITIONS

Term	Definition
Access Online®	Contractor's system for card program management and reporting.
Account	Any account number assigned to a Participating Agency to which charges and payments may be posted.
Agency Program Administrator	The employee designated by Participating Agency to serve as the primary point of contact between Participating Agency and U.S. Bank and shall be responsible for the Participating Agency's CAL-Card program management and oversight. This includes contract terms, timely payment of invoices, the development and enforcement of agency policy, procedures, and training program. A Purchasing Officer or equivalent normally holds this position.
Billing Cycle	The period of time from which a Statement is generated until the next Statement is generated.
CAL-Card	The official registered service mark name for the State of California's Purchase Card Program.
Cardholder	An individual that is designated by the Agency Program Administrator to be a CAL-Card card recipient and make official government purchases.
Charge	Any transaction posted to an Account that has a debit value.
Charge-off	The entire amount due and owing to the Contractor by the Participating Agency that remains outstanding on an Account that was left unpaid for one hundred eighty (180) days after the Billing Cycle close date.
Client Held Days	"Client Held Days" means the sum of the daily balances for the calendar quarter divided by the total Net Charge Volume for the calendar quarter less fifteen (15) days and cannot be less than zero (0) days.
Client Held Days Payment Performance	The average speed of repayment of Charges made for each calendar quarter.
Foreign Transaction Fee	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.
Fraudulent Charges	Charges which are not initiated, authorized, or otherwise requested by Participating Agency and/or a Cardholder by any means (electronic, telephonic or written) and do not directly or indirectly benefit Participating Agency and/or a Cardholder.
Incentive Share	Actual monies paid to the State and/or each Participating Agency based on volume and speed of pay.

Term	Definition
Large Ticket Transaction	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.
Local Governmental Agency	Pursuant to Public Contract Code §10298 and for purposes of this Participating Addendum, a "local government agency" is any city, county, district, or other local governmental body or corporation empowered to expend public funds for the acquisition of goods, information technology, or services. Further, for purposes of this Participating Addendum, reference to local government agencies will also include the California State Universities (CSU) and University of California (UC) systems.
Net Charge Volume	All charges set forth on the Statements furnished for all Accounts, less fees, Fraudulent Charges, chargebacks, and amounts Charged-off by U.S. Bank with respect to such Accounts as uncollectible for each calendar quarter.
Participating Agency	A state agency or local governmental agency that has executed a properly completed Subscription Agreement and/or Local Agency Subscription Agreement and received required credit approval from the Contractor for participation in the State's CAL-Card Program under the Participating Addendum.
Quarterly Large Ticket Volume	Those Charges for each calendar quarter which the Association governing Customer's Card Program (Visa) has determined qualify for large ticket interchange rates and which are processed by such Association using large ticket interchange rates, less credits. All other Charges and all amounts related to Fees, Fraudulent Charges, chargebacks and Charge-offs are excluded from Large Ticket Volume.
Quarterly Volume Sales	All Charges set forth on the Billing Statements furnished for all Accounts, less Fees, Fraudulent Charges, chargebacks, and amounts Charged-off by Contractor with respect to such accounts as uncollectible for each calendar quarter.
State Agency	A State of California government agency, department, bureau, board, or commission.
State Contract Administrator	Individual designated by the Department of General Services as the single point of contact for the State of California CAL-Card Program and Participating Addendum.
Subscription Agreement	Supplement to the Participating Addendum, by qualified agencies, agreeing to all terms and conditions of the Participating Addendum.