

**NORTHAMPTON COUNTY
REGULAR SESSION
September 5, 2018**

Be It Remembered that the Board of Commissioners of Northampton County met on September 5, 2018 with the following present: Robert Carter, Fannie Greene, Chester Deloatch, Charles Tyner and Geneva Faulkner.

Others Present: Kimberly Turner, Scott McKellar, Nathan Pearce, and Komita Hendricks.

A motion was made by Chester Deloatch and seconded by Charles Tyner to enter into Closed Session for G.S. 143-318.11 (a)(3), G.S. 143-318.11 (a)(4) and . G.S. 143-318.11 (a)(6)

Question Called: All present voting yes. Motion carried.

A motion was made by Chester Deloatch and seconded by Fannie Greene to adjourn the closed session. **Question Called: All present voting yes. Motion carried.**

Chairman Carter called the meeting to order.

Agenda Work Session:

A work session was held to discuss today's agenda items. Chairman Carter called upon County Manager Kimberly Turner for input. Ms. Turner requested to reconvene Closed Session G.S. 143-318.11 (a)(6). Chairman Carter called upon Commissioners for input. Commissioners had no changes.

Regular Session:

Chairman Carter called the meeting to order, welcomed everyone, and announced when citizens could make comments. Chairman Carter called for a moment of silence and invited everyone to participate in the Pledge of Allegiance.

Approval of Regular Session Minutes for August 20, 2018:

A motion was made by Chester Deloatch and seconded by Charles Tyner to approve the Regular Session Minutes for August 20, 2018. **Question Called: All present voting yes. Motion carried.**

Approval of Closed Session Minutes for August 20, 2018:

A motion was made by Charles Tyner and seconded by Geneva Faulkner to approve the Closed Session Minutes for August 20, 2018. **Question Called: All present voting yes. Motion carried.**

Approval of Agenda for September 5, 2018:

A motion was made by Fannie Greene and seconded by Chester Deloatch to approve the agenda for September 5, 2018 with stated changes. **Question Called: All present voting yes. Motion carried.**

Financial Assistance Contracts for Volunteer Departments:

Mr. Ronnie Storey, Emergency Management Director, appeared before the Board to obtain the approval for the contracts/applications for the Volunteer Departments for designated funds for Fiscal Year 2018-2019. The total for all Volunteer Departments is \$44,500.00 (\$14,500 for fire departments and \$30,000 for EMS squads).

A motion was made by Geneva Faulkner and seconded by Charles Tyner to approve these contracts/applications for the Fire Departments and EMS squads for the designated funds for Fiscal Year 2018-2019. **Question Called:** *All present voting yes.* **Motion carried.**

**PLEASE SEE SCANNED DOCUMENTS WHICH ARE
HEREBY MADE A PART OF THESE MINUTES:**

Decision Paper

To: Northampton County Board of Commissioners

From: Ronald P Storey Jr, Emergency Management Director

Re: Fire Department and EMS Squad Financial Assistance Contracts/Applications

Date: August 24, 2018

Contract # 2019-R22

Purpose: The purpose of this decision paper is to obtain approval from the Northampton County Board of Commissioners for the contracts/applications for the Fire Departments and EMS Squads for designated funds for FY18-19.

Facts:

1. A Resolution adopted by the Board of Commissioners on March 17, 1980 sets out the process for the approval of the Fire Departments' contracts and the EMS Squads' applications for financial assistance pending a review of the performance record of each Fire Department/EMS Squad. Performance charts of Fire Departments and EMS Squads for July 1, 2017 – June 30, 2018 are included with this package.
2. Northampton County requires all Fire Departments and EMS Squads operating within the County to submit a contract/application annually in order to receive their designated funds.
3. We have 10 Fire Departments that consist of Roanoke Wildwood, Gaston, Garysburg, Jackson, Lasker, Rich Square, Seaboard, Severn, Woodland, Conway and 3 EMS Squads that consist of Conway/Severn, Eastside, and Gaston.
4. Contributions in the amount of \$14,500.00 for the Fire Departments and \$30,000.00 for the EMS Squads (\$44,500.00 total) are included in the FY18-19 budget.
5. Contracts/applications were received by the June 1, 2018 deadline from the following departments requesting their designated funds:

• Roanoke Wildwood VFD	\$850
• Gaston VFD	\$850
• Garysburg VFD	\$850
• Jackson VFD	\$850
• Lasker VFD	\$850
• Rich Square VFD	\$850
• Seaboard VFD	\$850
• Severn VFD	\$3,850
• Woodland VFD	\$850
• Conway VFD	\$3,850
• Conway Severn EMS	\$10,000
• Eastside EMS	\$10,000
• Gaston EMS	\$10,000
6. The aforementioned funds are not the funds the Fire Departments receive through their Fire Service District Tax. If approved the funds will be processed for payment in October 2018.

Recommendation: I recommend the approval of these Contracts/Applications pending the Board's satisfaction with each Fire Department's/EMS Squad's performance.


Respectfully Submitted,



Ronald P Storey, Jr
Emergency Management Director

Coordination:

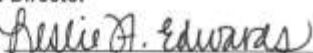
County Manager

Concur:  8/28/18

Concur with Comment: _____

Disagree: _____

Finance Director

Concur: 

Concur with Comment: _____

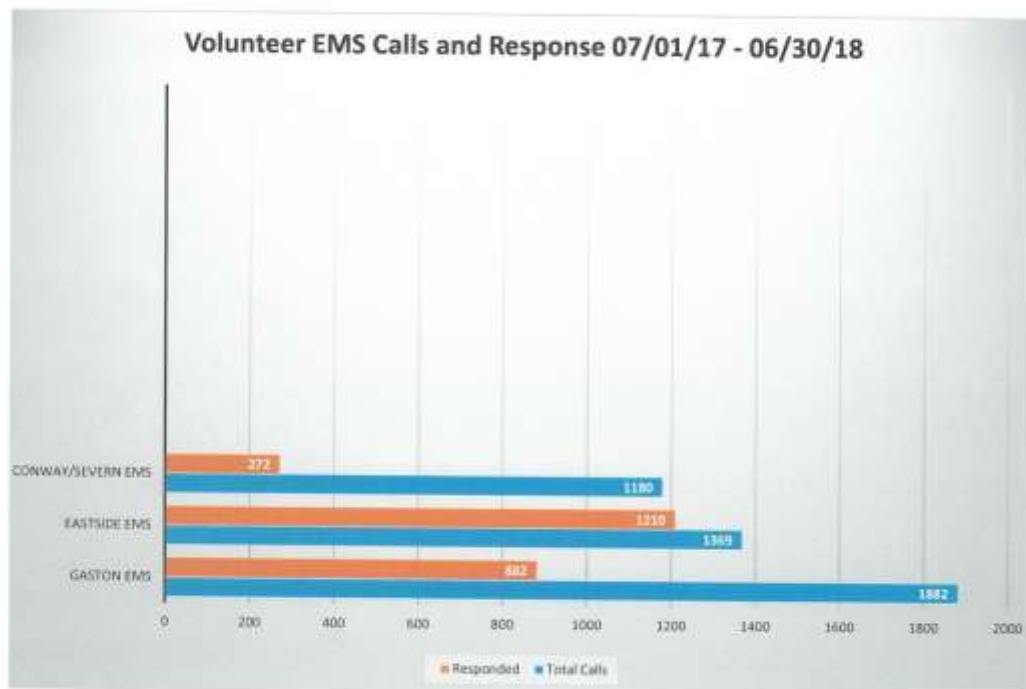
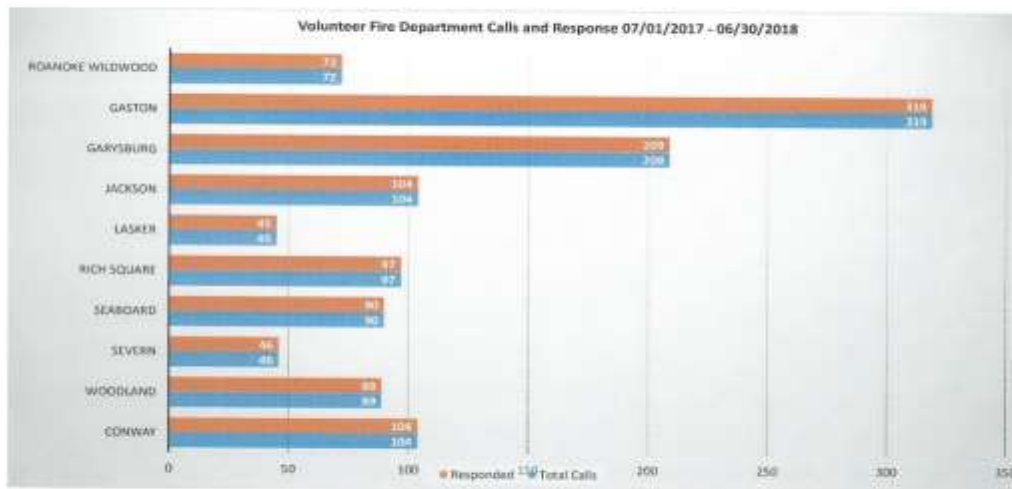
Disagree: _____

Action by the Decision Maker

Approve: _____

Disapprove: _____

Other: _____



**Application For Financial Assistance
To An Incorporated Rescue Squad
Pursuant To Resolution Adopted By The
Board of Commissioners Of Northampton County**

Application is hereby made by the Conway/Severn Incorporated Rescue Squad for financial assistance under the provisions of the aforesaid resolution for providing financial assistance to certain Rescue Squads in the County.

The Conway/Severn Incorporated Rescue Squad hereby agrees to give assistance to the residents of Northampton County located outside the incorporated town limits.

In witness whereof, the Conway/Severn Incorporated Rescue Squad has caused this application to be duly executed in its name and by the undersigned officers.

ATTEST:

Ashlyn White
Secretary

William Alan Burgess
Commander

Date: 4-11-2018

For County Use Only

The Board of Commissioners of Northampton County, in accordance with the provisions of the aforesaid resolution and on the basis of the Rescue Squad's past record, hereby approves the application of the Conway/Severn Incorporated Rescue Squad for financial assistance which shall begin on July 1, 2018.

ATTEST:

Clerk to the Board

Chairperson

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Leslie A. Edwards
Finance Officer

Vendor # 1249
Code # 114371 - 560100
Amount \$ _____
Approval _____

**Application For Financial Assistance
To An Incorporated Rescue Squad
Pursuant To Resolution Adopted By The
Board of Commissioners Of Northampton County**

Application is hereby made by the Eastside Incorporated Rescue Squad for financial assistance under the provisions of the aforesaid resolution for providing financial assistance to certain Rescue Squads in the County.

The Eastside Incorporated Rescue Squad hereby agrees to give assistance to the residents of Northampton County located outside the incorporated town limits.

In witness whereof, the Eastside Incorporated Rescue Squad has caused this application to be duly executed in its name and by the undersigned officers.

ATTEST:

Dwain E. White
Secretary

D. Joyner
Commander

Date: 4/6/18

For County Use Only

The Board of Commissioners of Northampton County, in accordance with the provisions of the aforesaid resolution and on the basis of the Rescue Squad's past record, hereby approves the application of the Eastside Incorporated Rescue Squad for financial assistance which shall begin on July 1, 2018.

ATTEST:

Clerk to the Board

Chairperson

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Leslie A. Edwards
Finance Officer

Vendor # 17444
Code # 114371 - 561100
Amount \$ _____
Approval _____

**Application For Financial Assistance
To An Incorporated Rescue Squad
Pursuant To Resolution Adopted By The
Board of Commissioners Of Northampton County**

Application is hereby made by the Gaston Incorporated Rescue Squad for financial assistance under the provisions of the aforesaid resolution for providing financial assistance to certain Rescue Squads in the County.

The Gaston Incorporated Rescue Squad hereby agrees to give assistance to the residents of Northampton County located outside the incorporated town limits.

In witness whereof, the Gaston Incorporated Rescue Squad has caused this application to be duly executed in its name and by the undersigned officers.

ATTEST:

Cordy Deaton
Secretary

Edgar A. Pate III
Commander

Date: 4-12-18

For County Use Only

The Board of Commissioners of Northampton County, in accordance with the provisions of the aforesaid resolution and on the basis of the Rescue Squad's past record, hereby approves the application of the Gaston Incorporated Rescue Squad for financial assistance which shall begin on July 1, 2018.

ATTEST:

Clerk to the Board

Chairperson

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Leslie A. Edwards
Finance Officer

Vendor # 2542
Code # 114371 - 560500
Amount \$ _____
Approval _____

**Contract For County Fire Service
From Incorporated Department**

North Carolina
Northampton County

This Contract, made and entered into this the 1st day of July, 2018 by and between the County of Northampton, herein called the County, and the Roanoke Wildwood Fire Department, hereinafter called the Department.

Witnesseth:

That for and in consideration of the mutual covenants hereinafter contained, and pursuant to authority granted by G.S. 153A-233, do hereby covenant and agree as follows:

1. The Department agrees to furnish and provide continuing fire protection service to property within its Service Area by dispatching upon call of any resident or property owner within the said Service Area equipment consisting of One Tender and one Engine and adequate personnel to operate same.
2. The County agrees to make a contribution to the Department in the amount of \$850 annually.
3. This Contract may be terminated by either party at the end of any fiscal year by giving 180 days written notice of its intent to so terminate to the other party by registered or certified mail.

In witness whereof the County of Northampton has caused these presents to be signed in its name by its Chairman and attested by its Clerk and Roanoke Wildwood Rural Fire Department has caused these presents to be signed in its name by its President and attested by its Secretary.

This the _____ day of _____, 20____.

ATTEST:

Clerk to the Board

Chairperson, Board of Commissioners

This the _____ day of _____, 20____.

ATTEST:

Angela M. Lewis
Secretary

Bill H. Hunsley
President, Roanoke Wildwood Fire Dept.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Leslie A. Edwards
Finance Officer

Vendor # 1246

Code # 114340 - 569310

Amount \$ _____

Approval _____

**Contract For County Fire Service
From Incorporated Department**

North Carolina
Northampton County

This Contract, made and entered into this the 1st day of July, 2018 by and between the County of Northampton, herein called the County, and the Gaston Fire Department, hereinafter called the Department.

Witnesseth:

That for and in consideration of the mutual covenants hereinafter contained, and pursuant to authority granted by G.S. 153A-233, do hereby covenant and agree as follows:

1. The Department agrees to furnish and provide continuing fire protection service to property within its Service Area by dispatching upon call of any resident or property owner within the said Service Area equipment consisting of TRUCKS and adequate personnel to operate same.
2. The County agrees to make a contribution to the Department in the amount of \$850 annually.
3. This Contract may be terminated by either party at the end of any fiscal year by giving 180 days written notice of its intent to so terminate to the other party by registered or certified mail.

In witness whereof the County of Northampton has caused these presents to be signed in its name by its Chairman and attested by its Clerk and Gaston Rural Fire Department has caused these presents to be signed in its name by its President and attested by its Secretary.

This the _____ day of _____, 20____.

ATTEST:

Clerk to the Board

Chairperson, Board of Commissioners

This the _____ day of _____, 20____.

ATTEST:

Candis Deaton
Secretary

Bob [Signature]
President, Gaston Fire Dept.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Leslie A. Edwards
Finance Officer

Vendor # 1241
Code # 114340 - 569305
Amount \$ _____
Approval _____

**Contract For County Fire Service
From Incorporated Department**

North Carolina
Northampton County

This Contract, made and entered into this the 1st day of July, 2018 by and between the County of Northampton, herein called the County, and the Garvsburg Fire Department, hereinafter called the Department.

Witnesseth:

That for and in consideration of the mutual covenants hereinafter contained, and pursuant to authority granted by G.S. 153A-233, do hereby covenant and agree as follows:

1. The Department agrees to furnish and provide continuing fire protection service to property within its Service Area by dispatching upon call of any resident or property owner within the said Service Area equipment consisting of Pumper + Tanker and adequate personnel to operate same.
2. The County agrees to make a contribution to the Department in the amount of \$850 annually.
3. This Contract may be terminated by either party at the end of any fiscal year by giving 180 days written notice of its intent to so terminate to the other party by registered or certified mail.

In witness whereof the County of Northampton has caused these presents to be signed in its name by its Chairman and attested by its Clerk and Garvsburg Rural Fire Department has caused these presents to be signed in its name by its President and attested by its Secretary.

This the _____ day of _____, 20____.

ATTEST:

Clerk to the Board

Chairperson, Board of Commissioners

This the 2nd day of May, 2018.

ATTEST:

Lola Aushy
Secretary

Hamilton, David
President, Garvsburg Fire Dept.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Bessie A. Edwards
Finance Officer

Vendor # 1245
Code # 114340-569309
Amount \$ _____
Approval _____

**Contract For County Fire Service
From Incorporated Department**

North Carolina
Northampton County

This Contract, made and entered into this the 1st day of July, 2018 by and between the County of Northampton, herein called the County, and the Jackson Fire Department, hereinafter called the Department.

Witnesseth:

That for and in consideration of the mutual covenants hereinafter contained, and pursuant to authority granted by G.S. 153A-233, do hereby covenant and agree as follows:

1. The Department agrees to furnish and provide continuing fire protection service to property within its Service Area by dispatching upon call of any resident or property owner within the said Service Area equipment consisting of _____ and adequate personnel to operate same.
2. The County agrees to make a contribution to the Department in the amount of \$850 annually.
3. This Contract may be terminated by either party at the end of any fiscal year by giving 180 days written notice of its intent to so terminate to the other party by registered or certified mail.

In witness whereof the County of Northampton has caused these presents to be signed in its name by its Chairman and attested by its Clerk and Jackson Rural Fire Department has caused these presents to be signed in its name by its President and attested by its Secretary.

This the _____ day of _____, 20____.

ATTEST:

Clerk to the Board

Chairperson, Board of Commissioners

This the _____ day of _____, 20____.

ATTEST:

Mary Hobbs
Secretary

James H. Brown
President, Jackson Fire Dept.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Dodie A. Edwards
Finance Officer

Vendor # 1243
Code # 114340-569307
Amount \$ _____
Approval _____

**Contract For County Fire Service
From Incorporated Department**

North Carolina
Northampton County

This Contract, made and entered into this the 1st day of July, 2018 by and between the County of Northampton, herein called the County, and the Lasker Fire Department, hereinafter called the Department.

Witnesseth:

That for and in consideration of the mutual covenants hereinafter contained, and pursuant to authority granted by G.S. 153A-233, do hereby covenant and agree as follows:

1. The Department agrees to furnish and provide continuing fire protection service to property within its Service Area by dispatching upon call of any resident or property owner within the said Service Area equipment consisting of Engine, Tanker & Serv. Vehicle and adequate personnel to operate same.
2. The County agrees to make a contribution to the Department in the amount of \$850 annually.
3. This Contract may be terminated by either party at the end of any fiscal year by giving 180 days written notice of its intent to so terminate to the other party by registered or certified mail.

In witness whereof the County of Northampton has caused these presents to be signed in its name by its Chairman and attested by its Clerk and Lasker Rural Fire Department has caused these presents to be signed in its name by its President and attested by its Secretary.

This the _____ day of _____, 20____.

ATTEST:

Clerk to the Board

Chairperson, Board of Commissioners

This the _____ day of _____, 20____.

ATTEST:

Carolyn Outland
Secretary

Michael Sumner
President, Lasker Fire Dept.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Rebecca Edwards
Finance Officer

Vendor # 1244
Code # 114340-569308
Amount \$ _____
Approval _____

**Contract For County Fire Service
From Incorporated Department**

North Carolina
Northampton County

This Contract, made and entered into this the 1st day of July, 2018 by and between the County of Northampton, herein called the County, and the **Rich Square** Fire Department, hereinafter called the Department.

Witnesseth:

That for and in consideration of the mutual covenants hereinafter contained, and pursuant to authority granted by G.S. 153A-233, do hereby covenant and agree as follows:

1. The Department agrees to furnish and provide continuing fire protection service to property within its Service Area by dispatching upon call of any resident or property owner within the said Service Area equipment consisting of Tanker/Pumper and adequate personnel to operate same.
2. The County agrees to make a contribution to the Department in the amount of **\$850** annually.
3. This Contract may be terminated by either party at the end of any fiscal year by giving 180 days written notice of its intent to so terminate to the other party by registered or certified mail.

In witness whereof the County of Northampton has caused these presents to be signed in its name by its Chairman and attested by its Clerk and **Rich Square** Rural Fire Department has caused these presents to be signed in its name by its President and attested by its Secretary.

This the _____ day of _____, 20____.

ATTEST:

Clerk to the Board Chairperson, Board of Commissioners

This the _____ day of _____, 20____.

ATTEST:

William T. Rhin [Signature]
Secretary President, **Rich Square** Fire Dept.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Leslie A. Edwards
Finance Officer

Vendor # 1237
Code # 114340-569301
Amount \$ _____
Approval _____

**Contract For County Fire Service
From Incorporated Department**

North Carolina
Northampton County

This Contract, made and entered into this the 1st day of July, 2018 by and between the County of Northampton, herein called the County, and the Seaboard Fire Department, hereinafter called the Department.

Witnesseth:

That for and in consideration of the mutual covenants hereinafter contained, and pursuant to authority granted by G.S. 153A-233, do hereby covenant and agree as follows:

1. The Department agrees to furnish and provide continuing fire protection service to property within its Service Area by dispatching upon call of any resident or property owner within the said Service Area equipment consisting of all available equipment and adequate personnel to operate same.
2. The County agrees to make a contribution to the Department in the amount of \$850 annually.
3. This Contract may be terminated by either party at the end of any fiscal year by giving 180 days written notice of its intent to so terminate to the other party by registered or certified mail.

In witness whereof the County of Northampton has caused these presents to be signed in its name by its Chairman and attested by its Clerk and Seaboard Rural Fire Department has caused these presents to be signed in its name by its President and attested by its Secretary.

This the _____ day of _____, 20____.

ATTEST:

Clerk to the Board

Chairperson, Board of Commissioners

This the _____ day of _____, 20____.

ATTEST:

William B. Lockhart Jr. John T. Smith
Asst. Secretary President, Seaboard Fire Dept.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Leslie A. Edwards
Finance Officer

Vendor # 1238
Code # 114340-569302
Amount \$ _____
Approval _____

**Contract For County Fire Service
From Incorporated Department**

North Carolina
Northampton County

This Contract, made and entered into this the 1st day of July, 2018 by and between the County of Northampton, herein called the County, and the Severn Fire Department, hereinafter called the Department.

Witnesseth:

That for and in consideration of the mutual covenants hereinafter contained, and pursuant to authority granted by G.S. 153A-233, do hereby covenant and agree as follows:

1. The Department agrees to furnish and provide continuing fire protection service to property within its Service Area by dispatching upon call of any resident or property owner within the said Service Area equipment consisting of 1 Pumper / 1 Tanker & 2nd Pumper and adequate personnel to operate same.
2. The County agrees to make a contribution to the Department in the amount of \$3,850 annually.
3. This Contract may be terminated by either party at the end of any fiscal year by giving 180 days written notice of its intent to so terminate to the other party by registered or certified mail.

In witness whereof the County of Northampton has caused these presents to be signed in its name by its Chairman and attested by its Clerk and Severn Rural Fire Department has caused these presents to be signed in its name by its President and attested by its Secretary.

This the _____ day of _____, 20____.

ATTEST:

Clerk to the Board

Chairperson, Board of Commissioners

This the 7th day of May, 2018.

ATTEST:

Lucas Taylor
Secretary

Dennis Woodard
President, Severn Fire Dept.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Bealie A. Edwards
Finance Officer

Vendor # 1242
Code # 114340-569306
Amount \$ _____
Approval _____

**Contract For County Fire Service
From Incorporated Department**

North Carolina
Northampton County

This Contract, made and entered into this the 1st day of July, 2018 by and between the County of Northampton, herein called the County, and the Woodland Fire Department, hereinafter called the Department.

Witnesseth:

That for and in consideration of the mutual covenants hereinafter contained, and pursuant to authority granted by G.S. 153A-233, do hereby covenant and agree as follows:

1. The Department agrees to furnish and provide continuing fire protection service to property within its Service Area by dispatching upon call of any resident or property owner within the said Service Area equipment consisting of _____ and adequate personnel to operate same.
2. The County agrees to make a contribution to the Department in the amount of \$850 annually.
3. This Contract may be terminated by either party at the end of any fiscal year by giving 180 days written notice of its intent to so terminate to the other party by registered or certified mail.

In witness whereof the County of Northampton has caused these presents to be signed in its name by its Chairman and attested by its Clerk and Woodland Rural Fire Department has caused these presents to be signed in its name by its President and attested by its Secretary.

This the _____ day of _____, 20____.

ATTEST:

Clerk to the Board

Chairperson, Board of Commissioners

This the _____ day of _____, 20____.

ATTEST:

Michael B. Brundage
Secretary

[Signature]
President, Woodland Fire Dept.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Rellie A. Edwards
Finance Officer

Vendor # 1240
Code # 114340-569304
Amount \$ _____
Approval _____

**Contract For County Fire Service
From Incorporated Department**

North Carolina
Northampton County

This Contract, made and entered into this the 1st day of July, 2018 by and between the County of Northampton, herein called the County, and the Conway Fire Department, hereinafter called the Department.

Witnesseth:

That for and in consideration of the mutual covenants hereinafter contained, and pursuant to authority granted by G.S. 153A-233, do hereby covenant and agree as follows:

1. The Department agrees to furnish and provide continuing fire protection service to property within its Service Area by dispatching upon call of any resident or property owner within the said Service Area equipment consisting of Pumper / Tanker and adequate personnel to operate same.
2. The County agrees to make a contribution to the Department in the amount of \$3,850 annually.
3. This Contract may be terminated by either party at the end of any fiscal year by giving 180 days written notice of its intent to so terminate to the other party by registered or certified mail.

In witness whereof the County of Northampton has caused these presents to be signed in its name by its Chairman and attested by its Clerk and Conway Rural Fire Department has caused these presents to be signed in its name by its President and attested by its Secretary.

This the _____ day of _____, 20 18.

ATTEST:

Clerk to the Board

Chairperson, Board of Commissioners

This the _____ day of _____, 20 _____.

ATTEST:

Brandi M. Bald
Secretary

Dennis J. Jarr
President, Conway Fire Dept.

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Leslie A. Edwards
Finance Officer

Vendor # 1239
Code # 114340-569303
Amount \$ _____
Approval _____

Interim Healthcare-Morris Group:

Mrs. Sheila Evans, DSS Director, appeared before the Board to obtain approval of a contract for Interim Healthcare-Morris Group, Inc. to become one of their providers to provide Level III services to the elderly citizens of Northampton County.

A motion was made by Geneva Faulkner and seconded by Chester Deloatch to approve the contract for Interim Healthcare-Morris Group, Inc. **Question Called:** *All present voting yes.*
Motion carried.

**PLEASE SEE SCANNED DOCUMENTS WHICH ARE
HEREBY MADE A PART OF THESE MINUTES:**



STRIVING TO HELP IMPROVE
THE WELL-BEING OF OUR CITIZENS

NORTHAMPTON COUNTY DEPARTMENT OF SOCIAL SERVICES

P.O. BOX 157
JACKSON, NORTH CAROLINA 27845
(252) 534-5811
(252) 534-0061 Facsimile



SHELIA MANLEY EVANS
DIRECTOR

DECISION PAPER

TO: Kimberly Turner, County Manager
FROM: Shelia Manley-Evans, Director
RE: Request approval of a provider
DATE: 8/13/18

PURPOSE: To seek your approval for Interim Healthcare-Morris Group, Inc. to become one of our providers to provide services to the elderly in Northampton County.

FACTS:

- This provider is the only one in our area that has ALL CNA's meaning they serve clients in their homes at the highest level.
- Northampton County DSS has clients that are waiting and dropping due to the need of CNA's in this area.
- CNA's Level III can provide more than two tasks for clients, such as housekeeping grooming, toileting, bathing and dressing.
- Level I providers can only provide cooking, laundry etc.
- Level II personal care, bathing on two tasks.
- It depends, some clients can assist themselves, but we have a waiting list for level III services we cannot provide at this time.

Finance Officer:

Concur Reshelle A. Edwards
Concur with Comment _____

Non-concur _____

County Manager:

Concur Kimberly Turner
Concur with Comment _____ 8/28/18

Non-concur _____

HR Director:

Concur _____
Concur with Comment _____

Non-concur _____

NORTHAMPTON COUNTY		CONTRACT/VENDOR	
CONTRACT		INTERIM HEALTHCARE-MORRIS GROUP, INC.	
CONTROL SHEET	0	Address	2526 Ward Boulevard Wilson, NC 27896
VENDOR #		Contact	Lisa Zube Regional Director
		1	Originals 2 Copies
CONTRACT #	N66101	Amount \$	Level I, II & III Care \$14.00/hr
New Contract	Yes		
Renewal	No	Date originally approved by the Board of Commissioners	
Cost or Material Changes	No		
Original Contract sent to Contract Administrator		Date:	
Originating Department/Individual:	Rhonda Taylor	Item or Service:	Provider Services
Department Involved:	Adult Protective Services	Type of Contract:	Contracted PTE
Line Item Budgeted:	Chore/State In-Hme Chore/Region L	Period of Coverage:	July 1, 2018 through June 30, 2019
GRANTS			
Board approval for Application	Approved	Set	Verified
Board approval for Acceptance	Approved	Set	Verified
COUNTY ATTORNEY	Date Received:	Date Approved:	7/25/2018
Approved as to Form: Yes	Approved as to Legal Sufficiency: Yes		
Revisions Necessary? Yes	Board Action Necessary? Yes		
Date Revisions were made?	7/25, by attorney	s/ Scott McKellar	
FINANCE RHE	Date Received: 08/14/18	Date Audited	08/14/18
Non encumbered contract	Yes	No	
ASSISTANT COUNTY MANAGER	Date Received	Date Approved:	
COUNTY MANAGER Kf2	Date Received 8/28/18	Date Approved:	8/28/18
BOARD OF COMMISSIONERS	CLERK TO THE BOARD		
Date approved by Board	Date Received	Date Attested:	
CONTRACT ADMINISTRATOR			
Attorney	Finance	Asst Cty Mgr	Cty Mgr Clerk
Outside Agency Signatures:	Date Sent :	Date received:	
Copies Delivered to Appropriate Departments:	ORIGINATING FINANCE		
Original to Outside Agency: (Departments to deliver)	Date:		
File County Original / Add to Database:	Date:		
NOTES:			
_____ copies sent to originating department with instruction to obtain signatures and return 1 executed original to Legal _____ copies sent to originating departments with note to forward to vendor			
PROBLEMS:			
Corrective Action:		Date:	
		Initial:	

Contract # N66201 Fiscal Year Begins 07/01/2018 Ends 06/30/2019

This contract is hereby entered into by and between Northampton County, a North Carolina body politic and corporate, by its department, Northampton County Department of Social Services (the "County") and **Interim HealthCare-Morris Group, Inc.** (the "Contractor") (referred to collectively as the "Parties"). The Contractor's federal tax identification number or Social Security Number is **56-1616962**.

- 1. Contract Documents:** This Contract consists of the following documents:
- (1) This contract
 - (2) The General Terms and Conditions (Attachment A)
 - (3) The Scope of Work, description of services, and rate (Attachment B)
 - (4) Federal Certification Regarding Drug-Free Workplace & Certification Regarding Nondiscrimination (Attachment C)
 - (5) Conflict of Interest (Attachment D)
 - (6) No Overdue Taxes (Attachment E)
 - (7) Federal Certification Regarding Environmental Tobacco Smoke (Attachment F)
 - (8) Federal Certification Regarding Lobbying (Attachment G)
 - (9) Federal Certification Regarding Debarment (Attachment H)
 - (10) *If applicable*, HIPAA Business Associate Addendum (checklist and forms)
 - (11) Certification of Transportation (Attachment J)
 - (12) *If applicable*, IRS federal tax exempt letter or 501 (c)(3)(Attachment K) <http://www.irs.gov/pub/irs-fill/k1023.pdf>
 - (13) Certain Reporting and Auditing Requirements (Attachment L)
 - (14) State Certification (Attachment M)
 - (15) Contract Determination Questionnaire (required)

These documents constitute the entire agreement between the Parties and supersede all prior oral or written statements or agreements.

- 2. Precedence among Contract Documents:** In the event of a conflict between or among the terms of the Contract Documents, the terms in the Contract Document with the highest relative precedence shall prevail. The order of precedence shall be the order of documents as listed in Paragraph 1, above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence. If there are multiple Contract Amendments, the most recent amendment shall have the highest precedence and the oldest amendment shall have the lowest precedence.
- 3. Effective Period:** This contract shall be effective on **07/01/2018** and shall terminate on **06/30/2019**. This contract must be twelve months or less.
- 4. Contractor's Duties:** The Contractor shall provide the services and in accordance with the approved rate as described in Attachment B, Scope of Work.
- 5. County's Duties:** The County shall pay the Contractor in the manner and in the amounts specified in the Contract Documents.

X a. There are no matching requirements from the Contractor.

- ☐ b. The Contractor's matching requirement is \$ _____, which shall consist of:
- | | |
|---|--|
| <input type="checkbox"/> In-kind | <input type="checkbox"/> Cash |
| <input type="checkbox"/> Cash and In-kind | <input type="checkbox"/> Cash and/or In-kind |

The contributions from the Contractor shall be sourced from non-federal funds.
The total contract amount including any Contractor match shall not exceed \$ _____

- 6. Reversion of Funds:**
Any unexpended grant funds shall revert to the County Department of Social Services/Human Services upon termination of this contract.

7. Reporting Requirements:

Contractor shall comply with audit requirements as described in N.C.G.S. § 143C-6-22 & 23 and OMB Circular- CFR Title 2 Grants and Agreements, Part 200, and shall disclose all information required by 42 USC 455.104, or 42 USC 455.105, or 42 USC 455.106.

8. Payment Provisions:

Payment shall be made in accordance with the Contract Documents as described in the Scope of Work, Attachment B.

- 9. Contract Administrators:** All notices permitted or required to be given by one Party to the other and all questions about the contract from one Party to the other shall be addressed and delivered to the other Party's Contract Administrator. The name, post office address, street address, telephone number, fax number, and email address of the Parties' respective initial Contract Administrators are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Contract Administrator by giving timely written notice to the other Party.

For the County:

IF DELIVERED BY US POSTAL SERVICE		IF DELIVERED BY ANY OTHER MEANS	
Name & Title	Shelia Manley-Evans, Director	Name & Title	Shelia Manley-Evans, Director
County	Northampton	County	Northampton
Mailing Address	P.O. Box 157	Street Address	9588 NC 305 Hwy
City, State, Zip	Jackson, NC 27845	City, State, Zip	Jackson, NC 27845
Telephone	252-534-1983		
Fax	252-534-0061		
Email	shelia.evans@nhcnc.net		

For the Contractor:

IF DELIVERED BY US POSTAL SERVICE		IF DELIVERED BY ANY OTHER MEANS	
Name & Title	Lisa Zube, Regional Director	Name & Title	Lisa Zube, Regional Director
Company Name	Interim HealthCare-Morris Group, Inc	Company Name	Interim HealthCare-Morris Group, Inc
Mailing Address	2526 Ward Boulevard	Street Address	2526 Ward Boulevard
City State Zip	Wilson, NC 27893	City State Zip	Wilson, NC 27893
Telephone	252-443-7222		
Fax	252-243-7385		
Email			

10. Supplementation of Expenditure of Public Funds:

The Contractor assures that funds received pursuant to this contract shall be used only to supplement, not to supplant, the total amount of federal, state and local public funds that the Contractor otherwise expends for contract services and related programs. Funds received under this contract shall be used to provide additional public funding for such services; the funds shall not be used to reduce the Contractor's total expenditure of other public funds for such services.

11. Disbursements:

As a condition of this contract, the Contractor acknowledges and agrees to make disbursements in accordance with the following requirements:

- (a) Implement adequate internal controls over disbursements;
- (b) Pre-audit all vouchers presented for payment to determine:
 - Validity and accuracy of payment
 - Payment due date
 - Adequacy of documentation supporting payment
 - Legality of disbursement
- (c) Assure adequate control of signature stamps/plates;
- (d) Assure adequate control of negotiable instruments; and
- (e) Implement procedures to insure that account balance is solvent and reconcile the account monthly.

12. Outsourcing to Other Countries:

The Contractor certifies that it has identified to the County all jobs related to the contract that have been outsourced to other countries, if any. The Contractor further agrees that it will not outsource any such jobs during the term of this contract without providing notice to the County.

13. Federal Certifications:

Individuals and Organizations receiving federal funds must ensure compliance with certain certifications required by federal laws and regulations. The contractor is hereby complying with Certifications regarding Nondiscrimination, Drug-Free Workplace Requirements, Environmental Tobacco Smoke, Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions, and Lobbying. These assurances and certifications are to be signed by the contractor's authorized representative.

14. Specific Language Not Previously Addressed:

(can be deleted if not needed)

15. Signature Warranty: The undersigned represent and warrant that they are authorized to bind their principals to the terms of this agreement.

The Contractor and the County have executed this contract in duplicate originals, with one original being retained by each party.

CONTRACTOR:

Lisa M Zube
Signature Lisa Zube

8/22/18
Date

Lisa M Zube
Printed Name Lisa Zube

Regional Director
Title

COUNTY:

Signature Robert V. Carter

Date

Printed Name Robert V. Carter

Chair, Northampton County Board of Commissioners
Title

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Bessie A. Edwards
Signature of County Finance Officer

8/14/18
Date

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Attachment A
General Terms and Conditions

Relationships of the Parties

Independent Contractor: The Contractor is and shall be deemed to be an independent contractor in the performance of this contract and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Contractor represents that it has, or shall secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual contractual relationship with the County.

Subcontracting: The Contractor shall not subcontract any of the work contemplated under this contract without prior written approval from the County. Any approved subcontract shall be subject to all conditions of this contract. Only the subcontractors specified in the contract documents are to be considered approved upon award of the contract. The County shall not be obligated to pay for any work performed by any unapproved subcontractor. The Contractor shall be responsible for the performance of all of its subcontractors.

Assignment: No assignment of the Contractor's obligations or the Contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority, the County may:

- (a) Forward the Contractor's payment check(s) directly to any person or entity designated by the Contractor, or
- (b) Include any person or entity designated by Contractor as a joint payee on the Contractor's payment check(s).

In no event shall such approval and action obligate the County to anyone other than the Contractor and the Contractor shall remain responsible for fulfillment of all contract obligations.

Beneficiaries: Except as herein specifically provided otherwise, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors. It is expressly understood and agreed that the enforcement of the terms and conditions of this contract, and all rights of action relating to such enforcement, shall be strictly reserved to the County and the named Contractor. Nothing contained in this document shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the County and Contractor that any such person or entity, other than the County or the Contractor, receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

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Indemnity and Insurance

Indemnification: The Contractor agrees to indemnify and hold harmless the County and any of their officers, agents and employees, from any claims of third parties arising out of or any act or omission of the Contractor in connection with the performance of this contract.

Insurance: During the term of the contract, the Contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the Contractor shall provide and maintain the following coverage and limits:

(a) **Worker's Compensation** - The contractor shall provide and maintain Worker's Compensation Insurance as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Contractor's employees who are engaged in any work under the contract. If any work is sublet, the Contractor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the contract.

(b) **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)

(c) **Automobile Liability Insurance:** The Contractor shall provide automobile liability insurance with a combined single limit of \$500,000.00 for bodily injury and property damage; a limit of \$500,000.00 for uninsured/under insured motorist coverage; and a limit of \$2,000.00 for medical payment coverage. The Contractor shall provide this insurance for all automobiles that are:

- (a) owned by the Contractor and used in the performance of this contract;
- (b) hired by the Contractor and used in the performance of this contract; and
- (c) Owned by Contractor's employees and used in performance of this contract ("non-owned vehicle insurance"). Non-owned vehicle insurance protects employers when employees use their personal vehicles for work purposes. Non-owned vehicle insurance supplements, but does not replace, the car-owner's liability insurance.

The Contractor is not required to provide and maintain automobile liability insurance

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on any vehicle – owned, hired, or non-owned -- unless the vehicle is used in the performance of this contract.

- (d) The insurance coverage minimums specified in subparagraph (a) are exclusive of defense costs.
- (e) The Contractor understands and agrees that the insurance coverage minimums specified in subparagraph (a) are not limits, or caps, on the Contractor's liability or obligations under this contract.
- (f) The Contractor may obtain a waiver of any one or more of the requirements in subparagraph (a) by demonstrating that it has insurance that provides protection that is equal to or greater than the coverage and limits specified in subparagraph (a). The County shall be the sole judge of whether such a waiver should be granted.
- (g) The Contractor may obtain a waiver of any one or more of the requirements in paragraph (a) by demonstrating that it is self-insured and that its self-insurance provides protection that is equal to or greater than the coverage and limits specified in subparagraph (a). The County shall be the sole judge of whether such a waiver should be granted.
- (h) Providing and maintaining the types and amounts of insurance or self-insurance specified in this paragraph is a material obligation of the Contractor and is of the essence of this contract.
- (i) The Contractor shall only obtain insurance from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in the State of North Carolina. All such insurance shall meet all laws of the State of North Carolina.
- (j) The Contractor shall comply at all times with all lawful terms and conditions of its insurance policies and all lawful requirements of its insurer.
- (k) The Contractor shall require its subcontractors to comply with the requirements of this paragraph.
- (l) The Contractor shall demonstrate its compliance with the requirements of this paragraph by submitting certificates of insurance to the County before the Contractor begins work under this contract.

Transportation of Clients by Contractor:

The contractor will maintain Insurance requirements if required as noted under Article 7 Rule R2-36 of the North Carolina Utilities Commission.

Default and Termination

Termination Without Cause: The County may terminate this contract without cause by giving 30 days written notice to the Contractor.

Termination for Cause: If, through any cause, the Contractor shall fail to fulfill its obligations under this contract in a timely and proper manner, the County shall have the right to terminate this contract by giving written

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notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items prepared by the Contractor under this contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials, minus any payment or compensation previously made. Notwithstanding the foregoing provision, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of the Contractor's breach of this agreement, and the County may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the County from such breach can be determined. In case of default by the Contractor, without limiting any other remedies for breach available to it, the County may procure the contract services from other sources and hold the Contractor responsible for any excess cost occasioned thereby. The filing of a petition for bankruptcy by the Contractor shall be an act of default under this contract.

Waiver of Default: Waiver by the County of any default or breach in compliance with the terms of this contract by the Provider shall not be deemed a waiver of any subsequent default or breach and shall not be construed to be modification of the terms of this contract unless stated to be such in writing, signed by an authorized representative of the County and the Contractor and attached to the contract.

Availability of Funds: The parties to this contract agree and understand that the payment of the sums specified in this contract is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the County.

Force Majeure: Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

Survival of Promises: All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

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Intellectual Property Rights

Copyrights and Ownership of Deliverables: All deliverable items produced pursuant to this contract are the exclusive property of the County. The Contractor shall not assert a claim of copyright or other property interest in such deliverables.

Federal Intellectual Property Bankruptcy Protection Act: The Parties agree that the County shall be entitled to all rights and benefits of the Federal Intellectual Property Bankruptcy Protection Act, Public Law 100-506, codified at 11 U.S.C. 365 (n) and any amendments thereto.

Compliance with Applicable Laws

Compliance with Laws: The Contractor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

Title VI, Civil Rights Compliance: In accordance with Federal law and U.S. Department of Agriculture (USDA) and U.S. Department of Health and Human Services (HHS) policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age or disability. Under the Food Stamp Act and USDA policy, discrimination is prohibited also on the basis of religion or political beliefs.

Equal Employment Opportunity: The Contractor shall comply with all federal and State laws relating to equal employment opportunity.

Health Insurance Portability and Accountability Act (HIPAA): The Contractor agrees that, if the County determines that some or all of the activities within the scope of this contract are subject to the Health Insurance Portability and Accountability Act of 1996, P.L. 104-91, as amended ("HIPAA"), or its implementing regulations, it will comply with the HIPAA requirements and will execute such agreements and practices as the County may require to ensure compliance.

(a) **Data Security:** The Contractor shall adopt and apply data security standards and procedures that comply with all applicable federal, state, and local laws, regulations, and rules.

(b) **Duty to Report:** The Contractor shall report a suspected or confirmed security breach to the local Department of Social Services/Human Services Contract Administrator within twenty-four (24) hours after the breach is first discovered, provided that the Contractor shall report a breach involving Social Security Administration data or Internal Revenue Service

data within one (1) hour after the breach is first discovered.

(c) **Cost Borne by Contractor:** If any applicable federal, state, or local law, regulation, or rule requires the Contractor to give written notice of a security breach to affected persons, the Contractor shall bear the cost of the notice.

Trafficking Victims Protection Act of 2000 :

The Contractor will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104)

Executive Order # 24: It is unlawful for any vendor, contractor, subcontractor or supplier of the state to make gifts or to give favors to any state employee. For additional information regarding the specific requirements and exemptions, contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Confidentiality

Confidentiality: Any information, data, instruments, documents, studies or reports given to or prepared or assembled by the Contractor under this agreement shall be kept as confidential and not divulged or made available to any individual or organization without the prior written approval of the County. The Contractor acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information it will safeguard and not further disclose the information except as otherwise provided in this contract.

Oversight

Access to Persons and Records: The State Auditor shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7. Additionally, as the State funding authority, the Department of Health and Human Services shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions.

Record Retention: Records shall not be destroyed, purged or disposed of without the express written consent of the Division. State basic records retention policy requires all grant records to be retained for a minimum of five years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to federal policy and regulations, record retention may be longer than five years since records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim,

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negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the five-year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five-year period described above, whichever is later. The record retention period for Temporary Assistance for Needy Families (TANF) and MEDICAID and Medical Assistance grants and programs must be retained for a minimum of ten years.

Warranties and Certifications

Date and Time Warranty: The Contractor warrants that the product(s) and service(s) furnished pursuant to this contract ("product" includes, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interfaces therein) that perform any date and/or time data recognition function, calculation, or sequencing will support a four digit year format and will provide accurate date/time data and leap year calculations. This warranty shall survive the termination or expiration of this contract.

Certification Regarding Collection of Taxes: G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors that meet one of the conditions of G.S. 105-164.8(b) and yet refuse to collect use taxes on sales of tangible personal property to purchasers in North Carolina. The conditions include: (a) maintenance of a retail establishment or office; (b) presence of representatives in the State that solicit sales or transact business on behalf of the vendor; and (c) systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. The Contractor certifies that it and all of its affiliates (if any) collect all required taxes.

E-Verify

Pursuant to G.S. 143-48.5 and G.S. 147-33.95(g), the undersigned hereby certifies that the Contractor named below, and the Contractor's subcontractors, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system." E-Verify System Link: www.uscis.gov

Miscellaneous

Choice of Law: The validity of this contract and any of its terms or provisions, as well as the rights and duties of the parties to this contract, are governed by the laws of North Carolina. The Contractor, by signing this contract, agrees and submits, solely for matters concerning this Contract,

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to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be the county in which the contract originated. The place of this contract and all transactions and agreements relating to it, and their situs and forum, shall be the county where the contract originated, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

Amendment: This contract may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the County and the Contractor.

Severability: In the event that a court of competent jurisdiction holds that a provision or requirement of this contract violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this contract shall remain in full force and effect.

Headings: The Section and Paragraph headings in these General Terms and Conditions are not material parts of the agreement and should not be used to construe the meaning thereof.

Time of the Essence: Time is of the essence in the performance of this contract.

Key Personnel: The Contractor shall not replace any of the key personnel assigned to the performance of this contract without the prior written approval of the County. The term "key personnel" includes any and all persons identified as such in the contract documents and any other persons subsequently identified as key personnel by the written agreement of the parties.

Care of Property: The Contractor agrees that it shall be responsible for the proper custody and care of any property furnished to it for use in connection with the performance of this contract and will reimburse the County for loss of, or damage to, such property. At the termination of this contract, the Contractor shall contact the County for instructions as to the disposition of such property and shall comply with these instructions.

Travel Expenses: Reimbursement to the Contractor for travel mileage, meals, lodging and other travel expenses incurred in the performance of this contract shall not exceed the rates established in County policy.

Sales/Use Tax Refunds: If eligible, the Contractor and all subcontractors shall: (a) ask the North Carolina Department of Revenue for a refund of all sales and use taxes paid by them in the performance of this contract, pursuant to G.S. 105-164.14; and (b) exclude all

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refundable sales and use taxes from all reportable expenditures before the expenses are entered in their reimbursement reports.

Advertising: The Contractor shall not use the award of this contract as a part of any news release or commercial advertising.

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**ATTACHMENT B – Scope of Work Federal Tax Id. or SSN 56-1616962
Contract # N66201**

A. CONTRACTOR INFORMATION

1. Contractor Agency Name: Interim HealthCare-Morris Group, Inc.
2. *If different* from Contract Administrator Information in General Contract:
Address (Same)

Telephone Number: 252-537-1500 Fax Number: Email:

3. Name of Program (s): HCCBG In Home Aide Services
4. Status: () Public () Private, Not for Profit (X) Private, For Profit
5. Contractor's Financial Reporting Year July 1, 2018 through June 30, 2019

B. Explanation of Services to be provided and to whom (include SIS Service Code):

Provision of In Home Aide Level I, Level II and Level III (041, 042 and 045) as stated in the North Carolina Service Standards.

C. Rate per unit of Service (define the unit): Unit defined as 1 hour.

1. If Standard Fixed Rate, Maximum Allowable, (See Rates for Services Chart)

2. Negotiated County Rate.

Level I, II & III \$14.00 per hour

D. Number of units to be provided: Service hours per client per month will vary according to each of the client's needs.

E. Detail of Billing process and Time Frames: Interim Healthcare-Morris Group, Inc. is responsible for payment of hours worked by the in-home aide. Invoices should be submitted on a monthly basis. Invoices are paid by County Manager's office on the 10th and 25th of each month, depending upon the date invoices received in-house. All invoices should be submitted to DSS by the 5th of each month. Northampton County DSS will reimburse the Interim Healthcare-Morris Group, Inc. for services delivered as authorized. In-Home Aide services are subject to the North Carolina Wage and Hour Act. Northampton County DSS will monitor Interim Healthcare-Morris Group, Inc. contracts to assure the conditions of the contract on an annual basis or as needed.

F. Area to be served/Delivery site(s): Northampton County

In-Home Aide services means the provision of care for persons or assistance to persons
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performing home management and/or personal care tasks that are essential to activities daily living. Such tasks are performed to enable individuals to remain in their own homes when they are unable to carry out these activities for themselves and when no responsible person is available for these tasks.

It is the full responsibility of Interim Healthcare-Morris Group, Inc. to hire qualified in home aides to deliver the contracted services.

Persons who are hired must be:

- Non-relatives who are age 18 and over and who are qualified to perform the tasks needed by the client or relative of the client (parents, spouse, child or sibling) age 18 and over who gives up employment or the opportunity for employment in order to perform the services and who are qualified to perform the tasks needed by the client.
- Aides who work with clients whose service is paid for with Home and Community Care Block Grant (HCCBG), Social Service Block Grant (SSBG), or State In-Home funds must have demonstrated competence for the tasks they have been assigned to perform. The files maintained by the employing agency should have written documentation of each aide's competency to perform assigned tasks.
- Aides who perform tasks at Level III Personal Care must be registered as Nurse Aide I (NA I) and listed on the register maintained by the NC Division of Health Services Regulation (DHSR).
-
- Aides who perform tasks that would require them to be NA IIs must have documentation that they were competency tested to perform the tasks and were approved by the NC State Board of Nursing to perform the tasks.

Supervision and evaluation of the in-home aide is the responsibility of the Interim Healthcare-Morris Group, Inc. and must, at a minimum, comply with requirements for the In-Home Aide Levels being provided. Northeastern Home Care is required to ensure that the in-home aides have received sufficient training in the level of tasks to be performed before they are allowed to work independently. All Aides must have the Task Competency demonstrated, dated and filed in the Agency's staff charts. All Level III Clients must have a CNA working with them. The In-Home Aide Provider Agency must keep individual staffing charts with the date of employment, the dates of the 1st months Supervisor home visit, documentation of any other Supervisory visits as needed between the Quarterly Reviews. Documentation of a home visit or telephone call within the 1st week of each new Aide assignment needs to be in the file. Documentation of Quarterly visits for Level I and Level II Clients, and Supervisory Visits every 60 days for Level III Clients is needed in the file. There must be documentation of monthly contact for Level II and Level III Clients in the file. All Supervisory visits and aide competency testing must be conducted by the Agency's Nurse.

Interim Healthcare-Morris Group, Inc. will provide documentation of aide supervision and competency testing to (Agency) annually as part of routine contract monitoring.

Interim Healthcare-Morris Group, Inc. will establish and maintain a client record to include, assessment of client's needs, In-Home Aide service plan, signed copy of Client Bill of Rights and authorization for services.

Assessments/ Reassessments for Level II and Level III Clients will be completed and signed by the In-Home Aide Agency's Nurse and the Adult Services Social Worker. Client or family member will sign a form or the Assessment /Reassessment to show that it was conducted in the home.

Quarterly Reviews will be conducted every quarter except when a Reassessment is due. When a reassessment is completed, this will count as the quarterly review. Service Plans will be completed and signed by the In-Home

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Aide Agency's RN and the Adult Services Social Worker. Client or family member will sign the Service Plan as well. All changes in tasks will be documented and dated on the Service Plan.


Northampton County DSS will provide on-going social work case management including client assessments and evaluation for continuing eligibility. Face to face visits with the client will be made at a minimum on a quarterly basis by the Northampton County DSS social worker.

Interim Healthcare-Morris Group, Inc. and Northampton County DSS representatives will confer monthly or as needed regarding services, delivery, or problems if applicable. Northampton County DSS will provide each client or their representative with the name and phone number of their assigned In-Home Aide services social worker and supervisor to have available in case they have any questions or problems. Interim Healthcare-Morris Group, Inc. must be aware of and agree to abide by applicable confidentiality guidelines and civil rights compliance.

Assessments/Reassessments for Level II and Level III Clients will be completed and signed by the In-Home Aide Agency's RN and the Adult Services Social Worker. Client or family member will sign a form or the Assessment/Reassessment to show that it was conducted in the home.

Quarterly Reviews will be conducted every quarter except when a Reassessment is due. Service Plans will be completed and signed by the In-Home Aide Agency's RN and the Adult Services Social Worker. Client or family member will sign the Service Plan as well. All changes in tasks will be documented and dated on the Service Plan.

All Aides must have the Task Competency demonstrated, dated and filed in the Agency's staff charts. All Level III Clients must have a CNA working with them. The In-Home Aide Provider Agency must keep individual staffing charts with the date of employment, the dates of the 1st months Supervisor home visit, documentation of any other Supervisory visits as needed between the Quarterly Reviews. Documentation of a home visit or telephone call within the 1st week of each new Aide assignment needs to be in the file. Documentation of Quarterly visits for Level I and Level II Clients, and Supervisory Visits every 60 days for Level III clients is needed in the file. There must be documentation of monthly contact for Level II and Level III Clients in the file.


(Signature of County Authorized Person)
1-31-18
(Date Submitted)


(Signature of Contractor)
6-12-18
(Date Submitted)

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ATTACHMENT C

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS
AND CERTIFICATION REGARDING NONDISCRIMINATION**

Northampton County Department of Social Services/Human Services

- I. By execution of this Agreement the Contractor certifies that it will provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing a drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The Contractor's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - C. Making it a requirement that each employee be engaged in the performance of the agreement be given a copy of the statement required by paragraph (A);
 - D. Notifying the employee in the statement required by paragraph (A) that, as a condition of employment under the agreement, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
 - E. Notifying the County within ten days after receiving notice under subparagraph (D)(2) from an employee or otherwise receiving actual notice of such conviction;
 - F. Taking one of the following actions, within 30 days of receiving notice under subparagraph (D)(2), with respect to any employee who is so convicted:
 - (1) Taking appropriate personnel action against such an employee, up to and including termination; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

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Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A), (B), (C), (D), (E), and (F).

II. The site(s) for the performance of work done in connection with the specific agreement are listed below:

1. 2526 Ward Boulevard
(Street address)

Wilson, NC 27893
(City, county, state, zip code)
2.
(Street address)

(City, county, state, zip code)

Contractor will inform the County of any additional sites for performance of work under this agreement.

False certification or violation of the certification shall be grounds for suspension of payment, suspension or termination of grants, or government-wide Federal suspension or debarment
45 C.F.R. Section 82.510. Section 4 CFR Part 85, Section 85.615 and 86.620.

Certification Regarding Nondiscrimination

The Vendor certifies that it will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (h) the Food Stamp Act and USDA policy, which prohibit discrimination on the basis of religion and political beliefs; and (i) the requirements of any other nondiscrimination statutes which may apply to this Agreement.

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Lisa M Zube Regional Director
Signature Title

Interim HealthCare-Morris Group 6-12-18
Agency/Organization Date

(Certification signature should be same as Contract signature.)

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ATTACHMENT D

Conflict of Interest Policy

The Board of Directors/Trustees or other governing persons, officers, employees or agents are to avoid any conflict of interest, even the appearance of a conflict of interest. The Organization's Board of Directors/Trustees or other governing body, officers, staff and agents are obligated to always act in the best interest of the organization. This obligation requires that any Board member or other governing person, officer, employee or agent, in the performance of Organization duties, seek only the furtherance of the Organization mission. At all times, Board members or other governing persons, officers, employees or agents, are prohibited from using their job title, the Organization's name or property, for private profit or benefit.

A. The Board members or other governing persons, officers, employees, or agents of the Organization should neither solicit nor accept gratuities, favors, or anything of monetary value from current or potential contractors/vendors, persons receiving benefits from the Organization or persons who may benefit from the actions of any Board member or other governing person, officer, employee or agent. This is not intended to preclude bona-fide Organization fund raising-activities.

B. A Board or other governing body member may, with the approval of Board or other governing body, receive honoraria for lectures and other such activities while not acting in any official capacity for the Organization. Officers may, with the approval of the Board or other governing body, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave, or leave without pay. Employees may, with the prior written approval of their supervisor, receive honoraria for lectures and other such activities while on personal days, compensatory time, annual leave, or leave without pay. If a Board or other governing body member, officer, employee or agent is acting in any official capacity, honoraria received in connection with activities relating to the Organization are to be paid to the Organization.

C. No Board member or other governing person, officer, employee, or agent of the Organization shall participate in the selection, award, or administration of a purchase or contract with a vendor where, to his knowledge, any of the following has a financial interest in that purchase or contract:

1. The Board member or other governing person, officer, employee, or agent;
2. Any member of their family by whole or half blood, step or personal relationship or relative-in-law;
3. An organization in which any of the above is an officer, director, or employee;
4. A person or organization with whom any of the above individuals is negotiating or has any arrangement concerning prospective employment or contracts.

D. **Duty to Disclosure** -- Any conflict of interest, potential conflict of interest, or the appearance of a conflict of interest is to be reported to the Board or other governing body or one's supervisor immediately.

E. **Board Action** -- When a conflict of interest is relevant to a matter requiring action by the Board of Directors/Trustees or other governing body, the Board member or other governing person, officer, employee, or agent (person(s)) must disclose the existence of the conflict of interest and be given the opportunity to disclose all material facts to the Board and members of committees with governing board delegated powers considering the possible conflict of interest. After disclosure of all material facts, and after any discussion with the person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists. In addition, the person(s) shall not participate in the

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final deliberation or decision regarding the matter under consideration and shall leave the meeting during the discussion of and vote of the Board of Directors/Trustees or other governing body.

F. Violations of the Conflicts of Interest Policy -- If the Board of Directors/Trustees or other governing body has reasonable cause to believe a member, officer, employee or agent has failed to disclose actual or possible conflicts of interest, it shall inform the person of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose. If, after hearing the person's response and after making further investigation as warranted by the circumstances, the Board of Directors/Trustees or other governing body determines the member, officer, employee or agent has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

G. Record of Conflict -- The minutes of the governing board and all committees with board delegated powers shall contain:

1. The names of the persons who disclosed or otherwise were found to have an actual or possible conflict of interest, the nature of the conflict of interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
2. The names of the persons who were present for discussions and votes relating to the transaction or arrangement that presents a possible conflict of interest, the content of the discussion, including any alternatives to the transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Approved by:

Interim HealthCare- Morris Group
Name of Organization
Lisa M Zube
Signature of Organization Official
6/12/18
Date

NOTARIZED CONFLICT OF INTEREST POLICY

State of North Carolina

County of Wilton

I, Juanita Anderson, Notary Public for said County and State, certify that

Lisa Zube personally appeared before me this day and acknowledged

that he/she is Regional Director of Interim Healthcare [enter name of entity]

and by that authority duly given and as the act of the Organization, affirmed that the foregoing Conflict of Interest Policy was adopted by the Board of Directors/Trustees or other governing body in a meeting held on the 12th day of June, 2018.

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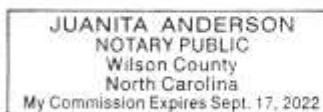
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Sworn to and subscribed before me this 12th day of June, 2018

Juanita Anderson
(Official Seal)

Notary Public

My Commission expires September 17, 2022





OVERDUE TAXES

June 11, 2018

Department of Social Services

RE: Overdue Taxes

To Whom It May Concern:

We certify that Interim HealthCare – Morris Group, Inc. does not have any overdue tax debts, as defined by N.C. G.S. 105-243.1, at the Federal, State or Local level. We further understand that any person who makes a false statement in violation of N.C.G.S. 143-62(b2), is guilty of a criminal offense punishable as provided by N.C.G.S. 143-34(b).

Sworn Statements:

Margaret Webb, CEO/COO and Lisa Zube, Regional Director, of Interim HealthCare – Morris Group, Inc. in the State of North Carolina, and that the foregoing certification is true, accurate and complete to the best of our knowledge and was made and subscribed by us. We also acknowledge and understand that any misuse of State funds will be reported to the appropriate authorities and for authorities for further action.


Margaret D. Webb, CEO/COO


Lisa Zube, Regional Director

Sworn to and subscribed before me on the date of the date and said certification:


Notary Signature and Seal

Commission Expires: September 17, 2022

JUANITA ANDERSON
NOTARY PUBLIC
Wilson County
North Carolina
My Commission Expires Sept. 17, 2022

Contract # N66201
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ATTACHMENT F

CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Northampton County Department of Social Services/Human Services

Certification for Contracts, Grants, Loans and Cooperative Agreements

Public Law 103-227, Part C-Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application, the Contractor certifies that it will comply with the requirements of the Act. The Contractor further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

Lisa M Zube
Signature

Regional Director
Title

Interim HealthCare Morris Group
Agency/Organization

6-12-18
Date

(Certification signature should be same as Contract signature.)

Contract # N66101
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Attachment G

Northampton County Department of Social Services/Human Services

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal, state or local government agency, a Member of Congress, a Member of the General Assembly, an officer or employee of Congress, an officer or employee of the General Assembly, an employee of a Member of Congress, or an employee of a Member of the General Assembly in connection with the awarding of any Federal or state contract, the making of any Federal or state grant, the making of any Federal or state loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal or state contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal, state or local government agency, a Member of Congress, a Member of the General Assembly, an officer or employee of Congress, an officer or employee of the General Assembly, an employee of a Member of Congress, or an employee of a Member of the General Assembly in connection with the awarding of any Federal or state contract, the making of any Federal or state grant, the making of any Federal or state loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal or state contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- (4) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Notwithstanding other provisions of federal OMB Circulars-CFR Title 2, Grants and Agreements, Part 200, costs associated with the following activities are unallowable:

Paragraph A.

- (1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity;
- (2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;
- (3) Any attempt to influence: (i) The introduction of Federal or State legislation; or (ii) the enactment or modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State legislature (including efforts to influence State or

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- local officials to engage in similar lobbying activity), or with any Government official or employee in connection with a decision to sign or veto enrolled legislation;
- (4) Any attempt to influence: (i) The introduction of Federal or State legislation; or (ii) the enactment or modification of any pending Federal or State legislation by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign; or
 - (5) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

The following activities as enumerated in Paragraph B are excepted from the coverage of Paragraph A:

Paragraph B.

- (1) Providing a technical and factual presentation of information on a topic directly related to the performance of a grant, contract or other agreement through hearing testimony, statements or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof, in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the recipient member, legislative body or subdivision, or a cognizant staff member thereof; provided such information is readily obtainable and can be readily put in deliverable form; and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearing.
- (2) Any lobbying made unallowable by subparagraph A (3) to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the grant, contract, or other agreement.
- (3) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

Paragraph C.

- (1) When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures of subparagraph B.(3).
- (2) Organizations shall submit, as part of the annual indirect cost rate proposal, a certification that the requirements and standards of this paragraph have been complied with.
- (3) Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to this section complies with the requirements of this Circular.
- (4) Time logs, calendars, or similar records shall not be required to be created for purposes of complying with this paragraph during any particular calendar month when: (1) the employee engages in lobbying (as defined in subparagraphs (a) and (b)) 25 percent or less of the employee's compensated hours of employment during that calendar month, and (2) within the preceding five-year period, the organization has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs. When conditions (1) and (2) are met, organizations are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions (1) and (2) are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.
- (5) Agencies shall establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of this section. Any such advance resolution shall be binding in any subsequent settlements, audits or investigations with respect to that grant or contract for purposes of interpretation of this Circular;

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provided, however, that this shall not be construed to prevent a contractor or grantee from contesting the lawfulness of such a determination.

Paragraph D.

Executive lobbying costs. Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the Executive Branch of the Federal Government to give consideration or to act regarding a sponsored agreement or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a federally sponsored agreement or regulatory matter on any basis other than the merits of the matter.

<u>Lisa M Zube</u>	<u>Regional Director</u>
Signature	Title
<u>Interim HealthCare-Norris Group</u>	<u>6-12-18</u>
Agency/Organization	Date

(Certification signature should be same as Contract signature.)

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ATTACHMENT H

Northampton County Department of Social Services/Human Services

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of the fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant will provide immediate written notice to the person to which the proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter any lower tier covered transaction with a person who is debarred, suspended, determined ineligible or voluntarily excluded from participation in this covered transaction unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended,

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ineligible, or voluntarily excluded from covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency of which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized in paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Lisa Le Zube Regional Director
Signature Title

Interim HealthCare - Morris - Group 1-12-18
Agency/Organization Date

(Certification signature should be same as Contract signature.)

This document will be used to determine if you have a business associate relationship with a contractor. This form should be completed on all contracts that have a HIPPA covered health care component. This would include all health related information.

Contractor: Interim

Contract Number: N66201

Date: 7/1/18

HIPPA ASSESSMENT FORM

Questions	Notes	Steps
1. Has a relationship been initiated Yes allows the contractor to perform a function or activity for, or on behalf of, County Department of Social Services HIPPA covered health care component?		YES—Go to Question 2. NO—Stop. There is no business associate relationship.
2. Is the function or service to be rendered by the contractor on an activity other than treatment of clients?	NOTE: The sharing of Individually identifiable health information with another treatment contractor for treatment purposes only does not require a business associate agreement. See 45 CFR §164.502(e)(1)(ii)(A)	YES—Go to Question 3. NO—Stop. There is no business associate relationship.
3. Does the function or service to be rendered by the contractor involve the use or disclosure of the County Department of Social Services individually identifiable health information?	NOTE: Data that does not contain A County Department of Social Services individually identifiable health information is not covered by HIPPA and thus does not have to be protected through a business associate agreement.	YES--Go to Question 4. NO—Stop. There is no business associate relationship.
4. Are the services rendered by staff from the contractor performed on the premises of the covered health care component, using the component's resources and following the component's policies and procedures?	NOTES: Whenever a service is rendered on the premises of a covered component, utilizing the component's resources and following the component's policies and procedures, the person rendering such services is considered a member of the component's workforce, and is required to comply with the component's privacy policies and procedures. No business associate agreement is required.	NO—Got Question 5. YES—Stop. There is not business associate relationship.
5. Is the contractor performing a type(s) of function/activity for or on the behalf of the County Department of Social Services HIPPA covered health	Check appropriate service(s): <input type="checkbox"/> Attorney Representing Agency <input type="checkbox"/> Benefits Management	YES—You have identified a business associate relationship. The specified function/activity, which involves the sharing of individually identifiable

<p>component that is directly related to the covered health component's continued operation?</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Patient Accounts Billing <input type="checkbox"/> Claims Processing <input type="checkbox"/> Claims Administration <input type="checkbox"/> Bill Collections <input type="checkbox"/> Professional Services <input type="checkbox"/> Special Population Assessments <input type="checkbox"/> Data Analysis <input type="checkbox"/> Data Processing <input type="checkbox"/> Data Administration <input type="checkbox"/> JCAHO <input type="checkbox"/> Council on Accreditation <input type="checkbox"/> Re-pricing <input type="checkbox"/> Rate Setting <input type="checkbox"/> Practice Management <input type="checkbox"/> Software Support <input type="checkbox"/> Utilization Review <input type="checkbox"/> Quality Assurance <input type="checkbox"/> Contract Analysis <input type="checkbox"/> Central Office Supervision <input type="checkbox"/> Security <input type="checkbox"/> Dietary <input type="checkbox"/> Machine Maintenance <input type="checkbox"/> Facility Maintenance <input type="checkbox"/> Landscaping <input type="checkbox"/> Housekeeping <input type="checkbox"/> Hardware Support <input type="checkbox"/> Audits/Surveys <input type="checkbox"/> Purchasing 	<p>health information, is provided by the contractor. This constitutes a business associate relationship as such information must be protected the same as required of the HIPPA covered health care component. There are two types of business associate relationships:</p> <p>External Business Associate relationships: You have indentified an External business associate relationship if you are contracting with any entity outside city, county or state government. A <u>Business Associate Addendum</u> must be signed and included with the contract. If you are completing a Memorandum of Agreement (MOA) with a governmental entity the <u>Government Associate Addendum</u> must be utilized.</p> <p>NO—STOP. There is no business associate relationship.</p>
<p>ADDITIONAL REQUIRMENTS</p>		
<p>NOTE: Make sure all county requirements are met for internally notifying the correct parties for External and Internal Business Associates</p>		

Rev: 7-1-2013

Contract # N662101
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ATTACHMENT J

CERTIFICATION REGARDING TRANSPORTATION

Northampton County Department of Social Services/Human Services

By execution of this Agreement the Contractor certifies that it will provide safe client transportation by:

1. Insuring that all drivers (including employees, contractors, contractor's employees, and volunteers) shall be at least 18 years of age;
2. Insuring that all drivers (including employees, contractors, contractor's employees, and volunteers) shall be licensed to operate the specific vehicle used in transporting clients in accordance with Chapter 20-7 of the General Statutes of North Carolina and the Division of Motor Vehicle requirements;
3. Insuring that all vehicles transporting clients shall have at least the minimum level of liability insurance appropriate for the type of vehicle as defined by Article 7, Rule R2-36 of the North Carolina Utilities Commission;
4. Insuring that the contractor shall have written policies and procedures regarding how drivers handle and report client emergencies and/or vehicle crashes involving clients to contractor and how contractor notifies the Northampton County Department of Social Services;
5. Insuring that no more than one quarter of one percent of all trips be missed by the contractor during the course of the contract period; (*Medicaid only*)
6. Insuring that that no more than five percent (5%) of trips should be late for recipient drop off to their appointment per month; (*Medicaid only*)
7. Contractor will maintain records documenting the following (*County may require contractor to provide*):
 - a. Valid current copies of Drivers License for all drivers;
 - b. Current valid Vehicle Registration, for all vehicles transporting clients;
 - c. Driving records for all drivers for the past three years and with annual updates;
 - d. Criminal Background checks through North Carolina Law Enforcement or NCIC prior to employment and every three years thereafter;
 - e. Alcohol and Drug Testing policy to meet the Federal Transit Authority guidelines.
8. Disclosing, at the outset of the contract, upon renewal and upon request, any criminal convictions or other reasons for disqualifications from participation in Medicare, Medicaid or Title XX programs (*signature on this form confirms this statement*).

Lisa W. Zube
Signature

Regional Director
Title

Interim HealthCare-Norris Group
Agency/Organization

6-12-18
Date

(Certification signature should be same as Contract signature.)

ATTACHMENT K

What is a Private Non Profit Agency?

Answer: A private non profit is an organization that is incorporated under State law and whose purpose is not to make a profit, but rather to further a charitable, civic, religious, scientific, or other lawful purpose. The Secretary of State's office grants corporate status to organizations in North Carolina.

What is a 501(c)(3) designation?

Answer: When the agency becomes a state private non profit corporation, it can then apply for 501(c)(3) designation through the IRS. Once the IRS grants 501(c)(3) status, the organization is exempt from certain taxes and any donations to the charitable organization are tax deductible. Many individuals and organizations prefer to make donations to 501(c)(3) private non profits.

Who can obtain a 501(c)(3) designation?

Answer: Any organization or group can apply for 501(c)(3) status, provided their charter or mission focuses on the non profit's objective.

Another option is to apply for a 509(a)(1) status which falls under the 501(c)(3) umbrella. Being a 509(a)(1) designates an organization as a tax-free public charity that receives most of its support from a governmental unit or from the general public. Becoming a 509(a)(1) provides public recognition of tax-exempt status, advance assurance to donors of deductibility of contributions, exemption from certain State and federal taxes, and non profit mailing privileges. Organizations that typically qualify are churches, educational institutions, hospitals, and governmental units.

How does a Private Non Profit obtain Tax Exempt Status?

EO Web Site [www.irs.gov/eo]

IRS TE/GE Customer Service

You may direct technical and procedural questions concerning charities and other nonprofit organizations, including questions about your tax-exempt status and tax liability, to the IRS Tax Exempt and Government Entities Customer Account Services at (877) 829-5500 (toll-free number).

If you prefer to write, you may write at:

Internal Revenue Service
Exempt Organizations Determinations
P.O. Box 2508
Cincinnati, OH 45201

You may also contact the [Taxpayer Advocate Service](#), an independent organization within the IRS that helps taxpayers resolve problems with the IRS and recommends changes that will prevent problems.

A private non profit must apply to the IRS for tax exempt status. To qualify, applicants must complete and submit to the IRS Form 1023. Once federal tax exempt status is granted, the private non profit applies for State tax exempt status by completing Form CD-435 and submitting it to the N. C. Department of Revenue.

What must a County Department of Social Services/Human Services do?

Answer: Verify the Tax Exempt Letter. Check date for expiration and check if current address of agency is reflected.

Revised 06-2015

Contract # N66101
Interim 18-19

**Attachment L
Notice of Certain Reporting and Audit Requirements**

Grantee shall comply with all rules and reporting requirements established by statute or administrative rules. All reports must be submitted to the addresses below.

The applicable prescribed requirements are found in North Carolina General Statute 143C-6-22 & 23 entitled "Use of State Funds by Non-State Entities" and Implementation of Required Rules, 09 NCAC 03M .0102 -0802, North Carolina Administrative Code, issued September 2005.

The Contractor's fiscal year runs from **July 1, 2018** to **June 30, 2019**.

G.S. 143C-6-23 requires every nongovernmental entity that receives State or Federal pass-through grant funds directly from a State agency to file annual reports on how those grant funds were used. There are 3 reporting levels which are determined by the total direct grant receipts from all State agencies in your fiscal year:

- Level 1: Less than \$25,000
- Level 2: At least \$25,000 but less than \$500,000
- Level 3: \$500,000 or more

A grantee's reporting date is determined by its fiscal year end and the total funding received directly from all State agencies. For those grantees receiving less than \$500,000, the due date is 6 months from its fiscal year end. For those receiving \$500,000 or more, the due date is 9 months from its fiscal year end. In addition to the reports, grantees receiving \$500,000 or more must submit a yellow book audit in electronic or hard copy to the Office of the State Auditor and to all funding State agencies at the addresses below.

All annual grantee reports required by GS 143C-6-23 must be completed online at www.NCGrants.gov. The online reporting system will automatically place your organization on the Noncompliance list if your reports have not been completed in www.NCGrants.gov by your required due date.

To access the online grants reporting system go to www.NCGrants.gov and click on the LOGIN tab at the top of the page. You must have a NCID to access the online reporting system. To obtain a user manual or request assistance with the system please go to <https://www.ncgrants.gov/NCGrants/Help.jsp>. You can also email requests for assistance directly to NCGrants@osbm.nc.gov.

Once you have logged in you will see your "Grantee Summary / Data Entry Screen".

- Your summary screen will identify your correct level of reporting, i.e., Level 1, 2 or 3, based on the State grant funds paid to your organization during your fiscal year.
- The summary will show all the grants contained in the www.NCGrants.gov system that have been awarded to your organization. The program will automatically provide links to the reports that correspond to your reporting level, and only those reports, for each grant. Check to make sure that the grant(s) shown in the system correspond with what you show as having received from each agency for your fiscal year.
- If you have questions, need help in resolving any differences between your records and online reporting system or need corrections to be made to the data you enter, send an e-mail to NCGrants@osbm.nc.gov to request help.

All grantees must file their required reports online at www.NCGrants.gov without exception.

IMPORTANT NOTE FOR AUDITS

(REV. 7-10)

Contract # N66101
Interim 18-19

If you expend more than \$500,000 in Federal grant funds from all sources, then you must have an A-133 single audit performed. If you are at this level for federal reporting and you are required to file a yellow book audit with the State under G.S. 143C-6-23, then you may substitute the A-133 audit for the yellow book audit.

If you are required to have an A-133 audit performed and you receive any Federal grant funds passed through the North Carolina Department of Health and Human Services, you are required to file the A-133 audit with the North Carolina Department of Health and Human Service.

If you expend more than \$500,000 and you are required to file a yellow book audit with the State Auditor under G.S. 143C-6-23, then you are also required to file the yellow book audit with the North Carolina Department of Health and Human Service.

A planned enhancement to the system is the capability for the grantee to directly upload a pdf version of their audit directly into the online system where it will be accessible to both the funding agency/agencies and the Office of the State Auditor.

Please send the required audit to the following address:

Mail to: DHHS Office of the Controller
Attention: Audit Resolution
2019 Mail Service Center
Raleigh, NC 27699-2019

Or direct delivery to: 1050 Umstead Drive
Raleigh, NC 27606

Equipment Purchased with Contract Funds:

Title to equipment costing in excess of \$500.00 acquired by the Contractor with funds from this contract shall vest in the Contractor, subject to the following conditions.

- A. The Contractor shall use the equipment in the project or program for which it was acquired as long as needed. When equipment is no longer needed for the original project or program or if operations are discontinued, or at the termination of this contract the Contractor shall contact the Division for written instructions regarding disposition of equipment.
- B. With the prior written approval of the Division, the Contractor may use the equipment to be replaced as trade-in against replacement equipment or may sell said equipment and use the proceeds to offset the costs of replacement equipment.
- C. For equipment costing in excess of \$500.00, equipment controls and procedures shall include at a minimum the following:
 1. Detailed equipment records shall be maintained which accurately include the:
 - a. Description and location of the equipment, serial number, acquisition date/cost, useful life and depreciation rate;
 - b. Source/percentage of funding for purchase and restrictions as to use or disposition; and
 - c. Disposition data, which includes date of disposal and sales price or method used to determine fair market value.

Contract # N66101
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2. Equipment shall be assigned a control number in the accounting records and shall be tagged individually with a permanent identification number.
 3. Biennially, a physical inventory of equipment shall be taken and results compared to accounting and fixed asset records. Any discrepancy shall immediately be brought to the attention of management and the governing board.
 4. A control system shall be in place to ensure adequate safeguards to prevent loss, damage, or theft of equipment and shall provide for full documentation and investigation of any loss or theft.
 5. Adequate maintenance procedures shall be implemented to ensure that equipment is maintained in good condition.
 6. Procedures shall be implemented which ensure that adequate insurance coverage is maintained on all equipment. A review of coverage amounts shall be conducted on a periodic basis, preferably at least annually.
- D. The Contractor shall ensure all subcontractors are notified of their responsibility to comply with the equipment conditions specified in this section.

Reporting Requirements of N. C. General Statute 143C-6.23

Use these charts to determine GS 143C-6.23 reporting requirements.

Total Funds from All State Agencies	Reports Due (Key all reports into online reporting system at www.NCGrants.gov , including online submission of the audit when the system has the capability). Until that point, audits should be mailed to both the Office of the State Auditor and the NC Department of Health and Human Services (DHHS).)	Reports Due Date
Level 1 \$1 - \$24,999	<ul style="list-style-type: none"> • Certification • State Grants Compliance Reporting Receipt of < \$25,000.* 	Within 6 months of entity's fiscal year end
Level 2 \$25,000 - \$499,999	<ul style="list-style-type: none"> • Certification • State Grants Compliance Reporting Receipt of >= \$25,000 • Schedule of Receipts and Expenditures* • Program Activities and Accomplishments 	Within 6 months of entity's fiscal year end
Level 3 \$500,000 or more	<ul style="list-style-type: none"> • Certification • State Grants Compliance Reporting Receipt of >= \$25,000 • Audit [A-133 Single Audit if >= \$500,000 in federal funds or Yellow Book Audit] • Schedule of Federal and State Awards (May be included in the audit) • Program Activities and Accomplishments 	Within 9 months of entity's fiscal year end

Use this chart to determine where to send copies of GS 143C-6.23 reports.

Grantees receiving \$500,000 or more must send one copy of each audit report to DHHS.	<p>Mail to: DHHS Office of the Controller Attention: Audit Resolution 2019 Mail Service Center Raleigh, NC 27699-2019</p> <p>Or direct delivery to: 1050 Umstead Drive Raleigh, NC 27606</p>
<p>Grantees receiving \$500,000 or more must send one copy of each audit report to the State Auditor.</p> <p>In addition, grantees must submit copies of their audits to www.NCGrants.gov for compliance purposes.</p>	<p>Mail to: Office of the State Auditor 20601 Mail Service Center Raleigh, NC 27699-0601</p> <p>Or direct delivery to: 2 South Salisbury Street Raleigh, NC 27603</p>

Contract # N66101
Interim 18-19

Attachment M

State Certification

Contractor Certifications Required by North Carolina Law

Instructions

The person who signs this document should read the text of the statutes listed below and consult with counsel and other knowledgeable persons before signing.

- The text of Article 2 of Chapter 64 of the North Carolina General Statutes can be found online at:
http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_64/Article_2.pdf
- The text of G.S. 105-164.8(b) can be found online at:
http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_105/GS_105-164.8.pdf
- The text of G.S. 143-48.5 (S.L. 2013-418, s. 2.(d)) can be found online at:
<http://www.ncga.state.nc.us/Sessions/2013/Bills/House/PDF/H786v6.pdf>
- The text of G.S. 143-59.1 can be found online at:
http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_143/GS_143-59.1.pdf
- The text of G.S. 143-59.2 can be found online at:
http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_143/GS_143-59.2.pdf
- The text of G.S. 147-33.95(g) (S.L. 2013-418, s. 2. (e)) can be found online at:
<http://www.ncga.state.nc.us/Sessions/2013/Bills/House/PDF/H786v6.pdf>

Certifications

- (1) **Pursuant to G.S. 143-48.5 and G.S. 147-33.95(g)**, the undersigned hereby certifies that the Contractor named below, and the Contractor's subcontractors, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system." E-Verify System Link: www.uscis.gov

Local government is specifically exempt from Article 2 of Chapter 64 of the North Carolina General Statutes. However, local government is subject to and must comply with North Carolina General Statute §153A-99.1., which states in part as follows:

Counties Must Use E-Verify. - Each county shall register and participate in E-Verify to verify the work authorization of new employees hired to work in the United States.

- (2) **Pursuant to G.S. 143-59.1(b)**, the undersigned hereby certifies that the Contractor named below is not an "ineligible Contractor" as set forth in G.S. 143-59.1(a) because:
- (a) Neither the Contractor nor any of its affiliates has refused to collect the use tax levied under Article 5 of Chapter 105 of the General Statutes on its sales delivered to North Carolina when the sales met one or more of the conditions of G.S. 105-164.8(b); **and**
 - (b) [check **one** of the following boxes]

Contractor Certifications Required by North Carolina Law

Page 1 of 2

Contract # N86101
Interim 18-19

- ☐ Neither the Contractor nor any of its affiliates has incorporated or reincorporated in a "tax haven country" as set forth in G.S. 143-59.1(c) (2) after December 31, 2001; **or**
- ☐ The Contractor or one of its affiliates **has** incorporated or reincorporated in a "tax haven country" as set forth in G.S. 143-59.1(c)(2) after December 31, 2001 **but** the United States is not the principal market for the public trading of the stock of the corporation incorporated in the tax haven country.

- (3) **Pursuant to G.S. 143-59.2(b)**, the undersigned hereby certifies that none of the Contractor's officers, directors, or owners (if the Contractor is an unincorporated business entity) has been convicted of any violation of Chapter 78A of the General Statutes or the Securities Act of 1933 or the Securities Exchange Act of 1934 within 10 years immediately prior to the date of the bid solicitation.
- (4) The undersigned hereby certifies further that:
- (a) He or she is a duly authorized representative of the Contractor named below;
- (b) He or she is authorized to make, and does hereby make, the foregoing certifications on behalf of the Contractor; and
- (c) He or she understands that any person who knowingly submits a false certification in response to the requirements of G.S. 143-59.1 and -59.2 shall be guilty of a Class I felony.

<u>Interim HealthCare - Morris Group</u>	
Contractor's Name	
<u>Lisa M Zube</u>	<u>10-12-18</u>
Signature of Contractor's Authorized Agent	Date
<u>Lisa M Zube</u>	<u>Regional Director</u>
Printed Name of Contractor's Authorized Agent	Title
<u>Caritra R Spruill</u>	<u>Area Manager</u>
Signature of Witness	Title
<u>Caritra R Spruill</u>	<u>10-12-18</u>
Printed Name of Witness	Date

The witness should be present when the Contractor's Authorized Agent signs this certification and should sign and date this document immediately thereafter.

Contract #
(Contractor)

ATTACHMENT N

Northampton County Department of Social Services/Human Services

CERTIFICATION REGARDING NONDISCRIMINATION, CLEAN AIR ACT, CLEAN WATER ACT

Certification Regarding Nondiscrimination

The Contractor certifies that it will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (h) the Food Stamp Act and USDA policy, which prohibit discrimination on the basis of religion and political beliefs; and (i) the requirements of any other nondiscrimination statutes which may apply to this Agreement.

The Contractor must comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented by the Department of Labor Regulations (41 CFR Part 60). The Executive Order prohibits federal contractors and federally-assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. The Executive Order also requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

Meaningful Access for LEP Individuals: **The Contractor** that participate in the SNAP must take reasonable steps to ensure that LEP persons have meaningful access to programs, services, and benefits. This includes the requirement to provide bilingual program information and certification materials and interpretation services to single language minorities in certain project areas. SNAP Contractors that do not provide meaningful access for LEP individuals risk violating prohibitions against discrimination based on National Origin in the Food and Nutrition Act of 2008, as amended, Title VI of the Civil Rights Act of 1964 (Title VI) and SNAP program regulations at 7 CFR 272A(b). They also risk noncompliance with the USDA policy guidance titled, "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons", published in 79 FR 70771 - 70784 (November 28, 2014).

The Contractor should develop an implementing plan to address the language assistance needs of the LEP population served. This may include contracting for oral interpretation services, hiring bilingual staff, arranging telephone interpreters and/or language lines, coordinating community volunteers, translating vital documents, and providing written notice that language services are available in appropriate languages. Quality and accuracy of the language service is critical in order to avoid serious consequences to the LEP person and to the recipient. LEP needs should be considered in developing budgets and front line staff should understand how to obtain language assistance services. For additional assistance and information regarding LEP matters, please also visit <http://www.lep.gov>.

Contract #
(Contractor)

Ensuring Equal Opportunity Access for Persons with Disabilities: **The Contractor** must also ensure equal opportunity access for persons with disabilities. This includes ensuring that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with people without disabilities. Contractors that do not provide persons with disabilities equal opportunity access to programs may risk violating prohibitions against disability discrimination in the Rehabilitation Act of 1978, the American with Disabilities Act (ADA) of 1990, as amended, and SNAP program regulations. DOJ published revised final regulations implementing Title II and Title III of the ADA on September 15, 2010. These regulations are codified at 28 CFR Part 35 "Nondiscrimination on the Basis of Disability in State and Local Government Services" and at 28 CFR Part 36 "Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities". In accordance with the implementing regulations, Contractors must provide auxiliary aids and services where necessary to ensure effective communication and equal opportunity access to program benefits for individuals with disabilities. The type of auxiliary aids and services required will vary, but a Contractor may not require an individual with a disability to bring another individual to interpret, and may rely on a person accompanying a disabled individual only in limited circumstances. When a Contractor communicates with applicants and beneficiaries by telephone, it must provide text telephone services (TTY) or have access to an equally effective electronic telecommunications system to communicate with individuals who are deaf, hard of hearing, or hearing impaired. Contractors must also ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities. For more information, please visit the ADA website: <http://www.ada.gov>.

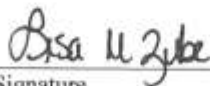
IV. The Clean Air Act, Section 306; 42 U.S.C. §7401 et seq. (1970)

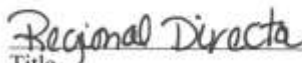
- a. No Federal agency may enter into any contract with any person who is convicted of any offense under section 113(c) for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected. For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.
- b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).
- c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.
- d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.
- e. The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section. [42 U.S.C. 7606]

Contract #
(Contractor)

V. The Clean Water Act; 33 U.S.C. §1251 et seq. (1972)

- a. No Federal agency may enter into any contract with any person who has been convicted of any offense under Section 309(c) of this Act for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.
- b. The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.
- c. In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than 180 days after the enactment of this Act, cause to be issued an order:
 - (i) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and
 - (ii) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.
- d. The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.
- e. The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.
- f. No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.
- g. In paragraph (1), the term "commercial item" has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).


Signature


Title

Contract #
(Contractor)

Interim HealthCare-Morris Group 6-12-18
Agency/Organization Date

(Certification signature should be same as Contract signature.)

Ad Valorem Tax Appeals:

Mrs. Cathy Allen, Tax Administrator, appeared before the Board to obtain approval to release or refund Ad Valorem taxes assessed in the amount of \$1,635.61 on fourteen (14) appeals.

A motion was made by Geneva Faulkner and seconded by Fannie Greene to approve the release or refund of Ad Valorem taxes assessed in the amount of \$1,635.61 on fourteen (14) appeals.

Question Called: *All present voting yes.* **Motion carried.**

**PLEASE SEE SCANNED DOCUMENTS WHICH ARE
HEREBY MADE A PART OF THESE MINUTES:**

DECISION PAPER

TO: NORTHAMPTON COUNTY BOARD OF COMMISSIONERS

FM: Cathy B. Allen, Tax Administrator

RE: Ad Valorem Tax Appeals

DT: August 28, 2018

THIS IS A DECISION PAPER.

PURPOSE: To obtain the Board's approval to release or refund Ad Valorem taxes assessed in the amount of **\$1,635.61** on fourteen (14) appeals.

FACTS: Attached hereto is a listing of property owners who have requested that I appeal to the Board of Commissioners on their behalf for a release or refund of tax to which they seek relief as provided in G.S. 105-381.

DISCUSSION: G.S. 105-381 Provides that a taxpayer asserting a valid defense to the enforcement of the collection of a tax assessed upon his property may appeal to the Board of Commissioners for relief of such tax. Such appeal must be presented within five years after the tax first became due or within six months after the payment of such tax, whichever is later.

The Board of Commissioners may, upon receiving a taxpayer's written statement of a valid defense, release or refund such tax if the valid defense is one of the following:

- (1) A tax imposed through clerical error
- (2) An illegal tax
- (3) A tax levied for an illegal purpose

CONCLUSION: The Board of Commissioners have the authority to grant, release, or refund due to the above three reasons.

RECOMMENDATION: That the Board of Commissioners approve the request for release or refund of the Ad Valorem Tax appeals submitted herewith in the amounts and for the reasons stated on the listings.

Respectfully submitted,

CATHY B. ALLEN
TAX ADMINISTRATOR

ACTION BY THE BOARD OF COMMISSIONERS:

APPROVED _____
DISAPPROVED _____
OTHER _____

SIGNATURE & DATE: _____

August 28, 2018

Ad Valorem Tax Appeals

NAME	ACCOUNT	ACTION	AMOUNT	REASON
Boyd, Joel & Paula	127365	Release	\$ 23.43	Illegal Tax
Falterman, Casey	119917	Release	72.72	Illegal Tax
Farrow, Brian Keith Jr	125234	Release	109.91	Clerical Error
Griffin, Dwayne	123818	Release	64.30	Illegal Tax
Jackson, Carl L	33761	Release	474.41	Illegal Tax
Johnson, Kevin & Lynn	114906	Release	22.89	Illegal Tax
Keeter, Brandi	129379	Release	293.74	Illegal Tax
Mason, Betty L	93167	Release	25.30	Clerical Error
Moody, Joe	79324	Release	13.39	Clerical Error
Morris, David L	20182	Release	53.05	Illegal Tax
Scott, Loretta	90401	Release	248.75	Clerical Error
Storey, Winifred, Beatty	123511	Release	93.16	Illegal Tax
Vandervlies, Jason & Karen	127312	Release	113.83	Illegal Tax
Waddle, Fred & Ann	127197	Release	26.73	Illegal Tax
TOTAL REFUNDS/RELEASES			\$ 1,635.61	

Respectfully submitted,

CATHY B. ALLEN
TAX ADMINISTRATOR

CBA/br

Cc: Board of Commissioners (7)
County Manager (1)
Clerk to Board (6)

Approval of year 2018 Tax Scroll:

Mrs. Cathy Allen, Tax Administrator, appeared before the Board to obtain approval of 2018 Tax Scroll.

A motion was made by Fannie Greene and seconded by Chester Deloatch to approve the 2018 Scroll as presented totaling \$19,594,781.45 and adopt the following order directing the Tax Collector to collect the taxes charged in the tax records and receipts. **Question Called:** *All present voting yes.* **Motion carried.**

**PLEASE SEE SCANNED DOCUMENTS WHICH ARE
HEREBY MADE A PART OF THESE MINUTES:**

DECISION PAPER

TO: NORTHAMPTON COUNTY BOARD OF EQUALIZATION AND REVIEW
FM: Cathy Allen, Tax Administrator
RE: Approval of the year 2018 Scroll
DT: August 20, 2018

THIS IS A DECISION PAPER

PURPOSE: To obtain the Board's approval of the 2018 Tax scroll.

FACTS: The Board has the duty to review and approve the tax list for the current year before adjourning, pursuant to G.S. 105-322 (g) (1)

DISCUSSION: The Assessor has prepared the 2016 Scroll and attached a copy hereto. The scroll summary shows the total assessed value for 2018 in the amount of 2,045,911,150. The levy, penalties and fees to be collected for 2018 and charged to the Tax Collector for collection as follows:

General County Government	\$16,072,478.30
Ahoskie Drainage	6,009.60
Town of Gaston	188,853.47
Town of Lasker	8,082.65
Town of Rich Square	237,861.33
Town of Seaboard	96,496.95
Town of Woodland	115,388.87
Garysburg fire Service District	80,187.18
Gaston Fire Service District	195,908.88
Jackson Fire Service District	32,124.55
Lasker Fire Service District	21,198.73
Rich Square Fire Service District	46,774.03
Seaboard Fire Service District	67,268.38
Roanoke Wildwood Fire Service District	144,262.46
Roanoke Wildwood Fire Service District A	34,967.16
Woodland Fire Service District	49,125.37
Solid Waste Fees	<u>2,197,793.54</u>
TOTAL	\$19,594,781.45

RECOMMENDATION: That the Board approves the 2018 Scroll as presented and adopt the following order directing the Tax Collector to collect the taxes charged in the tax records and receipts.

ACTION BY THE BOARD:

APPROVED _____

DISAPPROVED _____

OTHER _____

SIGNATURE & DATE _____

STATE OF NORTH CAROLINA
COUNTY OF NORTHAMPTON

To the Tax Collector of the County of **Northampton**:

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the office of the County Assessor and in the tax receipts herewith delivered to you on August 7, 2018, in the amounts of \$19,594,781.45 and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be the first lien upon all real property of the respective taxpayers in the County of **Northampton**, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand and official seal, this _____ day of September, 2018

Chairperson, Board of Commissioners of
Northampton County

(Seal)

Attest:

Clerk of Board of Commissioners of
Northampton County

Resolution of Asset Inventory and Assess Grant:

Mr. Nathan Pearce, Assistant County Manager, appeared before the Board to obtain approval for a resolution for the Asset Inventory and Assess Grant.

A motion was made by Charles Tyner and seconded by Geneva Faulkner to approve the resolution for the Asset Inventory and Assess Grant. **Question Called:** *All present voting yes.*
Motion carried.

**PLEASE SEE SCANNED DOCUMENTS WHICH ARE
HEREBY MADE A PART OF THESE MINUTES:**

Northampton County

"A GREAT PLACE TO RAISE FAMILIES, PROFITS AND EXPECTATIONS"

BOARD OF COMMISSIONERS

P. O. BOX 808

JACKSON, N. C. 27845

PHONE (252) 534-2501 • FAX (252) 534-1166

RESOLUTION BY NORTHAMPTON COUNTY BOARD OF COMMISSIONERS

- WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing drinking water treatment works and drinking water distribution systems, and
- WHEREAS, Northampton County has need for and intends to conduct an asset inventory assessment project for the existing water supply, treatment and distribution system, and
- WHEREAS, Northampton County intends to request state grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE BOARD OF COMMISSIONERS OF NORTHAMPTON COUNTY:

That Northampton County, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system.

That the **Applicant** will provide for efficient operation and maintenance of the project upon completion.

That Kimberly Turner, County Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the ____ day of _____, 2018 at Jackson, North Carolina.

Robert V. Carter, Chair

CERTIFICATION BY RECORDING OFFICER

The undersigned duly qualified and acting Clerk to the Board of the Northampton County does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the Board of Commissioners duly held on ____ day of _____, 2018; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2018.

Komita Hendricks
Clerk to the Board

(SEAL)

Bankcard Associates, LLC Service Contract Agreement:

Mr. Nathan Pearce, Assistant County Manager, appeared before the Board to obtain approval of a service contract for Bankcard Associates, LLC for electronic phone pay and web pay services for Public Works Department.

A motion was made by Fannie Greene and seconded by Chester Deloatch to approve the service contract agreement for Bankcard Associates, LLC. ***Question Called: All present voting yes.***
Motion carried.

PLEASE SEE SCANNED DOCUMENTS WHICH ARE
HEREBY MADE A PART OF THESE MINUTES:

DECISION PAPER

To: Northampton County Board of Commissioners

From: Kirk Rogers, Director of Public Works

Date: September 5, 2018

Reference: Bankcard Associates, LLC Service Contract Agreement

Purpose: The purpose of this Decision Paper is to obtain approval by the Board of Commissioners for the authorization of a service agreement with Bankcard Associates, LLC.

Facts:

1. Water Department currently provides payment options to include walk-ins, drive thru, drop box, mail, bank drafts, and card payments via phone.
2. Electronic phone pay and web pay service is available through current software provider Logics, Inc.
3. 3rd party fee for customer required at 3.5% of balance.

Discussion: Electronic phone pay and web pay services will provide 24 hour service to county water and sewer customers and gives additional payment options via phone and/or internet.

Recommendation: Public Works Department recommends the Board of Commissioners approve to enter into a service agreement with Bankcard Associates, LLC in order to provide these services to the county's customers.

Respectfully submitted,



Kirk Rogers
Director, Public Works

Coordination:

Finance Officer

Concur Leslie H. Edwards

Non-concur _____

Concur with comment _____

County Manager

Concur Robert L. Lewis (Asst. County Manager)

Non-concur _____


Concur with comment _____

Action by Decision Makers

Approved _____

Disapprove _____

Other _____

BA1804	MERCHANT APPLICATION										
MY INFORMATION											
OWNER 1						OWNER 2 (IF APPLICABLE)					
First Name			Last Name			First Name			Last Name		
Business Title			Ownership %		Owner's Date of Birth		Business Title			Ownership %	
Email Address			Mobile			Email Address			Mobile		
Home Address			SSN			Home Address			SSN		
City			State		Zip		Country		City		
BUSINESS INFORMATION											
Business Type: <input type="checkbox"/> Sole Prop. <input type="checkbox"/> Government <input type="checkbox"/> Tax Exempt <input type="checkbox"/> Corp S.C. <input type="checkbox"/> LLC <input type="checkbox"/> Partnership <input type="checkbox"/> Prior Bankruptcies <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Discharge Date (if Yes)											
Business Location: _____ Website URL: _____											
Tax Filing Name*				Tax ID Number*				DBA			
								DBA Phone			
<input type="checkbox"/> USE MY HOME ADDRESS FOR BUSINESS ADDRESS (IF SO, PLEASE FILL IN ADDRESS INFO BELOW WITH HOME ADDRESS)											
DBA Address						Corporate Address (if different than DBA Address)					
City			State		Zip		Country		City		
<small>*NOTE: Failure to provide accurate information may result in a withholding of merchant funding per ISO requirements. See Part 14, Section A-4 of your Merchant Program Guide for further info.</small>											
PROCESSING INFORMATION											
Describe Your Business											
Type of Business: <input type="checkbox"/> Retail <input type="checkbox"/> Mail Order <input type="checkbox"/> E-commerce						Business Start Date			State Business Filed		
Average Ticket		Max Ticket		Estimated 5 YR/CO Monthly Sales			Estimated 5 YR/CO Monthly Sales			B2B %	
										B2C %	
Total Locations (ex. 1 of 2)				Do you offer Subscriptions?				Days to Product Delivery			
								When is Customer Charged			
Previous Processor				Reason For Leaving							
US CHECKING ACCOUNT											
Name on Checking Account						Account Owner Type			Routing Number		
									Account Number		
PCI INFORMATION											
I/We have reviewed the PCI DSS information pertinent to our business method of payment acceptance and certify that we are:											
<input type="checkbox"/> Compliant <input type="checkbox"/> Non-Compliant (Use SPay PCI vendor to certify)											
Date of Compliance						QSA Vendor					
<small>Card Association Requirements dictate it is prohibited to store track data in any circumstance. Further it is recommended that no merchant or a merchant's third party vendor store cardholder data. If you or your vendor store data, you or your vendor are required to be PCI DSS compliant. Failure to adhere to these requirements may result in fines or loss of card acceptance.</small>											

BA1804		TERMINAL & PROGRAMMING SPECIFICATIONS			
SOFTWARE/EQUIPMENT TYPE	QUANTITY	SERIAL/VERSION #	SIM #	PROVISION	
				<input type="checkbox"/> Purchase <input checked="" type="checkbox"/> Lease <input type="checkbox"/> Existing	
				<input type="checkbox"/> Purchase <input type="checkbox"/> Lease <input type="checkbox"/> Existing	
				<input type="checkbox"/> Purchase <input type="checkbox"/> Lease <input type="checkbox"/> Existing	
				<input type="checkbox"/> Purchase <input type="checkbox"/> Lease <input type="checkbox"/> Existing	
INDUSTRY TYPE	SERVICE FEATURES	PHONE SYSTEM	INSTALLATION INFO	PAYMENT GATEWAY	MOBILE PAYMENTS
<input type="checkbox"/> Retail <input type="checkbox"/> Retail w/Tip <input type="checkbox"/> Restaurant <input type="checkbox"/> MOTD <input type="checkbox"/> Inst <input type="checkbox"/> Hotel <input type="checkbox"/> Cash Advance <input type="checkbox"/> QSR <small>(Requiring Microsoft required for MOTD, & to E-Serve terminal)</small>	<input checked="" type="checkbox"/> AVS <input type="checkbox"/> CVV2 <input type="checkbox"/> Level 2 <input type="checkbox"/> Multi Merch <input type="checkbox"/> Level 3 <input type="checkbox"/> HPF <input type="checkbox"/> Tip <input type="checkbox"/> Wireless <input type="checkbox"/> Fraud Management <input type="checkbox"/> Invoice/Order #	<input type="checkbox"/> Analog <input type="checkbox"/> High Speed	<input type="checkbox"/> Rep to Install <input type="checkbox"/> Rep to Supply Equipment <input type="checkbox"/> MPay to Download and Install <input type="checkbox"/> MPay to Install Only <input type="checkbox"/> Requested Install Time (EST) <input type="checkbox"/> 9AM-12NOON <input type="checkbox"/> 12NOON-3PM <input type="checkbox"/> 3PM-6PM <small>Requiring Wagon Data</small>	<input checked="" type="checkbox"/> SA/SP <input type="checkbox"/> Other: <input type="checkbox"/> Processing Software: <input type="checkbox"/> NO CART <input type="checkbox"/> DATA ENTRY Cert Logics Online Bill Pay Plug-in	Carrier Make Model
SITE SURVEY INFORMATION			SITE INSPECTION INFORMATION		
Site Survey Information: <input type="checkbox"/> Business District <input type="checkbox"/> Industrial <input type="checkbox"/> Residential Refund Policy: <input type="checkbox"/> Full Refund <input type="checkbox"/> Exchange Only <input type="checkbox"/> None Deposit Required: <input type="checkbox"/> Yes \$ _____ <input type="checkbox"/> No			Location: <input type="checkbox"/> Mall <input type="checkbox"/> Shopping Area <input type="checkbox"/> Office <input type="checkbox"/> Home <input type="checkbox"/> Apartment <input type="checkbox"/> Isolated <input type="checkbox"/> Mixed <input type="checkbox"/> Other # of Terminals: _____		
Advertising Method: <input type="checkbox"/> Catalog <input type="checkbox"/> Brochure <input type="checkbox"/> Direct Mail <input type="checkbox"/> TV/Radio <input type="checkbox"/> Internet <input type="checkbox"/> Phone <input type="checkbox"/> Newspapers/Journals <input type="checkbox"/> Other # of Employees: _____			Does business appear legitimate? <input type="checkbox"/> Yes <input type="checkbox"/> No Is inventory sufficient for business type? <input type="checkbox"/> Yes <input type="checkbox"/> No Are decals displayed? <input type="checkbox"/> Yes <input type="checkbox"/> No Are goods and services delivered at time of sale? <input type="checkbox"/> Yes <input type="checkbox"/> No Any mail or telephone order sales activity? <input type="checkbox"/> Yes <input type="checkbox"/> No		
TRANSACTION INFORMATION			SALES REP		
What is the time frame from transaction to delivery? (% orders delivered totaling 100%): 0-7 days _____ % 8-14 days _____ % over 30 days _____ %			By the signature below, signatory certifies that (i) he/she verified the legitimacy of the business; and that (ii) the information stated in this agreement is correct to the best of his/her knowledge and is as represented to him/her by MERCHANT. Rep Signature _____		
PGV/Discover® Network/American Express sales are processed: <input type="checkbox"/> Date of Order <input type="checkbox"/> Date of Delivery <input type="checkbox"/> Other (Specify): _____			Print Name _____ Date _____		
Who performs product/service fulfillment? <input type="checkbox"/> Direct <input type="checkbox"/> Vendor (List Below) <input type="checkbox"/> Other Name: _____ Phone: _____ Address: _____ City: _____ State: _____ Zip: _____			ADDITIONAL CARD TYPES <input type="checkbox"/> CURRENT American Express Pass Through SE# _____ Check Service Provider _____ Account # _____ Gift Card Provider _____ EST Establishment # _____		
Please describe how the transaction works, from order taking to merchant fulfillment. Attach additional sheet if necessary: Where is your inventory stocked? _____ Who manufactures the product? _____ Does any of your cardholder billing involve automatic renewals or recurring transactions? <input type="checkbox"/> Yes <input type="checkbox"/> No <small>(i.e. cardholder authorizes initial sale only)</small>			ADDITIONAL TECHNICAL NOTES 		

BA1804

SIGNATURE(S)

[illegible][illegible]

In part of our letter you, processing letters, handling what procedure and advice it is a practice, we said would come to the site or otherwise gather are so that you have to go while related electronic evidence also is coming to your site that same way.

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Client certifies, under penalties of perjury, that the federal taxpayer identification number and corresponding filing name provided herein are correct.

(Client agrees to all the terms of this Merchant Processing Application and Agreement. This Merchant Processing Application and Agreement shall not take effect until Client has been approved and this Agreement has been accepted by Bankcard Associates, LLC, and Bank.

Check's Business Forecast / Outlook

Sept 2009

Figure 1

Project Subject

4100

World Bank

Personal Data Office

[illegible]

1000000

Figure 10

Supplements

Figure 1

Accepted By Bankcard Associates, LLC.

Wells Fargo Bank, N.A., 1200 Hueston, Walnut Creek, CA 94596

Supervisors


Keywords: *Self-esteem, self-esteem threat, self-esteem threat sensitivity, self-esteem threat sensitivity scale, self-esteem threat sensitivity scale-2*

118

Phone

Chen

10

PART I: CONFIRMATION PAGE		
		
PROCESSOR INFORMATION		
Name Bankcard Associates, LLC URL www.bankcardassociates.com	Address 4030 Wake Forest Rd., Suite 300, Raleigh, NC Customer Service # 1-866-766-5551	
Please read the Program Guide in its entirety. It describes the terms under which we will provide merchant processing services to you.		
<p>From time to time you may have questions regarding the contents of your Agreement with Bank and/or Processor. The following information summarizes portions of your Agreement in order to assist you in answering some of the questions we are most commonly asked.</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>1. Your Discount Rates are assessed on transactions that qualify for custom-credit discounts from a third party (e.g., Visa and Discover). Any transactions that fail to qualify for these reduced rates will be charged an additional fee (see Section 16 of the Program Guide).</p> <p>2. We may debit your Bank account (as is referred to as your Settlement Account) from time to time for amounts owed to us under the Agreement.</p> <p>3. There are many reasons why a Chargeback may occur. When they occur, we will debit your settlement funds or Settlement Account. For more detailed information regarding Chargebacks see Section 10 of the Card Processing Program Guide.</p> <p>4. If you dispute any charge or funding, you must notify us within 90 days of the date of the statement where the charge or funding appears for Card Processing.</p> <p>5. The Agreement limits our liability to you. For a detailed description of the limitation of liability see Sections 21, 25.3, and 31.3 of the Card General Terms.</p> </div> <div style="width: 48%;"> <p>6. We have assumed certain risks by agreeing to provide you with Card processing or check services. Accordingly, we may take certain actions to mitigate our risk, including termination of the Agreement, and/or refunding of money payable to you from Card Processing General Terms in Section 24, Item 3, Item 4, Item 5 and Section 25, Account Debit. Similarly, we may suspend or terminate your services.</p> <p>7. By executing this Agreement with us you are authorizing us and our Affiliates to obtain financial and credit information regarding your business and the status and guarantors of the Agreement and all your obligations to us and our Affiliates are satisfied.</p> <p>8. The Agreement contains a provision that is the limit you terminate the Agreement prior to the expiration of your agreement. If you terminate, you will be responsible for the payment of any amounts owed to us as set forth in Part II, A.3 under "Settlement Fee Information."</p> </div> </div>		
<p>5. Card Organization Disclosure Visa and MasterCard Member Bank Information: Wells Fargo Bank N.A. This Bank's mailing address is 1295 Main St., 20th Fl., San Francisco, CA 94102 and telephone number is (415) 764-6142.</p>		
<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>Important Member Bank Responsibilities:</p> <ul style="list-style-type: none"> a. The Bank is the only entity approved to extend credit (bank of first and MasterCard credit) directly to a merchant. b. The Bank must be a principal obligor to the merchant. c. The Bank is responsible for contacting merchants on disputes and also MasterCard rules which merchants need comply with. Visa information may be provided to you by Processor. d. The Bank is responsible for providing proper settlement funds to the merchant. e. The Bank is responsible for a timely return of funds that are returned from merchants. f. The Bank is the ultimate authority should a merchant have any problem with Visa or MasterCard (e.g., processor, Processor also not accept you pay any settlements). </div> <div style="width: 48%;"> <p>Important Merchant Responsibilities:</p> <ul style="list-style-type: none"> a. Provide compliance with Cardholder data security and storage requirements. b. Register with and comply with the Visa and MasterCard rules. c. Review and understand the terms of the Visa and MasterCard. d. Comply with Card Organization Rules and applicable law and regulations. e. Return a signed copy of this Disclosure Page. f. You may download "Use Regulations" from Visa's website at http://usa.visa.com/merchants/merchant-support/interactions/signature/requirements.jsp g. You may download MasterCard's Rules from MasterCard's website at http://www.mastercard.com/usa/merchants/merchant-support/rules.html h. You may download "American Express Merchant Operations Guide" from American Express website at www.americanexpress.com/merchants/guide </div> </div>		
CLIENT'S BUSINESS PRINCIPAL		
<p>Print Client's Business Legal Name</p>		
<p>By its signature below, Client acknowledges that it has received, (either in person, by facsimile, or by electronic transmission), the Merchant Processing Application, Program Terms and Conditions (version RPay1804) consisting of 37 pages (including this Confirmation Page and the applicable Third Party Agreement(s)).</p> <p>Client further acknowledges reading and agreeing to all terms in the Program Terms and Conditions. Upon receipt of a signed facsimile or original of this Confirmation Page by us, Client's Application will be processed.</p> <p>Client understands that a copy of the Program Guide is also available for downloading from the Internet at: www.bankcardassociates.com/merchant-forms</p> <p>NO ALTERATIONS OR STRIKE-OUTS TO THE PROGRAM TERMS AND CONDITIONS WILL BE ACCEPTED.</p>		
<p>Signature</p>	<p>Title</p>	<p>Date</p>
<p>Please Print Name Of Signer</p>		

X



In order to obtain Automated Clearing House ("ACH") processing services ("ACH Processing Services") from BluePay Processing, LLC. ("BluePay", "we", "us" or "our"), you agree: (i) to complete this merchant application (the "Application"); (ii) that you meet the requirements identified immediately below; (iii) that you are subject to BluePay underwriting review prior to being approved for ACH Processing Services and during the term of this ACH Agreement; and (iv) to comply with the terms and conditions set forth below or otherwise attached to this Application, which shall constitute an agreement between the merchant identified below ("You" or the "Merchant"), ~~the owners and guarantors identified below (collectively, "Guarantors")~~ and BluePay (the "ACH Agreement"). Merchant and each person signing below represents and agrees that:

Initial:

- The persons signing this Agreement are authorized to submit this application;
- The persons signing this Agreement are over 18 years of age;
- BluePay is authorized to obtain from third parties, including from credit reporting agencies and credit bureaus, financial, credit and background information relating to Merchant, and consumer reports on the Guarantors to assist BluePay in its determination of whether to accept this Agreement and its continuing evaluation of the financial and credit status of Merchant and the Guarantors for the entire term of this Agreement;
- The Guarantors identified below agree to the continuing guarantee of the Merchant's obligations in the terms and conditions set forth below.

Please check one of the following:

☒ Merchant wishes to use the BluePay ACH Processing Services (as defined below) with BluePay's ODFI settling transactions for you; or

☐ Merchant wishes to use only the BluePay ACH Gateway Services (as defined below) without BluePay's ODFI settling transactions for you and you will use your own ODFI.

x _____ Company Name	x _____ Signature
x _____ Company Address	x _____ Company City, State & Zip
x _____ Email Address	_____ Agent Name & Code

Application Fee	\$ NA	Discount Fee	0.00%
ACH Monthly Fee	\$ NA	Transaction Fee	\$ 0.00
Monthly Gateway Fee	\$ NA	NSF Return Item Fee	\$ 25.00
Administrative Return Fee	\$ NA	Reversal Fee	\$ 10.00

BluePay ACH Processing Services Agreement Terms and Conditions

This Agreement is entered into as of the date on which it is accepted in writing or electronically by BluePay (the "Effective Date"), and is between BluePay, the Merchant and Guarantors.

BluePay Appointed as Agent for Receipt of Merchant Payments

Merchant hereby appoints BluePay, or its designee, to be its authorized agent, to provide it with Automated Clearing House ("ACH") services as a third party processor of Merchant ACH transactions (each a "Transaction"). Transactions will be placed by BluePay through a bank with whom BluePay has a relationship, who will be acting as the Originating Depository Financial Institution ("ODFI"). BluePay or its ODFI will debit money ("Debit Entry") for the purpose of collecting electronic payments from the accounts of your customers ("Check Writers") and/or credit money ("Credit Entry") for the purpose of paying your accounts receivable in accordance with the terms of this Agreement, the operating rules ("Rules") of the National Automated Clearing House Association ("NACHA") available here www.nacha.org, and the applicable U.S. Federal laws and regulations (the "Regulations") governing the ACH Processing Services. The terms of this Agreement do not limit your obligation to comply with the Rules or Regulations. For the purposes of this Agreement, "Entry" or "Entries" shall mean either a Credit Entry or a Debit Entry.

Upon settlement of any Debit Entry Transaction to BluePay, Merchant agrees to immediately grant to the Check Writer the full benefit of the face value of the associated Transaction. To that end, as and when BluePay is in possession of any Debit Entry Transaction funds, Merchant shall deliver to the Check Writer a receipt for such funds notwithstanding the fact that Merchant has not yet received such funds in the Merchant DDA (as defined below). If, for any reason, any Debit Entry Transaction funds that are settled to BluePay are not remitted to the Merchant, the Merchant is hereby estopped from making a claim for such amounts against the Check Writer.

Merchant Responsibilities

Authorization

You will obtain an ACH authorization from your Check Writers, in a form compliant with the Rules and acceptable to BluePay and its ODFI, prior to transmitting any Entries on account to BluePay. You will maintain records of Check Writer authorizations as necessary to resolve disputes. The authorization must be maintained by you for a period of five (5) years after the termination or revocation of the authorization, or for such longer period as maybe specified by the Rules. You agree to provide the original, a copy or other accurate record of the authorization promptly upon request by BluePay or the ODFI to enable the ODFI to deliver the authorization to the requesting party within the time period required by the Rules. BluePay reserves the right to audit and the ODFI is granted the right to audit the books and records of Merchant related to performance under this Agreement so as to ascertain compliance of the Merchant with the terms of this Agreement, for underwriting purposes and in order to comply with Rules and Regulations. Any actual or attempted Transactions that occur without proper authorization by the Check Writer may result in your funds being frozen pending an investigation by BluePay or the ODFI. You acknowledge that you will be responsible and liable for all unauthorized Transactions.

Submitting Entries

(i) Online Merchants will create a file containing Entries in a format acceptable to BluePay. You may electronically transmit such file to BluePay (such electronic destination being the "BluePay Host Processing System") or deliver the file to BluePay during BluePay's business hours, as in (ii) below. (ii) All other Merchants will fax or mail signed authorization forms in a format acceptable to BluePay. You agree not to initiate Entries in violation of the laws of the United States of America. You understand that you are not authorized to initiate Entries for any third party without BluePay's consent.

Representations and Warranties

You represent and warrant that with respect to all Entries we originate for you that: (i) each Check Writer has authorized the debiting and/or crediting of its account and that such authorization contains the information and is in the format required by the Rules and has not been revoked; (ii) each Entry is for an amount agreed by the Check Writer due and

owing by the Check Writer to Merchant on the settlement date or is to correct an erroneous prior Credit Entry; (iii) each Entry complies with the Rules and Regulations and is in all respects properly authorized; and (iv) each Entry is of a type that BluePay has approved Merchant to initiate and has been identified with the proper SEC code as defined in the Rules. With respect to each Entry, Merchant gives each of the warranties that an Originator or ODFI as defined in the Rules would be required to give for the type of Entry initiated. You agree to indemnify us and ODFI for any losses, liabilities, costs or expenses we or ODFI suffer or incur as a result of any breach of these representations and warranties. If you receive notice that any pre-notification has been rejected, you will not initiate any Entry until the cause for rejection has been corrected and another pre-notification has been submitted and accepted. You shall cease initiating Entries immediately upon your receiving actual or constructive notice of the termination or revocation of authority from BluePay, ODFI or a designee of either or the Check Writer. You shall not collect, store or disclose Check Writer account information other than as expressly permitted by such Check Writers.

Identifying Numbers

You understand that we may rely solely on identifying numbers provided by you to determine the financial institution or bank and account of Check Writer even if the numbers identify an account holder different from the one you identified by name. You will indemnify us for any losses, liabilities, costs or expenses we suffer or incur as a result of an incorrect account or other identification in an Entry or otherwise.

Regulatory Compliance

Merchant bears the final responsibility to ensure that the Merchant's policies and procedures and the Entries meet the requirements of the Rules and Regulations. Merchant is encouraged to consult its legal counsel regarding compliance of authorization and payment procedures whenever there is any doubt about compliance. You agree to regularly and promptly review all Entries and other communication sent by or to you and to immediately notify BluePay if you discover any discrepancy between your records and those provided by BluePay, the ODFI or your bank, or with respect to any Transaction that you believe was not authorized by you or the applicable Check Writer. If you fail to notify BluePay within fourteen (14) calendar days after the date that BluePay mails or provides a statement of account or other report of activity to you, BluePay has no obligation to investigate. If you transmit ACH files electronically, you agree to review transactions posted on a daily basis, or such other frequency as BluePay may prescribe, and notify BluePay immediately by telephone of any suspected unauthorized transaction.

Merchant represents that neither it, nor any of its affiliates, officers, employees or agents are listed on any Specially Designated Nationals ("SDN") list of the U.S. Department of the Treasury the Office of Foreign Assets Control ("OFAC").

Merchant and each Guarantor hereby state that neither they nor the individual officers of Merchant, or any individual using this processing relationship with BluePay are now or have been in the past, part of any investigation or action, by the Federal Trade Commission, FBI, or U.S. Postal Authority or any other governmental authority whether inside or outside the jurisdiction of the United States.

Furthermore, Merchant and each Guarantor agrees to be responsible and liable for any use, whether authorized or unauthorized, of the ACH Processing Services on behalf of Merchant hereunder. For greater certainty Merchant shall not permit any individual to use the ACH Processing Services unless they are: (i) employees or agents of Merchant; (ii) acting for and on behalf of the Merchant; and (iii) acting in the ordinary course of business of the Merchant. The Merchant and Guarantors authorize BluePay and its representatives to obtain from third parties financial, credit and background information relating to Merchant and consumer reports on Guarantors, to assist BluePay in its determination of whether to accept this Agreement and its continuing evaluation of the financial and credit status of Merchant for the entire term hereof.

Merchant shall inform BluePay immediately of any adverse circumstances or developments impacting Merchant's business or the financial condition of Merchant, its officers or Guarantors. Upon learning of such adverse circumstances, Merchant agrees to immediately stop processing Transactions (except as otherwise permitted by BluePay) until BluePay can make a determination on the viability of Merchant's relationship with BluePay. Merchant also agrees and understands that the withholding of said information could be harmful to BluePay, or ODFI, and Merchant will be liable to BluePay and ODFI for any or all damages resulting from such withholding.

BluePay ACH Gateway Services

As part of the ACH Processing Services, BluePay will transmit the Entries it receives from you to its ODFI. If you have elected to not use the BluePay ODFI but wish to nonetheless use the BluePay ACH gateway services to communicate Entries to your own ODFI (the "Merchant ODFI"), BluePay will do so, subject to the terms hereof (such limited ACH Processing Services being the "BluePay ACH Gateway Services"). All of the limitations of liability, other restrictions and obligations of Merchant related to the ACH Processing Services shall apply to the BluePay ACH Gateway Services, with the exception that: (i) Entries will not be transmitted to BluePay's ODFI; and (ii) BluePay shall not take possession of any Transaction funds. Merchant assumes sole and exclusive liability for its relationship with the Merchant ODFI and Merchant shall indemnify and hold BluePay harmless from and against any and all liabilities from or arising in respect of the Merchant ODFI.

Indemnification

You shall hereby indemnify and protect, defend and hold harmless BluePay and ODFI, and their officers, officials, agents, employees and counsel and their respective heirs, administrators, executors, successors and assigns (each of the foregoing, an "Indemnified Party"), from and against, any and all losses, liabilities, claims, damages, interest, judgments, costs, or expenses, including without limitation fees and disbursements of counsel, incurred by any of them arising out of or in connection with or by reason of this Agreement, the Entries, Transactions, the provision of the ACH Processing Services hereunder, or any breach of Rules or Regulations or your representations, warranties or covenants set forth herein (collectively, "Losses"), except only that you shall not be required to indemnify any Indemnified Party for any Losses to the extent such loss is finally determined by a court of competent jurisdiction to have arisen solely out of the gross negligence or willful misconduct of such party. The indemnification obligations of the Merchant under this Agreement shall survive any termination of this Agreement.

BluePay Responsibilities

Accepting Transactions

(i) BluePay will accept on line Entries in the format prescribed by BluePay format via electronic transmission on a 24-hour basis, or office delivery during normal business hours of BluePay. (ii) BluePay will accept all other Entries via facsimile on a 24-hour basis, or office or mail delivery during normal business hours of BluePay. (C) Merchant does not have the right to cancel or amend an Entry after submission to BluePay.

Originating Transactions

BluePay will use the information provided by you to originate your Entries to the ACH. You understand that we may reject your Entries for any reason such as those permitted or required in the Rules or Regulations. You also understand that your Entry may be rejected by us or its origination may be delayed if the Entry would cause us to violate any U.S. Federal Reserve or other regulatory risk control program or any other law or regulation. At your request, we will make reasonable efforts to reverse or delete an Entry but we will have no responsibility for the failure of ourselves or any other person or entity to comply with such requests. All such requests must be made in writing and faxed, delivered or mailed to BluePay.

Returned Entries and Notices of Change ("NOC")

BluePay will apply returned Entries to the account that you maintain at a financial institution as indicated in the application for this Agreement or as otherwise amended by written notice to BluePay (the "Merchant DDA") when they are received. Unless BluePay is otherwise notified in writing, the Merchant DDA shall be the account indicated on the voided check submitted together with the application for this Agreement. (i) Return items report will be delivered to you by BluePay the day there is activity to report. BluePay is responsible for correcting all NOC's received. BluePay will then create and make available to you a report containing the detailed information about the return Entries. (ii) You shall not initiate Entries until such time as the NOC information has been received and records have been updated to include the NOC conformation. BluePay shall have no obligation to retransmit an Entry if the original transmission was not in compliance with this Agreement. If you request that the returned item be retransmitted, BluePay may do so in accordance with the Rules. You agree to pay any cost associated with retransmission.

Method of Transfer

We will transfer all funds to a custodial account at our financial institution (which may or may not be the same as the ODFI). We will hold the Transaction funds until all preliminary returns have cleared and then the funds will be transferred to the Merchant DDA. The standard hold period is five (5) banking days which may be extended at the sole discretion of BluePay. We may, at our discretion, reduce the holding time upon written guarantee of the funds by your financial institution. BluePay reserves the right, in its sole and absolute discretion, to place a longer hold period on the funds should questionable activity occur, or in the event that return rate on Transactions increases significantly enough to warrant a longer hold period or as required by Rules, Regulations or applicable law.

Settlement and Finality

After the hold period for Debit Entries has expired, we will credit the Merchant DDA by the amount of the Debit Entries but this credit will not be final until we have available Transaction funds. If any Debit Entry is returned to us (as described in the Rules), we will debit the Merchant DDA for the amount of the returned item plus fees and costs incurred by BluePay. In the event there are not sufficient funds in the Merchant DDA to cover your obligations under this Agreement, you agree to pay us the amount of the deficiency on demand in immediately available funds. BluePay may debit any account maintained by you, such as for example the Merchant DDA, without further notice to or approval from you. Any Credit Entries that you create will be debited from the Merchant DDA in accordance with the hold period prior to the credit being distributed to your payees' accounts. In the event that the Debit Entry is returned for any reason, the Credit Entries will be cancelled due to the unavailability of funds.

Limits of Liability

BluePay will be responsible for our performance of the ACH Processing Services as a third party service provider in accordance with the terms of this Agreement, and the Rules and Regulations. We are not, however, responsible for errors, acts or failures to act of others, including, and among other entities, banks, ODFI, Merchant ODFI, communications carriers or clearing houses through which Entries may be originated or we receive or transmit information, and no such entity shall be deemed our agent.

BluePay is not responsible for any loss, delay, cost or liability which arises, directly or indirectly, in whole or in part, from: your actions or omissions, your negligence or breach of any warranty or agreement; any ambiguity, inaccuracy or omission in any instruction or information provided to BluePay; accidents, strikes, labor disputes, civil unrest, war, terrorism, fire, earthquake, flood, water damage (e.g., from fire suppression systems), tele-communications or communication network disruption, power surges or failures, legal constraints or acts of God or government; or the actions of others or causes that are beyond BluePay's reasonable control.

BluePay will not be responsible under any circumstances for special, indirect, punitive or consequential damages which you incur as a result of BluePay's actions or omissions, even if BluePay is aware of the possibility for such damages. BluePay's liability and your remedy for actual costs and losses resulting from BluePay's actions and/or omissions during any 12-month period, whether the claim is in contract or tort, will not exceed three (3) times the average monthly Fees (as defined below) for the ACH Processing Services provided over the three (3) months prior to the event giving rise to liability. Any claim, action or proceeding by you to enforce the terms of this Agreement or to recover for any ACH Processing Service-related loss must be commenced within one (1) year from the date that the event giving rise to the claim, action or proceeding first occurs failing which you shall forego right to make such claim. You agree to cooperate with BluePay in any loss recovery efforts BluePay might undertake to reduce any loss or liability that arises in connection with the ACH Processing Services.

We make no representations or warranties other than those expressly made in this Agreement.

Fees

In consideration of the ACH Processing Services, you agree to pay the fees set out in this Agreement, such as they may be from time to time, together with other costs and fees incurred by BluePay in performing under this Agreement (collectively, the "Fees"). You acknowledge that the Fees have been established in contemplation of: the limitations on

BluePay's liability set forth in this Agreement; your agreement to review statements, confirmations, and notices promptly and to notify BluePay immediately of any discrepancies or problems; and your agreement to assist BluePay in any loss recovery effort.

We will notify you in writing of and you agree to pay promptly, the Fees we establish from time to time for our ACH Processing Services. Your current Fees are set forth on the application for ACH Processing Services, including for BluePay funds transfer, pre-note, returned item, change item and other ACH Processing Services. Additionally, there is a monthly access Fee which is stated on the application for this Agreement. A \$25.00 Fee will be assessed if our debit to your Merchant DDA is returned. There are no additional Fees for data storage. You agree that we may obtain payment for these Fees and any other amounts due us under this Agreement by BluePay-initiated Debit Entry to the Merchant DDA. BluePay shall have, and you acknowledge that BluePay has, the right to set off against any amount payable by BluePay to you under any provision of this Agreement, any amounts owed BluePay by you, or any damages sustained by BluePay, ODFI or Chex CollectSM as a result of your violation, breach or non-performance of your obligations under this Agreement.

Governing Law

This Agreement is governed by, and shall be construed under, the law of the State of Illinois, without regard for the principles and conflicts of law.

Arbitration

Any dispute between us shall be submitted to binding arbitration, to be conducted pursuant to the Rules of the American Arbitration Association. Any award may include an award for reasonable attorney's fees and costs. Arbitration shall take place in Chicago, Illinois and there shall be only one arbitrator who shall be an attorney that is practicing commercial law.

No Jury Trial and Class Action Waiver

You and BluePay each waive any right to request a jury trial in the event any claim is brought with respect to this Agreement, its interpretation or enforcement. You shall not bring, or join any class action of any kind in court or in arbitration or seek to consolidate or bring previously consolidated claims in arbitration.

Amendment

We may amend this Agreement by notice to you. We will notify you in writing before we modify this Agreement. Your use of the ACH Processing Services after any such modification will evidence your acceptance of the modifications.

Entire Agreement

This Agreement makes up the entire Agreement between Merchant, Guarantors and BluePay concerning the ACH Processing Services. If any provision of this Agreement is deemed unenforceable, the remaining provisions will still be enforceable.

Third Party Beneficiaries

The Check Writer is a third party beneficiary under this Agreement as relates to its release from liability to Merchant for any Debit Entry Transaction funds that are settled to BluePay, whether or not they are subsequently settled to the Merchant DDA.

BluePay's ODFI is a third party beneficiary hereunder and entitled to enforce all of the rights of BluePay under this Agreement.

Other than Check Writer and BluePay's ODFI, there are no third party beneficiaries under this Agreement.

Continuing Guaranty

For valuable consideration, the Guarantors unconditionally guarantee and promise to pay BluePay or order, on demand, in lawful money of the United States, any and all indebtedness. The word "indebtedness" is used herein in its most comprehensive sense and includes any and all advances, debt, charge-backs for any reasons, and liabilities of Merchant previously incurred, now existing or hereafter made, incurred or created, whether voluntary or involuntary. Guarantor(s) waive any right to require BluePay to:

Initial:

- (a) proceed against Merchant or any other parties or individuals;
- (b) proceed against or exhaust any security for Merchant's indebtedness; or
- (c) pursue any other remedy in BluePay's power whatsoever.

Guarantor(s) waive any defense arising by reason of any act or omission of the Merchant and/or the Guarantor(s) in any legal action by BluePay to recover any indebtedness. Guarantor(s) shall have no right of subrogation, and waive any right to enforce any remedy, which BluePay now has or may hereafter have against Merchant or others, and waive any benefit of, and any right to participate in any security now or hereafter held by BluePay. Guarantor(s) waive all presentments, demand for performance, notices of non-performance, protests, notices of dishonor, and notices of acceptance of this Guaranty and of the existence, creation, or incurring of new or additional indebtedness. In the event BluePay consults a lawyer or incurs any cost or expenses in connection with enforcing this Guaranty, or otherwise as a result of any transaction(s) arising out of or related to this Guaranty, Guarantors agree to pay all such costs, expenses and reasonable attorneys' fees.

As a primary inducement for BluePay to enter into this Agreement, the undersigned Guarantor(s), by signing this Agreement, jointly and severally, unconditionally and irrevocably, personally guarantee the continuing full and faithful performance and payment by Merchant of each of its duties and obligations to BluePay under this Agreement or any other agreement currently in effect or in the future entered into between Merchant or its principals and any processor, acquiring bank or other vendor of BluePay, as such agreements now exist or are amended from time to time, with or without notice.

Corporate Authorization

The indicated officer(s) identified below have the authorization to execute this Agreement on behalf of the here within named corporation. Merchant understands that this Agreement shall not take effect until Merchant has been approved and a Merchant number is issued to Merchant by BluePay for ACH Processing Services.

Cancellation

Any party may cancel this contract with 15 days written notice to the other which will allow the completion of prior Transactions which may be in process. Any cancellation or termination will not affect your obligations arising before the termination or cancellation. ~~In the event the Merchant exercises its right to cancel, cancellation will be subject to a cancellation fee of \$249.~~

Initial:

Reserve Account

In BluePay's sole discretion, at any time during the term of this Agreement, BluePay may require Merchant to maintain a reserve account (the "Reserve Account") at a financial institution determined by BluePay. In the event that BluePay requires a Reserve Account, BluePay shall hereby deduct from the Transaction settlements hereunder and establish the Reserve Account to ensure BluePay's recovery of any liabilities owed it or reasonably anticipated to be owed to it by the Merchant pursuant to this Agreement or otherwise on account of Merchant, including without limitation, all liabilities in respect of actual and/or potential post-termination chargeback, post-termination Fees, and charges, indemnifications and expenses due or anticipated to be due to BluePay from or on account of Merchant. The Reserve Account shall be funded and maintained by BluePay withholding amounts from the Transaction settlements or by debiting funds from the Merchant DDA. The amount of the Reserve Account shall be amended by BluePay at its discretion as a function of the

financial risk posed to BluePay by Merchant. Upon any termination of this Agreement, for any reason what so ever, BluePay reserves the right to maintain in its possession the Reserve Account any and all amounts then held by BluePay, or its agents, in relation to the Merchant until such time as all actual and potential liabilities of Merchant to BluePay are settled in full, including without limitation, legal fees associated with enforcing the terms of this Agreement. In the event the Reserve Account is not sufficient to cover the items that are returned after the termination of this Agreement, BluePay will debit the Merchant DDA and other account(s) for the amounts owed.

Re-evaluation

BluePay reserves the right to re-evaluate the Merchant from time to time after the initial approval of this Application and reserves the right to terminate or suspend ACH Processing Services, reduce daily or periodic limits on Transactions, change the Fees or make other changes to the ACH Processing Services provided to Merchant during the term of this Agreement.

Binding Agreement

This Agreement shall be binding on the parties only upon execution by an authorized representative of BluePay.

Electronic or Paper Acceptance

Under the Electronic Signatures in Global and National Commerce Act ("E-Sign"), this Agreement and all electronically executed documents related hereto are legally binding in the same manner as are hard copy documents executed by hand signature when (1) your electronic signature is associated with the Agreement and related documents, (2) you consent and intend to be bound by the Agreement and related documents, and (3) the Agreement is delivered in an electronic record capable of retention by the recipient at the time of receipt (i.e., print or otherwise store the electronic record). This Agreement and all related electronic documents shall be governed by the provisions of E-Sign. By pressing "Submit", "Accept" or "I Agree", you agree (i) that the Agreement and related documents shall be effective by electronic means, (ii) to be bound by the terms and conditions of this Agreement and related documents, (iii) that you have the ability to print or otherwise store the Agreement and related documents, and (iv) to authorize us to conduct an investigation of your credit history with various credit reporting and credit bureau agencies for the sole purpose of determining the approval of the applicant for Merchant status or equipment leasing. This information is kept strictly confidential and will not be released.

Termination or Suspension of Service

BluePay may, in its sole and absolute discretion, terminate or suspend the ACH Processing Services immediately without prior notice at any time and from time to time. Without limitation of the foregoing, you understand that BluePay may suspend or terminate the ACH Service if: (i) you breach any agreement, representation, warranty or covenant with BluePay or any third party; (ii) BluePay has reason to believe an unauthorized Transaction has taken or may take place involving any of your accounts or the ACH Processing Services; (iii) you become insolvent or the subject of a bankruptcy, receivership, or dissolution proceeding; (iv) BluePay is uncertain as to any person's authority to give BluePay instructions regarding your account or the Service, (v) BluePay has withdrawn, or caused to be withdrawn, funds from either the Reserve Account or other similar reserve accounts in accordance with the provisions hereof, and such funds have not been restored thereto within three (3) business days; (vi) if reversals exceed 2.5%. The foregoing represents examples of circumstances in which BluePay may terminate or suspend ACH Processing Services, but do not limit BluePay's right to terminate such service at any time for any reason or for no reason at all. Termination or suspension of ACH Processing Services by BluePay shall not affect your obligations hereunder or under other agreements, and BluePay shall have no liability on account of such termination.

BluePay Merchant Checklist

Fill out & sign documents. By checking the boxes below, you are confirming that you have:

- ☒ Completed the Web-Based Merchant Application
- ☐ Downloaded and Printed the Completed Application
- ☐ Included a Voided Business Check
- ☒ Included Two Previous Months Bank Statements
- ☒ Included the Business License and/or Articles of Incorporation
- ☒ Included a Legible Copy of Driver's License or Passport
- ☒ Included a Copy of Customer Authorization (if applicable)
- ☒ Included a Profit & Loss Statement
Required for Merchants Originating >\$30,000.00 in ACH Originations / Transaction per month
- ☒ Included a Previous ACH and/or Credit Card Statements for the Previous Two Months
Required for Merchants Currently Originating ACH and/or Credit Card Transactions

Mailing Address:

BluePay Processing
184 Shuman Blvd, Suite 350
Naperville, IL 60563
866-739-8324

Acceptance

You understand that the per item limit, hold period, and Reserve Account required (if any) will be determined by BluePay. You certify that the information provided in this application is true and correct.

Each party is signing this Agreement as of the Effective Date.

x	_____	BluePay Processing, LLC
	Company Name	
x	_____	_____
	Signature	Signature
x	_____	_____
	Name	Name
x	_____	_____
	Title Date	Title Date

**ADDENDUM
ATTACHED TO AND MADE A PART OF**

ACH PROCESSING SERVICE AGREEMENT

(Identify Contract at Issue)

BETWEEN NORTHAMPTON COUNTY AND BLUEPAY PROCESSING, LLC,

(Identify Party Contracting with County)

DATED _____ **(THE "AGREEMENT").**
(Identify Date of Contract)

1. One Instrument; Conflict. This Addendum and the Agreement to which this Addendum is attached shall be deemed one instrument. All capitalized terms used but not defined herein shall have the same meanings as are ascribed to such terms in the Agreement. If the terms of this Addendum conflict with the terms of the Agreement, the terms of this Addendum shall control.

2. Governing Law and Consent to Jurisdiction. The Agreement shall be construed and enforced with the laws of the State of North Carolina notwithstanding its conflict of law principles. The Undersigned agrees that any legal action or proceeding arising out of or relating to the Agreement shall be instituted in the Superior Court of Northampton County, North Carolina. The Undersigned consents to the jurisdiction of such court and waives any objection relating to the basis for personal or in rem jurisdiction or to venue.

3. E-Verify Certification. Employers and their subcontractors with twenty-five (25) or more employees in the State of North Carolina as defined in Article 2 of Chapter 64 of the North Carolina General Statutes must comply with E-Verify requirements in order to contract with governmental units. E-Verify is a program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees. The Undersigned certifies that it is aware of and in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes. In addition, the Undersigned certifies that to the best of its knowledge, any subcontractors employed by it as a part of this Agreement are in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes. The Undersigned acknowledges and agrees that local governments are prohibited from contracting with persons or entities that do not comply with E-Verify requirements and that Northampton County is relying on the certifications set forth herein in order to contract with the Undersigned.

4. Iran Divestment Act Certification. Article 6e of Chapter 147 of the North Carolina General Statutes (the "Iran Divestment Act") requires this certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required at the following times: (i) when a bid is submitted, (ii) when a contract is entered into, and (iii) when a contract is renewed or assigned. The Iran Divestment Act requires that contractors with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any contractor found on the State Treasurer's Final Divestment List. The State Treasurer's Final Divestment List can be found on the State Treasurer's website and the address www.nctreasurer.com/Iran and is updated every 180 days. The Undersigned certifies that it is not listed on the Final Divestment List and that it will not utilize any contractor listed on the Final Divestment List at any time during the term of the Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Undersigned and Northampton County have caused this Addendum to be executed by their duly authorized representatives.

UNDERSIGNED:

_____ (name of entity)

By: _____

Name: _____

Title: _____

Date: _____

NORTHAMPTON COUNTY:

By: _____

Name: _____

Title: _____

Date: _____



Merchant
Services

Program
Terms and
Conditions
(Program Guide)

PREFACE

Thank you for selecting us for your payment processing needs. Accepting more diverse payment options provides convenience to your customers, increases your customers' ability to make purchases at your establishment, and helps speed payment to your account.

Your Merchant Processing Application will indicate the types of payments and Services you have elected to accept. These Program Terms and Conditions ("the Program Guide") presents terms governing the acceptance of Visa®/MasterCard®, Discover® Network Credit Card, American Express® Card transactions and Non-PIN Debit Card payments.

This Program Guide, your Merchant Processing Application and the schedules thereto (collectively, the "Agreement"), contains the terms and conditions under which Processor and/or Bank and/or other third parties, will provide services. We will not accept any alterations or strike-outs in the Agreement and, if made, any such alterations or strike-outs shall not apply. Please read this Program Guide completely.

You acknowledge that certain Services referenced in the Agreement may not be available to you.

IMPORTANT INFORMATION ABOUT BANK'S RESPONSIBILITIES:

Discover Network Card Transactions, American Express Card Transactions and other Non-Bank Services are not provided to you by Bank, but are provided by Processor and/or third parties.

The provisions of this Agreement regarding Discover Network Card Transactions, American Express Card Transactions and other Non-Bank Services constitute an agreement solely between you and Processor and/or third parties. Bank is not a party to this Agreement insofar as it relates to Discover Network Card Transactions, American Express Card Transactions and other Non-Bank Services, and Bank is not responsible, and shall have no liability, to you in any way with respect to Discover Network Card Transactions, American Express Card Transactions and Non-Bank Services.

OTHER IMPORTANT INFORMATION:

Card present risks of loss and non-payment that are different than those with other payment systems. In deciding to accept Cards, you should be aware that you are also accepting these risks:

Visa U.S.A., Inc. ("Visa"), MasterCard Worldwide ("MasterCard"), DFS Services LLC ("Discover Network"), and American Express Company, Inc. ("American Express") are payment card networks that electronically exchange Sales Drafts and Chargebacks for Card sales and Credits. Sales Drafts are electronically transferred from banks on the case of MasterCard and Visa transactions) or network acquirers (in the case of Discover Network transactions) that acquire them from merchants such as yourself through the appropriate Card Organization to the Issuers. These Issuers then bill their Cardholders for the transactions. The Card Organizations charge the Acquirers interchange fees. (American Express charges program pricing, not interchange) pricing and/or assessments for submitting transactions into their systems. A substantial portion of the Discount Rate or Transaction Fees that you pay will go toward these interchange fees, pricing and assessments.

In order to speed up the payment process, the Issuer transfers the funds back through the Card Organization to the Acquirer at approximately the same time that the Issuer receives the electronic Sales Drafts. Even though the payments under this system are made simultaneously, all payments made through the Card Organizations are conditional and subject to reversals and adjustments.

Each Card Organization has developed Card Organization Rules that govern their Acquirers and Issuers and the procedures, responsibilities and allocation of risk for this process. Merchants are also bound by Card Organization Rules and applicable laws and regulations. The Card Organization Rules and applicable laws and regulations give Cardholders and Issuers certain rights to dispute transactions long after payment has been made to the merchant, including Chargeback rights.

We do not decide what transactions are charged back and we do not control the ultimate resolution of the Chargeback. While we can attempt to reverse a Chargeback in the Issuer, we cannot do so if the Issuer agrees to accept it or the Card Organization requires the Issuer to do so after a formal appeal process. Sometimes, your customer may be able to successfully charge back a Card transaction even though you have provided your goods or services and are otherwise legally entitled to payment from your customer. While you may still be able to pursue claims directly against that customer, neither we nor the Issuer will be responsible for such transactions.

You will be responsible for all Chargebacks and adjustments associated with the transactions that you submit for processing.

Please refer to the Glossary for certain capitalized terms used in the Agreement, including this Preface and not defined above.

Capitalized terms not otherwise defined in the Agreement may be found in the Card Organization Rules.

BANKCARD

PART I: CONFIRMATION PAGE

PROCESSOR INFORMATION: Name: Bankcard Associates, LLC
 Address: 3040 Wake Forest Rd Suite 200 Raleigh, NC 27609
 URL: www.bankcardassociates.com

Customer Service #: 1-800-921-9384

Please read the Program Guide in its entirety. It describes the terms under which we will provide merchant processing services to you. From time to time you may have questions regarding the contents of your Agreement with Bank and/or Processor. The following information summarizes portions of your Agreement in order to assist you in answering some of the questions we are most commonly asked.

- Your Discount Rates are assessed** on transactions that qualify for certain reduced interchange rates imposed by MasterCard, Visa and Discover. Any transactions that fail to qualify for these reduced rates will be charged an additional fee (see Section 19 of the Program Guide).
- We may debit your bank account** (also referred to as our Settlement Account) from time to time for amounts owed to us under the Agreement.
- There are many reasons why a Chargeback may occur.** When they occur we will debit your settlement funds or Settlement Account. For a more detailed discussion regarding Chargebacks see Section 10 of Card Processing Operating Guide.
- If you dispute any charge or funding,** you must notify us within 60 days of the date of the statement where the charge or funding appears for Card Processing.
- The Agreement limits our liability to you.** For a detailed description of the limitation of liability see Section 21, 28.7, and 31.5 of the Card General Terms.
- We have assumed certain risks** by agreeing to provide you with Card processing or check services. Accordingly, we may take certain actions to mitigate our risk, including termination of the Agreement, and/or hold monies otherwise payable to you (see Card Processing General Terms in Section 24, Term 4.1 and Section 23, Reserve Account, Security Interest), under certain circumstances.
- By executing this Agreement with us** you are authorizing us and our Affiliates to obtain financial and credit information regarding your business and the signers and guarantors of the Agreement until all your obligations to us and our Affiliates are satisfied.
- The Agreement contains a provision** that in the event you terminate the Agreement prior to the expiration of your initial three (3) year term, you will be responsible for the payment of an early termination fee as set forth in Part III, A.1 under "Additional Fee Information".

9. Card Organization Disclosure

Visa and MasterCard Member Bank Information/Wells Fargo Bank N.A.

The Bank's mailing address is 1200 Montego, Walnut Creek, CA 94598 and its phone number is (925) 746-4143.

Important Member Bank Responsibilities:

- The Bank is the only entity approved to extend acceptance of Visa and MasterCard products directly to a merchant.
- The Bank must be a principal (signer) to the Agreement.
- The Bank is responsible for educating merchants on pertinent Visa and MasterCard rules with which merchants must comply, but this information may be provided to you by Processor.
- The Bank is responsible for and must provide settlement funds to the merchant.
- The Bank is responsible for all funds held in reserve that are derived from settlement.
- The Bank is the ultimate authority should a merchant face any problems with Visa or MasterCard products (however, Processor also will assist you with any such problems).

Important Merchant Responsibilities:

- Ensure compliance with Cardholder data security and storage requirements.
- Maintain fund and Chargebacks below Card Organization thresholds.
- Review and understand the terms of the Merchant Agreement.
- Comply with Card Organization Rules and applicable law and regulations.
- Retain a signed copy of this Disclosure Page.
- You may download "Visa Regulations" from Visa's website at <http://www.visa.com/merchants/merchant-support/international-operating-regulations.jsp>.
- You may download "MasterCard Regulations" from MasterCard's website at <http://www.mastercard.com/merchant/support/rules.html>.
- You may download "American Express Merchant Operating Guide" from American Express' website at www.americanexpress.com/merchantguide.

Print Client's Business Legal Name:

By its signature below, Client acknowledges that it has received, (either in person, by facsimile, or by electronic transmission), the Merchant Processing Application, Program Terms and Conditions [version BA 1804] consisting of 37 pages [including this Confirmation Page and the applicable Third Party Agreement(s)].

Client further acknowledges reading and agreeing to all terms in the Program Terms and Conditions. Upon receipt of a signed facsimile or original of this Confirmation Page by us, Client's Application will be processed.

Client understands that a copy of the Program Guide is also available for downloading from the Internet at: <http://bankcardassociates.com/forms/>

NO ALTERATIONS OR STRIKE-OUTS TO THE PROGRAM TERMS AND CONDITIONS WILL BE ACCEPTED.

Client's Business Principal:

Signature (Please sign below):

X

Title

Date

Please Print Name of Signer

BANKCARD

BA 1004(1a)

DUPLICATE CONFIRMATION PAGE

PROCESSOR INFORMATION:

Name: Bankcard Associates, L.L.C.

Address: 3040 Wake Forest Rd Suite 300 Raleigh, NC 27609

URL: www.bankcardassociates.com

Customer Service #: 1-800-911-9584

Please read the Program Guide in its entirety. It describes the terms under which we will provide merchant processing services to you. From time to time you may have questions regarding the contents of your Agreement with Bank and/or Processor. The following information summarizes portions of your Agreement in order to assist you in answering some of the questions we are most commonly asked.

1. **Your Discount Rates are assessed** on transactions that qualify for certain reduced interchange rates imposed by MasterCard, Visa and Discover. Any transactions that fail to qualify for these reduced rates will be charged an additional fee (see Section 19 of the Program Guide).
2. **We may debit your bank account** (also referred to as our Settlement Account) from time to time for amounts owed to us under the Agreement.
3. **There are many reasons why a Chargeback may occur.** When they occur we will debit your settlement funds or Settlement Account. For a more detailed discussion regarding Chargebacks see Section 18 of Card Processing Operating Guide.
4. **If you dispute any charge or funding,** you must notify us within 60 days of the date of the statement where the charge or funding appears for Card Processing.
5. **The Agreement limits our liability to you.** For a detailed description of the limitation of liability, see Section 21, 28.7, and 31.1 of the Card Processing Terms.
6. **We have assumed certain risks** by agreeing to provide you with Card processing or check services. Accordingly, we may take certain actions to mitigate our risk, including termination of the Agreement, and in hold monies otherwise payable to you (see Card Processing General Terms in Section 24, Term 1 Terms of Default and Section 25, Reserve Account, Security Interests, under certain circumstances).
7. **By executing this Agreement with us** you are authorizing us and our Affiliates to obtain financial and credit information regarding your business and the rights and guarantees of the Agreement until all your obligations to us and our Affiliates are satisfied.
8. **The Agreement contains a provision** that in the event you terminate the Agreement prior to the expiration of your initial three (3) year term, you will be responsible for the payment of an early termination fee as set forth in Part III A. (under Additional Fee Information).

9. Card Organization Disclosure

Visa and MasterCard Member Bank Information: Wells Fargo Bank N.A.

The Bank's mailing address is 1200 Montego, Walnut Creek, CA 94598, and its phone number is (925) 746-4143.

Important Member Bank Responsibilities:

- a) The Bank is the only entity approved to extend acceptance of Visa and MasterCard products directly to a merchant.
- b) The Bank must be a principal signer to the Agreement.
- c) The Bank is responsible for educating merchants on pertinent Visa and MasterCard rules with which merchants must comply, but this information may be provided to you by Processor.
- d) The Bank is responsible for and must provide settlement funds to the merchant.
- e) The Bank is responsible for all funds held in reserve that are derived from settlement.
- f) The Bank is the ultimate authority should a merchant have any problems with Visa or MasterCard products (however, Processor also will assist you with any such problems).

Important Merchant Responsibilities:

- a) Ensure compliance with Cardholder data security and storage requirements.
- b) Maintain fund and Chargeback's below Card Organization thresholds.
- c) Review and understand the terms of the Merchant Agreement.
- d) Comply with Card Organization Rules and applicable law and regulations.
- e) Return a signed copy of this Disclosure Page.
- f) You may download "Visa Regulations" from Visa's website at <http://www.visa.com/merchants/merchant-support/international-operating-regulations.jsp>.
- g) You may download "MasterCard Regulations" from MasterCard's website at <http://www.mastercard.com/us/merchant/support/rules.html>.
- h) You may download "American Express Merchant Operating Guide" from American Express' website at www.americanexpress.com/merchantsguide.

Print Client's Business Legal Name:

By its signature below, Client acknowledges that it has received, (either in person, by facsimile, or by electronic transmission), the Merchant Processing Application, Program Terms and Conditions [version BA 1004] consisting of 37 pages (including this Confirmation Page and the applicable Third Party Agreement(s)).

Client further acknowledges reading and agreeing to all terms in the Program Terms and Conditions. Upon receipt of a signed facsimile or original of this Confirmation Page by us, Client's Application will be processed.

Client understands that a copy of the Program Guide is also available for downloading from the Internet at: <http://bankcardassociates.com/forms/>

NO ALTERATIONS OR STRIKE-OUTS TO THE PROGRAM TERMS AND CONDITIONS WILL BE ACCEPTED.

Client's Business Principal:

Signature (Please sign below):

X

Title:

Date:

Please Print Name of Signer

BA-1004(1a)

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- "Valid Thru" and the Cardholder name (which may not be in English) are embossed on the front of the Card.
- The CID appears on the upper right corner of the signature panel.

NOTE: Text on Cards bearing a UnionPay Acceptance Mark may not be printed in English.

- JCB:**
- Card Numbers are made up of 16 digits, starting with "35" embossed or printed on the front of the Card.
 - Embossed digits on the Card should be clear and uniform in size and spacing within groupings.
 - The Cardholder name and, if applicable, business name embossed on the front of the Card.
 - A JCB Acceptance Mark appears on the front of the Card.
 - A three-dimensional hologram image of rising sun, rainbow, and "JCB" in micro lettering appears on either the front or the back of the Card. The hologram reflects light as it is rotated.
 - The embossed expiration date appears in mm/yy or mm/dd-yy format on the front of the Card and indicates the last month in which the Card is valid.
 - The Card contains a magnetic stripe on the back of the Card.
 - The name "JCB" appears in ultraviolet ink on the left bottom of the front of the Card when held under an ultraviolet light.
 - The first four digits of the Card number match the 4-digit number pre-printed just below the embossed Card number on the front of the Card.
 - The first four digits of the Card number displayed on the signature panel on the back of the Card match the last four digits of the Card number that appears on the front of the Card.
 - The last four digits of the Card number on the back of the Card followed by the 3-digit CID.
 - An overprint on the signature panel reads "JCB" in two colors, blue and green.
 - Some Cards have an embedded integrated circuit chip on the front of the Card.
 - The words "Good Thru," "Valid Dates," "Valid Thru," or "Expiration Date" must be printed near the expiration date. The corresponding words in the language of the country where the JCB Card is issued may also be printed. The words "Month/Year" or the corresponding words in the language of the country where the JCB Card is issued may be printed above or below the expiration date.

NOTE: Some valid Cards bearing the JCB Acceptance Mark will have a printed, unembossed Card number on the Card. If a Card sale involving a valid JCB Card with an unembossed Card number cannot be completed by swiping the Card through the POS Device, the Card should not be accepted. If you accept a Card that displays a printed, rather than embossed, Card number, you are required to obtain a Card imprint, the Card sale may be subject to dispute.

American Express

- All American Express Card Numbers start with "37" or "34." The Card number appears embossed on the front of the Card. Embossing must be clear, and uniform in sizing and spacing. Some Cards also have the Card Number printed on the back of the Card in the signature panel. These numbers, plus the last four digits printed on the Sales Draft, must match.
- Pre-printed Card Identification (CID) Numbers must always appear above the Card Number on either the right or left edge of the Card.
- Only the person whose name appears on an American Express Card is entitled to use it. Cards are not transferable.
- Some Cards contain a holographic image on the front or back of the plastic to determine authenticity. Not all American Express Cards have a holographic image.
- Some Cards have a chip on which data is stored and used to conduct a charge.

1.2. Effective/Expiration Dates. At the point of sale, the Card should be carefully examined for the effective (valid from) (if present) and expiration (valid thru) dates which are located on the face of the Card. The sale date must fall on or between these dates. When an expiration date is expressed in a month/year format, MasterCard transactions are valid through and including the last day of the month and year. When the valid date is expressed in a month/year format, MasterCard transactions that occur before the first day of the month and year are invalid. Do not accept a Card prior to the effective date or after the expiration date. If the Card has expired, you cannot accept it for a Card sale unless you have verified through your Authorization Center that the Card is in good standing; otherwise, you are subject to a Chargeback and could be debited for the transaction.

When a MasterCard PayPass enabled keyfob or mobile phone is presented for payment, verifying a valid expiration date is not required.

1.3. Valid Signature. Check the back of the Card. Make sure that the signature panel has not been disfigured or tampered with in any fashion (an altered signature panel may appear discolored, glued or painted, or show erasure marks on the surface). The signature

on the back of the Card must compare favorably with the signature on the Sales Draft. However, comparing the signature on the Card with the signature on the transaction receipt is not applicable when an alternate Card form (MasterCard PayPass keyfob or mobile phone) is presented. The Sales Draft must be signed by the Card presenter in the presence of your authorized representative (unless a Card Not Present Sale) and in the same format as the signature panel on the Card, e.g., Harry E. Jones should not be signed H.E. Jones. The signature panels of Visa, MasterCard and Discover Network Cards have a 3-digit number (CVV2/CVC2/CID) printed on the panel known as the Card Validation Code.

Visa, MasterCard, Discover Network, and American Express: If the signature panel on the Card is blank, in addition to requesting an Authorization, you must do all the following:

- Review positive identification bearing the Cardholder's signature (such as a passport or driver's license that has not expired) to validate the Cardholder's identity.
- Indicate the positive identification, including any serial number and expiration date, on the Credit Draft or Sales Draft, provided that you must effect PAN Truncation, and must not include the expiration date on the copy of the Sales Draft or Credit Draft that you provide to the Cardholder, or as required by applicable law, the Sales Draft or Credit Draft you retain.
- Require the Cardholder to sign the signature panel of the Card prior to completing the Transaction.
- When a MasterCard PayPass enabled keyfob or mobile phone is presented for payment, validating the customer's signature is not required.

1.4. Users Other Than Cardholders. A Cardholder may not authorize another individual to use his/her Card for purchases. Be sure the signature on the Card matches with the one on the Sales Draft. Furthermore, any Card having two signatures on the back panel is invalid and any sale made with this Card can result in a Chargeback. For Cards bearing a photograph of the Cardholder, ensure that the Cardholder appears to be the person depicted in the picture which appears on the Card. If you have any questions, call the Voice Authorization Center and request to speak to a Code ID operator.

1.5. Special Terms. If you limit refunds or exchanges, or impose other specific conditions for Card sales, you must provide proper disclosure to the Cardholder at the time of transaction in accordance with applicable law. If applicable, the words "No Exchange, No Refund," etc. must be clearly printed (in 1/4" letters) on the Sales Draft near or above the Cardholder's signature. The Cardholder's copy of the Sales Draft, as well as your copy, must clearly display this information near or above the Cardholder's signature. Applicable disclosures may vary by transaction type.

During a liquidation and/or closure of any of your outlets, locations and/or businesses, you must post sign clearly visible to customers stating that "All Sales Are Final," and stamp the Sales Draft with a notice that "All Sales Are Final."

Generally, do not give cash, check or in-store Credit refunds for Card sales. Visa allows for the following exceptions: A cash refund to the Cardholder for a Visa Easy Payment Service Transaction, a cash refund, Credit, or other appropriate form of Credit to the recipient of a gift purchased as a Mail/Phone Order transaction, or a cash refund or in-store Credit for a Visa prepaid card transaction if the Cardholder states that the Visa prepaid card has been discarded. **NOTE:** A disclosure does not eliminate your liability for a Chargeback. Consumer protection laws and Card Organization Rules frequently allow the Cardholder to dispute these items notwithstanding such disclosures.

1.6. Delayed Delivery or Deposit Balance. In a delayed delivery transaction where a Cardholder makes a deposit toward the full amount of the sale, you should execute two separate Sales Drafts (each completed fully as described in Section 3.1), the first for a deposit and the second for payment of the balance upon delivery of the merchandise or the performance of the services.

Visa: You must obtain an authorization for each Sales Draft on each transaction date. You must assign the separate authorization numbers to each Sales Draft, respectively. You must note on such Sales Drafts the words "delayed delivery," "deposit" or "balance," as appropriate, and the authorization dates and approval codes.

MasterCard: For MasterCard transactions, you must obtain an Authorization for each Sales Draft on each Transaction date. You must note on both Sales Drafts the words "delayed delivery," "deposit" or "balance," as appropriate, and the authorization date and approval code.

Discover Network: For Discover Network transactions, you must label one Sales Draft "deposit" and the other "balance," as appropriate.

You shall submit Authorization requests you receive and await receipt of the Authorization Response prior to completing the Card sale. A positive Authorization Response will remain valid for thirty (30) calendar days from the date of the Authorization response for Card sales in the car rental industry, airline and passenger railway industries, the lodging industry and other travel MCC's including passenger transport and all International Card sales. A positive Authorization response will remain valid for ten (10) calendar days from the date of the Authorization response for Card sales in all other industries and MCC's.

In addition, you must complete Address Verification at the time of the "balance" authorization, and you must obtain proof of delivery upon delivery of the services/merchandise purchased. You may not submit sales data relating to the "balance" to us for processing until the merchandise/service purchased has been completely delivered.

American Express: For American Express Card transactions, you must clearly disclose your intent and obtain written consent from the Cardholder to perform a delayed delivery transaction before you request an Authorization. You must obtain a separate Authorization

Approval for each delayed delivery transaction on their respective Charge dates and clearly indicate on each record that the Charge is either for the deposit or for the balance of the transaction. You must submit the delayed delivery transaction record for the balance of the purchase only after the items have been shipped, provided or services rendered. For deposits, submission must be on the date the Cardholder agreed to pay for the deposit for the purchase. For balances, submission must be on the date the items are shipped, provided or services rendered. You must submit and Authorize each delayed delivery transaction under the same Merchant Account Number and treat deposits on the Card no differently than you treat deposits on all other payment products.

Advance Payment Charges for American Express Transactions.

An advance payment Charge is a Charge for which full payment is made in advance of you providing the goods and/or rendering services to the Cardholder and such Charges carry higher risk. American Express may withhold settlement for part or all of such Charges until it is determined that the risk has diminished.

You must follow the procedures below if you offer Cardholders the option or require them to make advance payment Charges for the following types of goods and/or services:

- Custom orders (e.g., orders for goods to be manufactured to a customer's specifications)
- Entertainment / ticketing (e.g., sporting events, concerts, season tickets)
- Tuition, room and board, and other mandatory fees (e.g., library fees) of higher educational institutions
- Airline tickets, vehicle rentals, rail tickets, cruise line tickets, lodging, travel-related services (e.g., tours, guided expeditions)

For an advance payment Charge, you must:

State your full cancellation and refund policies, clearly disclose your intent and obtain written consent from the Cardholder to bill the Card for an advance payment Charge before you request an Authorization. The Cardholder's consent must include his or her agreement to all the terms of the sale (including price and any cancellation and refund policies), and a detailed description and the expected delivery date of the goods and/or services to be provided (including, if applicable, expected arrival and departure dates).

- Complete a Sales Draft. If the advance payment Charge is a Card Not Present Charge, you must also ensure that the Sales Draft contains the words "Advance Payment," and within twenty-four (24) hours of the Charge being incurred, provide the Cardholder written confirmation (e.g., email or facsimile) of the advance payment Charge, the amount, the confirmation number (if applicable), a detailed description and expected delivery date of the goods and/or services to be provided (including expected arrival and departure dates, if applicable) and details of your cancellation/refund policy.

If you cannot deliver goods and/or services (e.g., because custom-ordered merchandise cannot be fulfilled), and if alternate arrangements cannot be made, you must immediately issue a Credit for the full amount of the advance payment Charge which cannot be fulfilled.

In addition to other Chargeback rights, a Chargeback may be exercised for any disputed advance payment Charge or portion thereof if the dispute cannot be resolved in your favor based upon unambiguous terms contained in the terms of sale to which you obtained the Cardholder's written consent.

1.7. Recurring Transaction and Preauthorized Order Regulations. If you process recurring transactions and charge a Cardholder's account periodically for recurring goods or services (e.g., monthly insurance premiums, yearly subscriptions, annual membership fees, etc.), the Cardholder shall complete and deliver to you a Cardholder approval for such goods or services to be charged to his account. The approval must at least specify the Cardholder's name, address, account number and expiration date, the transaction amounts, the timing or frequency of recurring Charges and the duration of time for which the Cardholder's permission is granted. For Discover Network transactions, the approval must also include the total amount of recurring Charges to be billed to the Cardholder's account, including taxes and tips and your Merchant Account Number.

If the recurring transaction is renewed, the Cardholder must complete and deliver to you a subsequent written request for the continuation of such goods or services to be charged to the Cardholder's account. You may not complete a recurring transaction after receiving a cancellation notice from the Cardholder or issuer or after a request for authorization has been denied.

If we or you have terminated this Agreement, you may not submit authorization requests or sales data for recurring transactions that are due after the termination date of this Agreement, and you must inform Cardholders for which you have submitted the recurring transactions that you no longer accept the Card.

You must obtain an Authorization for each transaction and write "Recurring Transaction" (or, "P.O." for MasterCard transactions; "Signature on File" for American Express transactions) on the Sales Draft in lieu of the Cardholder's signature. A positive authorization response for one recurring transaction Card Sale is not a guarantee that any future recurring transaction authorization request will be approved or paid.

For all Discover recurring transactions, you should submit the 3-digit CID with the first authorization request, but not subsequent authorization requests. Discover Network Card Organization Rules specifically require that you follow this CID procedure for Discover Network recurring transactions.

Also, for Discover Network recurring transactions, the Sales Draft must include a general description of the transaction, your merchant name and a toll-free customer service number that the Cardholder may call to obtain customer assistance from you or to cancel the written approval for the recurring transaction.

For American Express recurring transactions, you should periodically verify with Cardholders that their information (e.g., Card Number, expiration date, billing address) is still accurate. This will improve the likelihood of obtaining an approval in an Authorization request.

The method to secure consent for recurring Charges must contain a disclosure that you may receive updated Card account information from the issuer. You must retain evidence of consent to receive updated Card account information from the issuer for twenty-four (24) months from the date you submit the last recurring billing Charge. If you offer Cardholders the option to make recurring billing Charges, you must:

- Ensure that your process for cancellation of recurring billing is simple and expeditious;
- Clearly and conspicuously disclose all material terms of the option, including, if applicable, the fact that recurring billing will continue until the option is cancelled by the Cardholder;
- Offer their American Express customers the option to receive written notification for the recurring transaction(s) at least (10) ten days prior to submitting, or any time the Charge amount exceeds a maximum amount that has been set by the Cardholder;
- Within twenty-four (24) hours of incurring the first recurring billing Charge, provide the Cardholder written confirmation (e.g., email or facsimile) of such Charge, including all material terms of the option and details of your cancellation/refund policy; and
- Where the material terms of the option change after submission of the first recurring billing Charge, promptly notify the Cardholder in writing of such change and obtain the Cardholder's express written consent to the new terms prior to submitting another recurring billing Charge.

The cancellation of an American Express Card constitutes immediate cancellation of that Cardholder's consent for recurring Charges. American Express will not have any liability from such cancellation. If an American Express Card is cancelled or a Cardholder withdraws consent to recurring Charges, you are responsible for arranging another form of payment with the Cardholder.

All recurring transactions or preauthorized orders may not include partial payments for goods or services purchased in a single transaction.

You may not impose a finance charge in connection with a Recurring Transaction or Preauthorized Order.

If you process recurring payment transactions, the Recurring Payment Indicator must be included in each authorization request, and as applicable, each Batch submission entry. Penalties can be assessed by the Card Organizations for failure to use the Recurring Payment Indicator.

1.8. Certain Rules and Requirements. The following rules are requirements strictly enforced by Visa, MasterCard and Discover Network:

- Your minimum Credit Card acceptance amount cannot exceed \$10.00. Such minimum amount must be established to all Credit Cards regardless of Card issuer or Card brand. Unless you are a Federal government entity or institution of higher learning, you may not establish a maximum amount as a condition for accepting a Card, except that for Discover transactions, you may limit the maximum amount a Discover Network Cardholder may spend if, and only if, you have not received a positive authorization response from the issuer. Setting a minimum transaction amount limit for Debit Cards (Pin Debit or Non-PIN Debit) is prohibited.
- You cannot impose a surcharge or fee for accepting a Debit Card.
- You cannot establish any special conditions for accepting a Card.
- You cannot require the Cardholder to supply any personal information (e.g., home or business phone number, home or business address including zip code, or driver's license number) unless instructed by the Authorization Center. The exception to this is for mail, telephone/Internet order or delivery-required transactions, or as otherwise permitted by applicable law. Any information that is supplied by the Cardholder must not be in plain view when mailed.
- Any tax required to be collected must be included in the total transaction amount and not collected in cash.
- You cannot submit any transaction representing the refinancing or transfer of an existing Cardholder obligation deemed uncollectible.
- You cannot accept a Visa Consumer Credit Card or Commercial Visa Product, issued by a U.S. issuer, to collect or refinance an existing debt. **NOTE:** Visa Consumer debit and Visa Business debit Card products including prepaid card type can be accepted to collect or refinance an existing debt.
- You cannot submit a transaction or sale that has been previously charged back.
- You must create a Sales Draft or Credit Draft for each Card transaction and deliver at least one copy of the Sales Draft or Credit Draft to the Cardholder.
- You cannot submit a transaction or sale to cover a dishonored check.
- If you accept Card checks, your Card check acceptance policy must treat the acceptance of checks from all payment card brands that you accept equally (e.g., if you accept MasterCard, Visa and Discover Network, your check acceptance policy must treat checks for all three payment card brands equally). You should handle these Card checks like any other personal check drawn upon a bank in the United States.
- Failure to comply with any of the Card Organization Rules may result in fines or penalties.

U.S. Merchants may engage in any of the following:

- You may direct customers to a particular brand or type of general purpose card or a particular form of payment. U.S. merchants may also encourage customers who initially present a Visa Card to use a payment card with a different network brand, a different type of payment card or a different form of payment.
- You may provide a discount/incentive for a consumer to pay with cash, check, Credit Card, Debit Card, etc.; however, you must clearly and conspicuously disclose the discount to consumers. Also, you must offer the discount to all consumers and you cannot discriminate based upon Card brand or Card Issuer. However, you may choose not to accept either U.S. issued Debit Cards or U.S. issued Credit Cards under the terms described in Section 1.9.
- You may offer a discount or rebate, including an immediate discount or rebate at the point of sale.
- You may offer a free or discounted product, service or enhanced service.
- You may offer an incentive, encouragement, or benefit.
- You may express a preference for the use of a particular brand or type of general purpose card or a particular form of payment.
- You may communicate to a customer the reasonably estimated or actual costs incurred by the merchant when a customer uses a particular brand or type of general purpose card or a particular form of payment or the relative costs of using different brands or types of general purpose cards or different forms of payment. **NOTE:** Visa Consumer Debit and Visa Business Debit Card products including prepaid Card type can be accepted to collect or refinance an existing debt, or

You may engage in any other practices substantially equivalent to the above

- You will inform the Cardholder that you are responsible for the Card transaction including your goods and services and fee related customer service, dispute resolution and performance of the terms and conditions of the transaction.

1.9. Card Acceptance. If you have indicated either in the Merchant Processing Application or by registering with us at least thirty (30) days in advance that, as between Non-PIN Debit Card transactions and Credit Card transactions, you will limit your acceptance to either (i) only accept Non-PIN Debit transactions, or (ii) only accept Credit Card transactions, then the following terms in this Section 1.9 will apply.

1.9.1. You will be authorized to refuse to accept for payment either Non-PIN Debit Cards or Credit Cards that are issued within the United States. You will, however, continue to be obligated to accept all foreign issued Credit Card or Debit Cards issued by MasterCard, Visa or Discover Network so long as you accept any type of MasterCard, Visa or Discover Network branded Card.

1.9.2. While many Debit Cards include markings indicating debit (such as "Visa CheckCard, Visa Buys, Gift Card, DEBIT, or Mastermoney"), many Debit Cards may not include any such markings. It will be your responsibility to determine at the point of sale whether a Card is of a type that you have indicated that you will accept. You agree to institute appropriate systems and controls to limit your acceptance to the Card types indicated. You may purchase a table of ranges of numbers currently associated with Debit Card transactions upon execution of confidentiality/non-disclosure agreements required by the Card Organizations. You will be responsible for updating your systems to utilize such tables and to obtain updated tables. You must safeguard BIN information provided by us. If you share our provided BIN information with a third party to use on your behalf, you must require they safeguard it also and use it only for card type identification at the POS.

1.9.3. To the extent that you inadvertently or unintentionally accept a transaction that you are not registered to accept, such transaction will downgrade and you will be charged the Non-Qualified Rate or, if you are utilizing the Enhanced Recovery Reduced Discount option, you will be charged the Enhanced Recovery Reduced Rate on the volume of said transaction that Client was not registered to accept, in addition to the difference between the MasterCard/Visa/Discover Network Qualified Rate agreed to in Section 9 of the Service Fee Schedule and the actual interchange rate assessed to the downgraded transaction.

1.9.4. Based upon your choice to accept only the Card types indicated in the Application, you must remove from your premises any existing signage indicating that you accept all Visa, MasterCard or Discover Network Cards and use approved specific signage reflecting your policy of accepting only Non-PIN Debit or Credit Cards.

1.9.5. Even if you elect not to accept Non-PIN Debit Card transactions as provided above, you may still accept PIN Debit Card transactions if you have signed up for PIN Debit Card Services.

1.9.6. If a MasterCard Card is presented, you must use your best efforts, by reasonable and peaceful means, to retain the card while making an authorization request. In a face-to-face environment, you must give a MasterCard Cardholder the option of a signature based transaction. Unless the Cardholder uses a PIN, the Cardholder must sign the transaction receipt.

1.9.7. MasterCard revised standards related to the use of Mobile POS (MPOS) terminals.

MasterCard revised standards related to the use of Mobile POS (MPOS) terminals

Merchants with less than \$100,000 in annual MasterCard transaction volume may use Chip-only MPOS terminals

- That do not support magnetic stripe capture and cannot print a paper Transaction receipt

- Have a contact chip reader and magnetic stripe-reading capability but does not support PIN as a Cardholder Verification Method (CVM) for Contact Chip Transactions
- Chip-only MPOS Terminal

Merchants with less than \$100,000 in annual MasterCard transaction volume may use MPOS terminals or Chip-only MPOS solutions that do not support electronic signature capture to complete a transaction without obtaining a CVM.

Please Note: Merchants with more than \$100,000 in annual transactions may use MPOS terminals if the MPOS terminal complies with MasterCard's requirements for POS terminals or hybrid POS terminals (if chip cards are accepted).

1.10. Deposits of Principals. Owners, partners, officers and employees of your business establishment, and the guarantors who signed the Application, are prohibited from submitting Sales Drafts or Credit Drafts transacted on their own personal Cards, other than transactions arising from bona fide purchases of goods or services in the ordinary course of your business. Such use in violation of this Section 1.10 is deemed a cash advance, and cash advances are prohibited.

1.11. Merchants in the Lodging Industry.

1.11.1. Generally. There are additional rules and requirements that apply to merchants in the lodging industry for practices including, but not limited to, Guaranteed Reservations and Charges for no shows, advance deposits, overbookings, and priority checkout. If you are a merchant in the lodging industry, you must contact us for these additional rules and requirements. **Failure to do so could result in additional charges or termination of this Agreement.**

1.11.2. Lodging Service Programs. In the event you are a lodging merchant and wish to participate in Visa's and/or MasterCard's lodging services programs, please contact your sales representative or relationship manager for details and the appropriate MasterCard and Visa requirements.

1.11.3. Written Confirmation of Guaranteed Reservations. You must provide the Cardholder with written confirmation of a guaranteed reservation. The confirmation must contain:

- Cardholder's name as it appears on the Card, if present
- Card Number, truncated where required by applicable law to you or us and Card expiration date if present, unless prohibited by applicable law to you or us
- Reservation confirmation number
- Anticipated arrival date and length of stay
- The cancellation policy in its entirety, inclusive of the date and time the cancellation privileges expire
- Any other pertinent details related to the reserved accommodations

1.11.4. Cancellation of Guaranteed Reservations. If a Cardholder requests a cancellation in accordance with Merchant's cancellation policy and specified time frames, Merchant must provide the Cardholder with a cancellation number and instructions to retain a record of it. If a Cardholder requests a written confirmation of the cancellation, Merchant must forward this confirmation within three (3) Business Days of the Cardholder's request. The cancellation confirmation must contain: Cardholder's reference that Charges were placed on the Card, if applicable, or a guarantee that a "no-show" Charge will not be placed on the Card.

- Cardholder's name as it appears on the Card, if present
- Card Number, truncated as required by applicable law to you or us
- Card expiration date, if present, unless prohibited by applicable law to you or us
- Reservation cancellation number
- Date of cancellation
- The name of the Merchant's employee that processed the cancellation
- Any other pertinent information related to the reserved accommodations

1.12. Customer Activated Terminals and Self-Service Terminals. Prior to conducting Customer Activated Terminal ("CAT") transactions or Self-Service Terminal transactions for MasterCard, Visa, or Discover, you must contact us for approval and further instructions, rules and requirements that apply to CAT and Self-Service Terminal transactions. **Failure to do so could result in additional charges or termination of this Agreement.**

Customer Activated Terminals for American Express Transactions

Charges for purchases at your Customer Activated Terminals (CATs) must meet the requirements for Sales Draft as detailed below.

You must include:

- Full Magnetic Stripe data stream or chip Card data in all Authorization requests, and,
- CAT indicator on all Authorization requests and Submissions

American Express will not be liable for actual or alleged fraudulent Charges occurring through Customer Activated Terminals (CAT) and will have the right to Chargeback for those Charges.

1.13. Displays and Advertising. You must prominently display appropriate Visa, MasterCard, Discover Network, and, if applicable, other Card Organization decals and program Marks at each of your locations, in catalogs, on websites and on other promotional materials as required by Card Organization Rules, if you elected to accept such Card

prevention of your Application. You agree not to display that Your Master card and Discover Network, or any other Card Organization's logos or goods or services.

You agree to use the program Marks of the Card Organization to terminate upon the action of you and when your right to accept the Cards of the respective Card Organization terminates (e.g., if your right to accept Discover Network Cards terminates, you are no longer permitted to use Discover Network Program Marks). Timeliness of notice by us or the respective Card Organization to you of the termination of the right to use the Marks of the Card Organization or the termination of the license to use the program Marks by the respective Card Organization is not required.

American Express: If you elect to accept the American Express Card as your Application, whenever payment methods are communicated to customers, or when customers ask what payments are accepted, you must indicate your acceptance of the American Card and display the American Express Marks (including your Card application form provided to you as a promissory card) in the same manner as you do for any other Card or payment product. You must not use the American Express Marks in any way that implies or diminishes the goodwill associated with the American Express Marks, nor to allow print or other (print) matter to indicate that American Express endorses your goods or services. You shall not use the American Express Marks as permitted by the Agreement and shall cease using the American Express Marks upon termination of the Agreement.

1.13.1. Discover Network Sublicense to Use Discover Network Program Marks. You are prohibited from using the Discover Network Program Marks as defined below, other than as expressly authorized in writing by us. "Discover Network Program Marks" means the brand, emblem, trademark, logo or logo that identifies Discover Network Cards including without limitation Discover Network Cards, JCB, UnionPay, BC Card and DinersCard. Additionally, you shall not use the Discover Network Program Marks other than as a part of the display of details, imagery, advertising and other forms depicting the Discover Network Program Marks that are provided to users in an otherwise approved manner in writing by us.

You may use the Discover Network Program Marks only to promote the services you and the Discover Network Program Marks by using them on displays, online and outdoor signs, advertising materials and marketing materials, provided that all such uses by you must be approved in advance by us in writing.

You shall not use the Discover Network Program Marks in such a way that customers could believe that the products or services offered by you are sponsored or guaranteed by the owners of the Discover Network Program Marks. You agree that such a misrepresentation right in the Discover Network Program Marks. You shall not associate the Program Marks with the rights to use the Program Marks.

1.13.2. American Express sublicense to Use American Express Marks. You shall only use the American Express Marks as reasonably necessary to perform your obligations under the Agreement. The guidelines listed below apply to the Merchant's use of the American Express Blue Box logo.

- The "Blue Box" logo must be used in the pre-approved American Express Blue Box or in any other communication or block.
- The space around the "Blue Box" must equal at least 1/3 the size of the box.
- The "Blue Box" logo must be used in a 1/3" and 1/2" to the preferred size.
- A minimum distance of 1-1/2 times the size of the "Blue Box" must be allowed between the "Blue Box" logo and another Mark.
- For additional guidelines on the use of the American Express Marks, you can visit the American Express website at www.americanexpress.com/usa.
- You must remove American Express Marks from our website and wherever else they are displayed upon termination of the Agreement or if do not elect to accept payment authorized to accept American Express Cards.

1.14. Cash Payments by and Cash Disbursements to Cardholders. Your master account direct payments from Cardholders for charges of merchandise or services which have been included on a Sales Draft, it is the right of the issuer to receive such payments. You may not make any cash disbursements or cash advances to a Cardholder as part of a Card transaction unless you are a financial institution with express authorization in writing in advance from Service. The Discover cash advances in authorized jurisdictions other than the United States may be conducted in an organized manner, provided that cash advances may be subject to dispute and in a regular way.

1.15. Discover Network Cash Over Transactions. Cash Over transactions are not available for Master and in Visa transactions. You may issue Cash Over transactions with a Discover Network Card sale, provided that you comply with the provisions of this Agreement including the following requirements:

- You must deliver to us a single authorization request for the aggregate total of the goods and services purchase amount and the Cash Over amount of the Card sale. You may not submit separate authorization requests for the purchase amount and the Cash Over amount.
- The Sales Draft must include both the purchase amount and the Cash Over amount, and you may not use separate Sales Drafts for the purchase amount and Cash Over amount.
- Cash Over may only be offered with a Card and Prepaid Card Sale that includes a purchase of goods or services by the Cardholder. You must not issue a cash Over as a stand-alone transaction. Merchants that offer Cash Over must require the total amount of a Card Sale with a Cash Over, including Cash Over, to meet a minimum transaction amount of up to \$1,000.

- You shall not assess or charge fees of any type or amount, including any surcharge, on Cash Over transactions. None of the fees or charges applicable to Cash Advances shall be applied to Cash Over transactions.

- Cash Over may not be dispensed in connection with Checks, Cash Advances, or any Card Sale in which you are unable to electronically capture Transaction from the POS Device.
- The maximum amount of cash that you may issue as Cash Over is \$1,000.

(If Cash Over may not be available in certain markets. Contact us for further information).

1.16. Telecommunication Transactions. Telecommunication Card Sales occur when a telephone service provider is paid directly using a Card for individual local or long-distance telephone calls. (NOTE: Pre-paid telephone service cards are not and do not give rise to Telecommunication Card Sales). Prior to conducting Telecommunication transactions, you must contact us for approval and further instructions, rules and requirements. Failure to do so could result in additional charges or termination of this Agreement.

2. Suspect Transactions

If the appearance of the Card being presented or the behavior of the person presenting the Card is suspicious in nature, you must immediately call the Voice Authorization Center and ask to speak to a Loss Prevention Agent. Answer all their questions and follow their instructions. While not proof that a transaction is fraudulent, the following are some suggestions to assist you in preventing fraudulent transactions that could result in a Chargeback.

Ask yourself, does the Customer:

- appear nervous, agitated, hurried?
- appear to be making indiscriminate purchases (e.g., does not know how much an item costs, the sale, etc.)?
- make purchases substantially greater than your usual customer (e.g., your average transaction is \$50, but this transaction is for \$500)?
- insist on using the card, but the merchandise is bulky (e.g., no matter how difficult it is to handle, is not intended for the delivery, alterations, etc.)?
- appear to be purchasing an unusual amount of expensive items in the same store?
- take an unusual amount of time to sign the Sales Draft, or look at the back of the Card or the signs?
- talk fast or act, or give you a reason to detract you from checking the signature?
- take the Card from a pocket instead of a wallet?
- seemably come back, in a short amount of time, or right before closing time, to make additional purchases?
- carry an amount, sudden increase in the number and average size of transactions over a time in the sales period?
- tell you he has been having some problems with his lower end, and that you call a number that he provides for a "special" handling or authorization?
- have a previous history of disputed charges?
- place orders to be shipped to an address other than the billing address or use an unusual free e-mail domain?
- place orders soon to up order or number of orders on their return or fraudulent items?
- frequently make purchases and then return goods for cash?
- use a prepaid Card to purchase other prepaid Cards?
- use a large number of prepaid Cards to make purchases?

Does the Card:

- have a character, the wrong size, height, style and fit in the alignment?
- appear to be re-embossed (the original numbers or letters may be detected on the back of the Card)?
- have an irregular logo or mark?
- have a chip, some signs on the back of the Card?
- have an irregular magnetic stripe?
- have an irregular signature panel (e.g., appear discolored, glued or painted, or show unusual marks on the surface)?
- have a valid name, telephone number, and three expiration dates consistent with the sale date?

If you use an electronic terminal and swipe the Card, make sure the account number displayed on the terminal and on the Sales Draft matches the number on the Card. If you cannot or do not verify the account number and accept the Sales Draft, you are subject to a Chargeback and would be liable for the amount of the transaction. IF THE MERCHANT DOES NOT HAVE A POS DEVICE TO ACCEPT THE CARD AS A FORM OF PAYMENT, CONTACT AN AUTHORIZED REPRESENTATIVE FOR THE MERCHANT'S MERCHANT CARD NUMBER MAY BE RETURNED.

High-Prone Merchandise Tips:

- Gift Cards, jewelry, radios, stereo, computer and camera equipment, shoes, and men's clothing are typically high-prone because they can easily be sold.
- Be suspicious of high-dollar products and transactions where the buyer is fluid-prone (e.g., two VCRs, three gold chains, etc.).

If you suspect fraud:

- Call the Visa Authorization Center and ask to speak to a Credit Operations Specialist.
- If the terminal does not display the Card number, call the POS Help Desk for technical assistance.

REMEMBER: AN AUTHORIZATION CODE ONLY INDICATES THE AVAILABILITY OF A CARDHOLDER'S LIMIT AT THE TIME OF THE TRANSACTION. IT DOES NOT WARRANT THAT THE PERSON PRESENTING THE CARD IS THE RIGHTFUL CARDHOLDER. IF PROPER PROCEDURES ARE NOT FOLLOWED AT THE TIME OF THE TRANSACTION, YOU ARE SUBJECT TO A CHARGEBACK AND YOUR ACCOUNT MAY BE DEBITED FOR THE AMOUNT OF THE TRANSACTION.

3. Completion of Sales Drafts and Credit Drafts

You must prepare Sales Drafts (Credit Drafts, as applicable) for each Card transaction and provide a copy of it to a transaction receipt or copy of the Draft to the Cardholder at the time the Card transaction is completed.

3.1. Information Required. All of the following information must be contained in a single page document continuing a Sales Draft:

- Cardholder's account number must appear on the Credit Draft or Sales Draft in the manner required by applicable law and Card Organization Rules. **NOTE:** The copy of the Sales Draft or Credit Draft you provide to a Cardholder must not include the Cardholder's Card expiration date or any more than the last four digits of the Cardholder's Card number. Some states have similar requirements that also apply to the Sales Draft or Credit Drafts you return. Merchant and regional Card expiration dates be excluded from the Sales Draft or Credit Drafts for business reasons. You are solely responsible to determine the Card account number information requirements and Card expiration date exclusion requirements for your state jurisdiction.
- Clear imprint of the Card. Whether the term "imprint" is used relates to the process of using a manual imprinting machine to make an impression of the Card on the reverse side of a signed Sales Draft. It does not include the imprint from a printer attached to an electronic device. If you use a device (e.g., authorization draft capture terminal, cash register, POS device, etc.) electronically capturing the Card information, magnetic stripe chip or contactless data, you do not have to imprint the Card. **HOWEVER, IF THE ATTENDED POS DEVICE FOR YOUR BUSINESS DOES NOT HAVE THE MAGNETIC STRIP OR CHIP, YOU ARE REQUIRED TO OBTAIN A CLEAR AUTHORIZATION. THEN, YOU MUST IMPRINT THE CARD. IN ADDITION, THE SALES DRAFT MUST HAVE THE CARDHOLDER'S SIGNATURE. FAILURE TO FOLLOW THESE PROCEDURES WILL PREVENT YOU FROM DEFENDING A FRAUD ACTION. IT IS THE CARDHOLDER'S RESPONSIBILITY TO CHARGE BACK. IF A CARDHOLDER DOES NOT CHARGE BACK, THE PURCHASER ENTERING INFORMATION TO A RETAIL MERCHANT WILL NOT PREVENT THIS COPY OF CHARGEBACK FROM A TELEPHONE INTERVIEW AND OTHER CARD NOT PRESENT ORDERS OR SECTION 12 IF THE PHYSICAL CARD IS NOT PRESENT AND THEREFORE PAYMENT MUST BE REQUESTED.**
- Cardholder's signature. However, eligible merchants participating in MasterCard's Quick Payment Service Program, Visa's No Signature Required Program, American Express's No Signature Program, and Discover Network's No Signature Program, and/or certain Discover Network transactions (see note below) are not required to obtain the Cardholder's signature, under certain conditions set forth by each program.
- Date of the transaction.
- Amount of the transaction (including the approved currency of the sale).
- Description of the goods and/or services sold in the transaction (if there are no items, items combine them into one description, e.g., "clothing" instead of "one pair of pants, one shirt"). Do not carry information onto a second Sales Draft.
- Description of your merchant's return and refund policy.
- A valid authorization code, and
- Merchant's Doing Business As (D.B.A.) name and location (in and out-of-state) and Merchant Account Number.

When preparing Sales Drafts, do not alter the Cardholder account number, circle or underline any information on the Sales Draft or alter a Sales Draft in any way after the transaction has been completed and signed. Stamp marks and other alterations on a Sales Draft may render a transaction (or, separately, a card) void or illegible. This may result in a Chargeback in Summary Addressed to your account.

For Discover Network sales using a paper Sales Draft (as opposed to Electronic Data Capture), the paper Sales Draft must also contain the initials of your representative or employee who conducted the transaction. For Discover Network Credit, the Credit Draft must contain the signature of your authorized representative or employee who conducted the transaction.

Discover Card Sales in an amount more than \$50.00 including sales taxes, tip, surcharge and/or Cardholder amount fee are not eligible for merchant's No Signature Card Sales and you may lose a dispute on such a Card Sale if the Merchant fails to obtain the Cardholder's Signature on the Sales Draft.

Eligible merchants participating in Visa's Quick Payment Service, Visa's No Signature Required Program, Quick Payment Service, and/or Small Ticket are only required to print the Cardholder with the completed Sales Draft when requested by the Cardholder.

NOTE: For Visa, MasterCard and Discover Network transactions, if you are a merchant

operating under certain merchant category codes ("MCC") approved by Visa, MasterCard and Discover Network, you are not required to obtain the Cardholder's signature as long as the full track data is transmitted in the authorization request and the sale amount is below the applicable program threshold (MasterCard and Discover American Express \$550 Visa's program thresholds are \$325 or less excluding U.S. grocery stores (\$500, \$400) and discount stores ("MCA" \$500) where the limit has been raised to \$300).

For MasterCard, if you are operating vending machines under MCC 7999 (Miscellaneous Food/Softdrink/Convenience Stores/Merchandise Specialty Stores) you need not provide receipt at the time a transaction is conducted. If a vending machine cannot provide a printed receipt, you must display and post instructions advising customers that a receipt may be obtained.

Sales Drafts for American Express Transactions.

You must create a Sales Draft for every Charge. For each Charge submitted electronically, you must create an electronically reproducible Sales Draft. The Sales Draft must include a copy of the customer's receipt (must display your return and/or cancellation policies).

If the Cardholder wants to use different Cards for payment of a purchase, you may create separate Sales Drafts for each Card used. However, if the Cardholder wants a single Card for payment of a purchase, you shall not divide the purchase into more than one Charge nor shall you create more than one Sales Draft.

- Submit the Charge to American Express directly or through our Process for payment.
- Return the original Sales Draft (as applicable) and all documents explaining the Charge, or reproducible reproductions thereof, for the timeframe listed in our country-specific policies.
- Provide a copy of the Sales Draft to the Cardholder.

You may be able to create more than one Sales Draft if the purchase qualifies for a delayed delivery Charge. The maximum time frame for Sales Drafts is twenty-four (24) months from the date you submitted the corresponding Charge to us. Pursuant to applicable law, truncate the Card number and do not print the Card's expiration date on the copies of Sales Drafts returned to Cardholders. Truncated Card number digits must be masked with replacement characters such as "X", "0000", and not blank spaces or numbers.

If you submit Charges on paper, you must attach a Sales Draft containing all of the following information:

- Full Card number and expiration date (pursuant to applicable law) and, if available, Cardholder name.
- The date the Charge was incurred.
- The amount of the Charge, which must be the total price for the purchase of goods and services (plus applicable taxes and discounts) purchased on the Card.
- A clear description of the goods or services purchased by the Cardholder.
- An imprint or other description of your name, address, Merchant Account number and, if applicable, store number.
- The words "no receipt" if you have a no receipt policy and your return and/or cancellation policies.

American Express No Signature.

Any merchant participating in the American Express No Signature Program. This No Signature Program allows establishments (we do not require a signature from Cardholders on the Sales Draft). To qualify for the No Signature Program, both the establishment and each Charge must meet the following criteria:

Establishment Criteria:

If your establishment is classified in an industry that accepts no-person Charges, then the establishment may participate in the No Signature Program with the exception of the following categories:

- Merchants who do not conduct no-person Charges (i.e., internet, mail order or telephone order).
- Illegal transactions or activity, as described in Section 25.2.
- High Risk Merchants (e.g., establishments whose business type has had historically high occurrences of fraud and disputed charges with American Express or is compared to other similarly situated merchants for both) (examples include internet electronic services or restaurants targeted or threatened by American Express in its risk mitigation).
- Merchants placed in our Fraud Risk Review Program.

Charge Criteria:

- The amount of Charge must meet the threshold established in American Express' country-specific policy.
- The Charge Submission must include the appropriate indicator to reflect that the Card and the Cardholder's are present at the point of sale.
- The Charge Submission must include a valid approval.

Under the No Signature Program, Chargebacks will not be reversed for such Charges based solely on the establishment's failure to obtain the Cardholder's signature at the point of sale. If a disproportionately amount or a number of disputed Charges under the No Signature Program occur, you must cooperate to reduce the amount or number of disputed Charges. If such efforts fail, you may be placed in American Express' chargeback program (i.e., your establishment's participation in the No Signature Program may be modified or terminated).

The established threshold for charges to qualify under the No-Signature Program is \$50.00 or less.

3.2. Mail / Telephone / Internet (E-commerce) Orders and Other Card Not Present Sales. You may only engage in mail, telephone, Internet orders provided they do not exceed the percentage of your total payment Card business reflected on your Application. Failure to adhere to this requirement may result in cancellation of your Agreement. Merchants conducting Internet transactions using MasterCard or Visa Cards must have special codes (an Electronic Commerce Indicator) added to their authorization and settlement records. Discover Network does not use an Electronic Commerce Indicator. Failure to register as a merchant conducting Internet transactions can result in fines imposed by the Card Organizations.

Mail, Telephone, Internet and other Card Not Present transactions have a substantially higher risk of Chargeback. Since you will not have an imprinted or magnetically signed transaction and you will not have the Cardholder's signature on the Sales Draft, you would not be able to dispute a transaction. You will assume all risk associated with accepting a mail, telephone, Internet or other Card Not Present transaction. The following procedures, which they will not eliminate Chargebacks, are useful in reducing them and should be followed by you:

- Obtain the expiration date of Card.
- On the Sales Draft, clearly print the Cardholder's account number, effective and expiration dates, date of transaction, description of the goods and services, amount of the transaction (including shipping, handling, insurance, etc.), Cardholder's name, billing address and shipping address, authorization code, and merchant's name and address (city and state required), provided that you must effect PAN Transaction, and must not include the expiration date on the copy of the Sales Draft or Credit Draft that you provide to the Cardholder, or as required by applicable law, the Sales Draft or Credit Draft's return.
- For mail orders, write "MO" for telephone orders, write "TO" on the Cardholder's signature line.
- If feasible, obtain and keep a copy of the Cardholder's signature on file on a form authorizing you to submit telephone and mail order transactions.
- You should utilize the Address Verification Service for all Card Not Present Transactions (except bylaws). Address Verification is specifically required for all Discover Network Card Not Present Transactions. If you do not receive a positive match through AVS, you may not process the Discover Network Card Not Present Transaction. If you do not have AVS, contact us immediately.
- You should obtain the 3- or 4-digit Card Validation Code number and include it with each authorization request. Discover Network Card Organization Rules specifically require that you submit the Card Validation Code with the authorization request for all Discover Network Card Not Present Transactions.
- For telephone orders, it is recommended that written confirmation of the sale be requested from the Cardholder (such as mail or fax).
- You may not submit a transaction for processing until after the merchandise has been shipped to the seller or has been provided to the consumer. The Card Organization will permit the immediate holding of merchandise manufactured to the customer's specifications (i.e., special custom orders) provided the Cardholder has been advised of the billing details.
- You should provide a copy of the Sales Draft to the Cardholder at the time of delivery. You must also obtain proof of delivery of the goods or services to the address designated by the Cardholder (i.e., by getting a signature of the Cardholder or person designated by the Cardholder through the delivery carrier). If the Cardholder or one of your functions to receive the goods or services purchased, obtain an imprint of the card and the Cardholder's signature.
- Notify the Cardholder of delivery time frame and special handling and/or cancellation policy. Merchandise shipping dates must be within seven (7) days of the date authorization was obtained. If, after the order has been taken, additional delays will be incurred (e.g., out of stock), notify the Cardholder. If you have not shipped the product by the set date, you must reverse the original authorization then reauthorize the transaction.
- You may not require a Cardholder to complete a postcard or other document that displays the Cardholder's account number in clear view when mailed.
- If you accept orders via the Internet, your website must include the following information in a prominent manner:
 - Complete description of the goods or services offered.
 - Description of your merchandise return and Card authorization policy.
 - Customer service contact, including email address and/or telephone number.
 - Transaction amount (U.S. dollars unless payments are otherwise specified in your terms).
 - Any applicable export or legal restrictions.
 - Delivery policy.
 - Consumer data privacy policy.
 - A description of the transaction security used on your website.
- The sale or disclosure of databases containing Cardholder account numbers, personal information, or other Card transaction information to third parties is prohibited.

- Your identity at all points of interaction with the Cardholder.
- Address of merchant including country.
- Cancellation policy, and
- Program fiscal period ends.

• You may not accept Card Account Numbers through E-commerce, Mail or on the Internet.

NOTE: AVS and other fraud mitigation tools such as Verified by Visa, MasterCard Secure Code, CVV2, CVC2 and CID (card verification) does not guarantee against a Chargeback, but our purpose is assist you in reducing the risk of fraud by confirming whether certain elements of the billing address provided by your customer match the billing address maintained by the issuer. AVS also may help you avoid incurring additional interchange expense. AVS is a separate process from obtaining an Authorization and will provide a separate response. A transaction may not match addresses when submitted for AVS and still receive an Authorization. It is your responsibility to monitor the AVS responses and use the information provided to avoid high-risk transactions.

American Express Internet Charges.

Processing a Card Not Present Charge for American Express Transactions

- Submit their charge to American Express.

For Card Not Present Charges, you must create a Sales Draft and ask the Cardholder to provide:

- Card number;
- Card expiration date;
- In addition, it is recommended that you ask for:
 - Name as it appears on the Card;
 - Cardholder's billing address; and
 - Ship-to address (if different from the billing address).

American Express will not Chargeback for such charges if you clearly specify card-member name that he or she did not receive the disputed goods or services.

- Verified the address to which the goods were shipped is on the Cardholder's full billing address.

- Provided proof of delivery signed by the Cardholder or an authorized signer of the Card indicating the delivery of the goods or services to the Cardholder's full billing address.

American Express will not be liable for actual or alleged fraudulent transactions over the Internet and will have the right to Chargeback for those charges.

For Internet Orders, you must:

- Use any separate merchant numbers (other than established for your Internet orders) in all of your requests for Authorization and Submission of charges.
- Provide us with at least one (1) monthly print statement of any change in your internet address.
- Comply with any additional requirements that American Express provides from time to time. Additionally, if a disputed Charge arises involving a Card Not Present Charge that is an internet/electronic delivery Charge, American Express may exercise Chargeback for the full amount of the Charge and place you on many of its Chargeback programs.

3.2.1. Discover Network Protocol for Internet Transactions. Each Internet Discover Network Card transaction accepted by you and submitted to us shall comply with Discover Network standards, including, without limitation, Discover Network standards governing the formatting, transmission and encryption of data referred to as the "designated protocol." You shall accept only those Internet Discover Network Card transactions that are encrypted in accordance with the designated protocol. As of the date of these Operating Procedures, the designated protocol for the encryption of data is Secure Socket Layer (SSL). We may, at our discretion, withhold Settlement until security standards can be verified. However, the designated protocol, including any specifications with respect to data encryption, may change at any time upon thirty (30) days advance written notice. You shall not accept any Internet Discover Network Card transaction unless the transaction is sent by means of a browser which supports the designated protocol.

3.3. Customer Service Telephone Numbers for Card types which are funded by individual non-bank Card Organizations include:

American Express	See Part III, Section A.3 – Cust. Service #
JCB, International	1-800-366-4311
(For YEN and CAD currency only)	
Voyager	1-800-987-6599
WEX	1-800-492-0669
Available 24 hours/day, 7 days/week.	

4. Data Security

THE FOLLOWING IS IMPORTANT INFORMATION REGARDING THE PROTECTION OF CARDHOLDER DATA. PLEASE REVIEW CAREFULLY AS FAILURE TO COMPLY CAN RESULT IN SUBSTANTIAL FINES AND LIABILITIES FOR UNAUTHORIZED DISCLOSURE AND TERMINATION OF THIS AGREEMENT.

4.1. Payment Card Industry Data Security Standards (PCI DSS). Visa, MasterCard, Discover Network, JCB and American Express all have data security requirements for credit a global standard for the protection of Cardholder data. The existing Payment Card

Industry Data Security Standards (PCI DSS) defines the requirements with which all entities that store, process, or transmit payment card data must comply. PCI DSS is the name used to identify those common data security requirements. The Cardholder Information Security Program (CISP) is Visa U.S.A.'s data security program. The Site Data Protection (SDP) program is MasterCard's data security program. Discover Network Information Security and Compliance (DISC) is Discover Network's data security program. Each based on the PCI DSS and industry aligned validation requirements. PCI DSS compliance validation is focused on Merchant Equipment (as defined below) where Cardholder data is processed, stored or transmitted, including:

- All external connections into your network (i.e., employee remote access, third party access for processing, and maintenance);
- All connections to and from the authorization and settlement environment (i.e., connections for employee access or for devices such as firewalls, and routers); and
- Any data repository outside of the authorization and settlement environment.

For the purposes of this Section 4, "Merchant Equipment" means any and all equipment you use in connection with Card authorization, clearing, completing, settling, transmitting or other related processing, including, without limitation, all telecommunication lines and wireless connections and software, systems, point-of-sale terminals, card readers, merchandise and card scanners, printers, PIN pad devices and other hardware, whether owned by you, Merchant Providers or other Persons used by you.

The Card Organizations or we may impose fines or penalties, or restrict you from accepting Cards if it is determined that you are not compliant with the applicable data security requirements. We may in our sole discretion, suspend or terminate Services under this Agreement for any actual or suspected data security compromise. You agree that you will not request any Authorizations, submit any Sales Drafts or Credit Drafts until you have read and understood the PCI DSS, CISP, SDP and DISC for which you acknowledge we have provided you sufficient information to obtain, and you will be deemed to have done so upon our receipt of your request or submission of any Authorizations, Sales Drafts or Credit Drafts.

You must comply with the data security requirements described in this Section 4.1, including, without limitation, PCI DSS, SDP, CISP and DISC, and any additional Card Organization requirements applicable to payment applications and PIN transactions.

Detailed information about PCI DSS can be found at the PCI DSS Council's website www.pcisecuritystandards.org.

Detailed information about Visa's CISP program can be found at Visa's CISP website www.visa.com/cisp.

Detailed information about MasterCard's SDP program can be found at the MasterCard SDP website: www.mastercard.com/sdp.

Detailed information about DISC can be found at Discover Network's DISC website: <http://www.discovernetwork.com/merchants/data-security/disc.html>.

Detailed information can be found at American Express' website www.americanexpress.com/merchantsguide.

4.2. Data Security Requirements. You must comply with the data security requirements shown below:

- You must install and maintain a secure network firewall to protect data across public networks.
- You must protect stored data and data sent across networks, using methods indicated in the PCI DSS.
- You must use and regularly update anti-virus software and keep security patches up-to-date.
- You must restrict access to data by business "need to know," assign a unique ID to each person with computer access to data and track access to data by unique ID.
- You must not use vendor-supplied defaults for system passwords and other security parameters.
- You must regularly test security systems and processes.
- You must maintain a policy that addresses information security for employees and contractors.
- You must restrict physical access to Cardholder information.
- You may not transmit Cardholder account numbers to Cardholders for Internet transactions.
- You cannot store or retain Card Validation Codes (three-digit values printed in the signature panel of most Cards, and a four-digit code printed on the front of an American Express Card) after final transaction authorization.
- You cannot store or retain Magnetic Stripe data, PIN data, chip data or AVS data. Only Cardholder account number, Cardholder Name and Cardholder expiration date can be retained subsequent to transaction authorization.
- You must destroy or purge all Media containing obsolete transaction data with Cardholder information.
- You must keep all systems and Media containing Card account, Cardholder, or transaction information (whether physical or electronic) in a secure manner so as to prevent access to, or disclosure to any unauthorized party.
- For Internet transactions, copies of the transaction records may be delivered to

Cardholders in either electronic or paper format.

- You must use only services and Merchant Equipment that have been certified as PCI-DSS compliant by the Card Organizations.

4.3. Compliance Audits. You may be subject to ongoing validation of your compliance with PCI DSS standards. Furthermore, we retain the right to conduct an audit at your expense, performed by us or a Person designated by us to verify your compliance, or that of your agents or Merchant Providers, with security procedures and these Operating Procedures.

4.4. Immediate Notice Required. In the event that transaction data is known or suspected of having been accessed or retrieved by any unauthorized Person, you must contact us immediately, and in no event more than 24 hours after becoming aware of such activity.

4.5. Investigation. You must, at your own expense (i) perform or cause to be performed an independent investigation, including a forensics analysis performed by a certified forensic vendor acceptable to us and the Card Organizations in accordance with Card Organization standards, of any data security breach of Card or transaction data, (ii) provide a copy of the certified forensic vendor's final report regarding the incident to us and the Card Organizations, (iii) perform or cause to be performed any remedial actions recommended by any such investigation and (iv) cooperate with us in the investigation and resolution of any security breach. Notwithstanding the foregoing, if required by a Card Organization, we will engage a forensic vendor approved by a Card Organization at your expense. You must cooperate with the forensic vendor so that it may immediately conduct an examination of Merchant Equipment, and your and Merchant Providers' procedures and records and issue a written report of its findings.

4.6. Required Information for Discover Network Security Breaches. For security breaches involving Discover Network transactions and/or track data, you must provide us and/or Discover Network with the following information: (i) the date of breach, (ii) details concerning the data compromised (e.g., account numbers and expiration dates, Cardholder names and addresses, etc.), (iii) the method of such breach, (iv) your security personnel contacts, (v) the name of any person (including law enforcement) assisting you with your investigation of such breach, and (vi) any other information which we reasonably request from you concerning such breach, including forensics reports. You shall provide such information as soon as practicable, and the items listed in (i)-(vi) shall be provided to us in any event within 48 hours of your initial notification to us of the breach.

4.7. Merchant Providers. The data security standards set forth in this Section 4 also apply to Merchant Providers. Before you engage any Merchant Provider, you must provide to us in writing (a) the Merchant Provider's legal name, (b) contact information, and (c) intended function. You acknowledge and agree that you will not use, or provide Cardholder data access to, any Merchant Provider until you receive our approval and, if required, confirmation of our registration of that Merchant Provider with applicable Card Organizations. You must ensure that you and Merchant Providers: (i) comply with the registration process which can involve site inspections, background investigations, provision of financial statements, and any other information required by a Card Organization; (ii) comply with the periodic and other reporting required by a Card Organization; and (iii) comply with all applicable Card Organization Rules, including without limitation, those requiring security of Cardholder data. You may allow Merchant Providers access to Cardholder data only for purposes authorized under and in conformance with the Card Organization Rules. You are responsible for all our costs and expenses associated with our review, approval, certification (and recertification as may be required by us or the Card Organization Rules) and registration of any Merchant Providers.

Your use of the Services, equipment, software, systems, materials, supplies or resources of third parties regarding your Card transactions processing, including, without limitation, Merchant Providers and any third party lessors or licensors, will not affect your obligations under this Agreement to us which will apply to the same extent as if you had not used them. We have no liability or responsibility to you or others regarding these third parties, even if we referred them to you. These third parties are your agents, and you are solely responsible for (i) determining whether they can meet your needs and standards, (ii) their actions, inactions and compliance with the terms of this Agreement and the Card Organization Rules and (iii) any and all fees, costs, expenses and other obligations owed to them by you or owed by them to us or to Card Organizations.

4.8. Noncompliance Fees. If we have not received receipt of your validation of compliance with your PCI DSS standards within the first 90 days of the date of the Agreement, you will be charged a monthly non-receipt of PCI Validation fee as set forth in the Application or as otherwise communicated to you, for the period beginning upon expiration of the 90 day period, until such time as you are compliant or this Agreement is terminated, whichever comes first. This monthly non-receipt of PCI Validation fee is in addition to any and all other fees for which you are responsible related to your failure to be compliant as required hereunder.

4.9. Costs. If you or a Merchant Provider (or other Person used by you) are determined by any Card Organization, regardless of any forensic analysis or report, to be the likely source of any loss, disclosure, theft or compromise of Cardholder data or Card transaction information, or caused Cardholder data to be put at risk (together, "Compromised Data Events") and regardless of your belief that you have complied with the Card Organization Rules or any other security precautions and are not responsible for the Compromised Data Event, you must promptly pay us for all related expenses, claims, assessments, fines, losses, costs, and penalties and issuer reimbursements imposed by the Card Organizations against us (together, "Data Compromise Losses"). In addition to the foregoing, you must also pay us promptly for all expenses and claims made by Issuers against us alleging your

responsibility for the Compromised Data Event report from any claim procedure administered by the Card Organization.

5. Authorizations

Each authorization request you submit to us must fully comply with the applicable provisions of this Agreement. Submission of an authorization request that does not fully comply may result in assessment of additional fees to you, a declined authorization response or a Chargeback to you.

An Authorization Approval Code only indicates the availability of Funds in payment at the time the Authorization is requested. It does not guarantee or warrant that the person presenting the Card is the rightful Cardholder. The Charge is in fact valid or bona fide, for it is a promise or guarantee that you will be paid for the Charge and not be subject to a Chargeback.

You must obtain an Authorization Approval Code from us (or an authorized provider as set forth in Section 4.4) for all transactions. A positive authorization response for MasterCard® cards is valid for seven (7) days for electronic processed transactions. A positive authorization response for Visa® will remain valid for thirty (30) calendar days from the date the request provides the Authorization response for Card Sales in the card terminal industry, airline and passenger, jewelry industries. The lodging industry and other travel MCCs, including processing, transport and other (60) days from the date of the Authorization response for Card Sales by Merchants in all other industries and MCCs. A positive Authorization response for Discover Network transactions remains valid for ten (10) days for Non-T&T transactions, and others (30) days for T&T transactions. T&T defined as traveling, lodging, and vehicle rental industries. A positive Authorization response for American Express Non-T&T transactions is good for seven (7) days. American Express T&T transactions are good for thirty (30) days. Failing to obtain an Authorization Approval Code for a sales transaction may result in a Chargeback and/or the termination of your Agreement. Authorization Approval Codes can be obtained through your PDS Terminal or a Voice Response Unit ("VRU"). An fee related to authorization will be charged per cycle request for an Authorization Approval Code whether or not the transaction is approved.

Do not attempt to obtain an Authorization Approval Code provided by someone other than us except as described in Section 5.4. If a Cardholder or another service provider provides you with either an authorization number or with a telephone number for obtaining authorizations, the Authorization Approval Code you receive may not be valid. Even if the transaction is initially processed and funded, it may be charged back at a later date. Also, if you receive a purported Authorization Approval Code from someone other than us, it will not have the supporting records and will be unable to verify that you received the authorization that is later questioned in a Chargeback.

If you obtain Address Verification System (AVS) response separately from the authorization response, and make your own decision about whether to accept the transaction, a transaction success or Authorization Approval Code from the host server or AVS response may not reflect that the address provided by you does not match the billing address on file in the issuer. If the authorized Cardholder disputes such a transaction, you will be responsible for the resulting Chargeback.

If you receive a Refusal response to an integrated authorization, you may not submit the transaction without calling for and receiving your authorization. After receiving a Refusal response you may not attempt another authorization on the same Card through your PDS Terminal.

If you fail to obtain an Authorization Approval Code or if you submit a Card transaction after receiving a decline, even if a subsequent authorization attempt results in an Authorization Approval Code, your transaction may result in a Chargeback and may be assessed fines or fees by the Card Organization for which you will be responsible. These currently range from \$25 to \$150 per transaction. To avoid these costs and related Chargebacks, always obtain an Authorization Approval Code through your terminal before submitting a transaction for settlement.

You may not attempt to obtain multiple authorizations for a single transaction. If a sale is declined, do not take alternative measures with the same Card to obtain an approval of the sale from other authorization sources. Instead, request another form of payment. If you accept and process a transaction that was declined, or attempt multi-transactions and/or multiple authorizations, you are subject to a Chargeback. Card Organization fines and/or cancellation of our Agreement. Do not discuss reasons for decline with a Cardholder; rather refer them to the customer service number on the back of the Card.

For Visa, MasterCard and Discover transactions, automated fraud detectors may require that completion messages are submitted for each Card transaction within 60 minutes of the Authorization.

For Discover transactions, Merchants operating in the petroleum industry, passenger Card Sales or Automated Teller Machines (ATMs) may submit a transaction request for \$1.00 as early as the validity of the Card presented. Under such circumstances, you must submit an Authorization Advice Message for the actual amount of the Card Sale within sixty (60) minutes of completion of fuel delivery, regardless of whether you previously received a Partial Authorization Response or a positive Authorization Response for any other amount. If you do not complete the Card Sale following receipt of an approval Authorization Response for any amount, a request to cancel the Authorization Request must be submitted within sixty (60) minutes of the completion of fuel delivery.

5.1. Card Not Present Transactions. You must obtain the 3 or 4 digit Authorization Code (CVV2, CVV2, CID) and submit this Code with all authorization requests with non-present transactions when the Card is not present (e.g., telephone, mail or internet sales).

However, for recurring transactions, authorizations you should submit the Card Validation Code with the first authorization request only, and not with subsequent recurring transaction authorization requests. (See Section 4.3). **NOTE:** For each Card Not Present Transaction or Non-ATM transaction, you must also clearly indicate the name and billing address of the Discover Network Cardholder using the Address Verification System (AVS) and if you do not receive a positive match, do not process the Discover Network Card Not Present Transaction.

5.2. Authorization via Telephone (Other Than Terminal/ Electronic Device Users).

- Call your designated voice authorization toll free number and enter the authorization information into the VRU using a touch tone phone or hold for an authorization representative.
- If advised to pick up a Card, use a removable and protected means to do so, and do not take any action that will damage or embarrass the Card presenter. You will bear all responsibility for claims, business costs and expenses as a result of an attorney's or a court's order compelling or agents that attempt to retain a Card without the Issuer's direct request or failure to use reasonable, lawful means in retaining or attempting to retain the Card. Forward that order, Attn: Rewards Department, P.O. Box 9039, Englewood, CO 80120. You may be paid a reward for the return of the Card.
- On occasion, the Authorization Center will ask you to obtain identification from the Cardholder before issuing an approval code. If you are instructed to do so, clearly note the appropriate identification number and numbers in the space provided on the 5 digit card unless otherwise prohibited by law.
- If the sale is declined, please remember that our operators are only relaying a message from the Issuer. The fact that a sale has been declined should not be interpreted as a reflection of the Cardholder's creditworthiness. The Cardholder should be instructed to call the Issuer.

5.3. Authorization via Electronic Devices.

- If you use an electronic terminal to obtain an Authorization Approval Code, all sales should be authorized through this equipment. Authorizations through other methods will result in additional charges to you.
- If your terminal malfunctions, refer to your Quick Reference Guide; if necessary, call the PDS Help Desk. The problem will either be corrected promptly or your terminal will be replaced or repaired. During the period in which your terminal is not functioning, you may be asked to check it periodically, since most terminal problems are temporary in nature and are quickly corrected.
- If a terminal is moved or it wires are disconnected, causing malfunction, call the PDS Help Desk immediately and follow their instructions. You may be responsible for any service charges incurred for reconnection of the terminal.
- Until the terminal becomes operable, a number 1 call your designated voice authorization toll free number and enter authorization information into the VRU using a touchtone phone. During this time, each transaction must be inputted using a manual imprinter machine. Failure to obtain an Authorization Approval Code and to input these transactions could result in a Chargeback to your account.

5.4. Third Party Authorization System. If you have contracted with another authorization network to obtain Credit Card authorization (e.g., your terminal can Split Data, having resulting from discrepancies with that network must be resolved between you and that network. We will not discuss Chargebacks resulting from Authorization Approval Codes obtained from another authorization service or transaction. Such Chargebacks will be passed through to you for resolution. If an authorization provided by a third party authorization is then challenged via Chargeback, you must obtain proof (e.g., third party authorization logs) from the authorization source and submit it to us within the time frame specified on the Chargeback documentation.

IF YOU USE A TERMINAL OR ONE OF OUR AUTHORIZATION SERVICES, DO NOT USE ANOTHER THIRD PARTY SYSTEM WITHOUT OUR WRITTEN CONSUMER SERVICE OFFER. WE WILL BE LIABLE TO SUCCESSFULLY RESEARCH AND DEFEND ANY AUTHORIZATION RELATED CHARGEBACKS ON YOUR BEHALF. THIS DOES NOT INCLUDE ANY FEE'S OR YOUR TIME TO RESEARCH AND PROVIDE PROOF OF AUTHORIZATION. THIS IS BECAUSE YOUR RESPONSIBILITY TO REVERSE A CHARGEBACK.

If you integrate another authorization network, you will be responsible for the downgrade of any transactions to a higher cost interchange that result from a merchant not informed to our system and those of third party authorization networks (see Section 6.1).

If you use a third party authorization network, you must also comply with Section 4.7.

Call the following for other Card types:

American Express	1-800-518-5100
JCB, International	1-800-522-9345
(For YEN and CAD currency only)	
Voyager	1-800-967-6589
WEX	1-800-842-0071
Available 24 hours/day, 7 days/week.	

All approved sales authorized in this manner must be entered manually as "post authorized" transactions into the terminal, once the terminal becomes operational. All Credit transactions must be entered into the terminal for data capture. You may be subject

to a Chargeback if you reverse a Referral and subsequently receive an approval. To produce the risk of such a Chargeback, the Card should be imprinted using a manual Imprinter machine. For specific procedures on Electronic Item Capture, refer to the Terminal Operating Instructions Users Guide. If the terminal malfunctions for more than 24 hours, contact Customer Service for further instructions on processing your transaction.

5.5. Automated Dispensing Machines. Records must be produced for all transactions whose origin and data capture are automated dispensing machines or limited Access Terminals. Records should include the Cardholder account number, merchant's name, terminal location, transaction date and amount.

5.6. Pre-Authorization for T&E (Travel & Entertainment) and Restaurant Merchants. If you are a business engaged in providing travel and/or entertainment services (e.g., cruises, hotels, motels, etc.) or a restaurant business, and engage in the practice of "pre-authorization," you must comply with the following general procedures:

- A hotel, motel, or car rental merchant may obtain an estimated Visa, MasterCard, or Discover Network authorization at the time of check-in or reservation.
- Restaurants must not add an estimated tip amount to the authorization request but may place a note of the goods provided, or services rendered, plus any applicable tax.
- You must notify the Cardholder of the dollar amount you intend to "Pre-Authorize."
- If the customer decides to use another form of payment (e.g., cash, check, etc.) you must promptly call the Voice Authorization Systems Unit to delete the authorization held. Provide the Cardholder's account number, original dollar amount and date of the transaction and the authorization code. If a new transaction takes place, a new imprinted and signed Sales Draft for the exact amount and a new authorization code for that amount must be obtained.
- VEHICLE RENTAL PROVIDERS MAY NOT INFLUENCE POTENTIAL VEHICLE DAMAGE OR INSURANCE DEDUCTIBLES IN ANY PRE-AUTHORIZATION.
- If you receive a decline on a transaction, you must wait twenty-four (24) hours before attempting to reauthorize. If you reauthorize prior to this time frame and receive an approval, you may be subject to a Chargeback and a fine imposed by the Card Organization.
- Hotels, motels, and car rental merchants are allowed up to a 15% variance above the amount authorized. If the final amount charged to the Cardholder exceeds the original estimate by more than 15% above the preauthorization, you must authorize any additional amounts, and all incremental authorization codes must be written in the authorization area along with the date of authorization and the amount authorized.
- Pre-Authorization for certain establishments are allowed up to a 20% forecast of 15% variance above the amount authorized. If the final amount exceeds the amount "preauthorized," in more than 20%, you must authorize the additional amount. Estimating the Authorization amount to include a tip is prohibited. The authorization request should include only the amount associated with the bill presented to the customer.
- You should obtain an authorization for the initial estimated charges and then monitor the charges to ensure that the actual charges made do not exceed the estimated charges. If the actual charges exceed the amount of the initial estimated authorization and any subsequent estimated authorizations, then you must secure a positive authorization for the additional amount. **NOTE:** Subsequent authorizations should only be for the additional amount of total charges and not include amounts already authorized.
- The estimated amount of any pre-authorization for lodging accommodations must be based on (i) the extended length of stay, (ii) the room rate (tax applicable taxes and service charges), and (iii) other miscellaneous charges as dictated by experience.
- If an authorization request is declined, no charges occurring after that date will be accepted for that Cardholder.
- You do not need to obtain a final authorization if the total sum of charges (the final amount) does not exceed 20% of the pre-authorized charges. You must record the dates, authorized amounts, and their respective Authorization Approval Codes on the Sales Draft(s).

5.7. Discover Network Procedure for Request for Cancellation of Authorization. If a Discover Network Card sale is cancelled or the amount of the transaction changes following your receipt of authorization for the sale, you must call your Authorization Center (percept) and request cancellation of the authorization. An authorization may be cancelled at any time within 10 days of your receipt of the authorization, but must be cancelled before the sales data relating to the transaction is submitted to us, after which the authorization cannot be changed. For an authorization cancellation, you must provide us with the following information, in this order:

- The Discover Network Merchant Account Number used in the authorization.
- The Card number.
- The original amount of the authorization being cancelled.
- The new amount of the final transaction (if any).
- The original authorization code for the authorization being cancelled.
- The expiration date of the Card, and
- A brief reason for the authorization cancellation.

5.8. Partial Authorization and Authorization Reversal. Partial authorization provides an alternative to a declined transaction by permitting an issuer to return an authorization approval for a partial amount, an amount less than the transaction amount requested by the merchant, when the available card balance is not sufficient to approve the transaction in full. The Cardholder is able to use up the remaining funds on the card and select another form of payment (i.e., another payment card, cash, check) for the remaining balance of the transaction. For MasterCard transactions, partial authorization is optional for both authorized e-commerce transactions, mail order, telephone order transactions and recurring payment transactions. For Discover transactions, partial authorization support is optional for Card Not Present transactions. If you support partial authorizations, a partial authorization indication must be included with each authorization request. It is a requirement for all U.S. and U.S. Territory merchants that provide cash-back at Point of Sale to support Visa Partial Authorization.

An authorization reversal must be submitted if the authorization is no longer needed, a partial amount of the total authorized is submitted for the settled transaction, or the Cardholder elects not to complete the purchase. The transaction score for settlement must be no more than the amount approved in the partial authorization response. In the event that you wish to support the partial authorization functionality, you must contact Discover for additional rules and requirements. An authorization reversal may only be submitted if the transaction has not settled. Once the transaction has settled, only a Credit or refund can occur.

6. Submission/Deposit of Sales Drafts and Credit Drafts

6.1. Submission of Sales for Merchants Other Than Your Business. You are proven for payment only valid charges that arise from a transaction between a bona fide Cardholder and your establishment. If you deposit or attempt to deposit transactions that arise from sales between Cardholders and a different business than the one approved by us in our Agreement with you, then the transaction may be charged back, no new suspend or debit funds associated with all such transactions, and we may immediately terminate your account and the Agreement.

6.1.1. Factoring. Factoring is considered merchant fraud and strictly prohibited. Factoring is the submission of authorization requests and/or Sales Drafts by a merchant for a transaction transacted by another business. If you submit Sales Drafts on behalf of another person, you will suffer any losses associated with the disputes of any such Sales Drafts and no transaction. All such fraud is considered a fraudulent transaction.

6.2. Timeliness. In order to qualify for the lowest interchange Discount Rate, all Sales and Credit Drafts must be properly completed and submitted daily. If you have not received payment for submitted Sales Drafts after one (1) week from your normal payment date, contact Customer Service. Late Submission of Sales or Credit Drafts may result in increased interchange rates or fees or even a Chargeback to you.

6.3. Electronic Merchants: Daily Batching Requirements & Media Submission. Batches must be transmitted to us by the time indicated in Section A.2 of Part III of this Agreement in order to be processed on the date of transmission. Additionally, if you deposit via magnetic tape, electronic transmission, or Electronic Data Capture terminal and have contracted to send the actual Sales Drafts and Credit Drafts to us for imaging and retrieval, the Media must be printed daily by register terminal following the procedures below. Failure to do so may result in a processing fee and/or a Chargeback due to our inability to retrieve the Media as requested by the issuer.

- A register terminal batch header form must be filled out for each Batch of Media.
- The Batch header must be imprinted with your Merchant Identification Card, and all areas completed properly (i.e., Batch number, date, amount, number of cards, etc.).
- The Batch deposit total must match the settled reconciled amount displayed on the terminal upon closing the Batch.
- Any discrepancy between the actual Media and electronic display must be reconciled and corrected before storing the Media (the merchant is to contract to hold their Media or before sending us the copies of the deposit. Otherwise, transactions may appear to be a new Submission and may be manually keyed causing duplicate billing to Cardholders and resulting in Chargebacks for errors, not be able to retrieve a batch when requested by the issuer).
- It is your responsibility to ensure that the actual Media is batched correctly and depending on the terms of your Agreement, either stored at your location or sent to Processor. In this case, the actual Media is sent daily to your head office and forwarded to Processor for imaging.
- You must confirm that your equipment has transmitted your Batches to us at least once daily. Even if your equipment is designed or programmed to close and submit Batches without your intervention, it is ultimately your responsibility to confirm that the Batches have been transmitted to us for processing.

NOTE: A batch is defined as: Sales Drafts and Credit Drafts received per day, per transaction date, per location (maximum 500 documents per batch).

7. Settlement

Except as otherwise set forth in this Program Guide, your funds for MasterCard, Visa, Discover Network, and American Express transactions will ordinarily be processed and transferred to our financial institution within two (2) Business Days from the time a Batch is received by Processor if your financial institution is the Bank. If your financial institution is not the Bank, your MasterCard, Visa, Discover transactions will ordinarily be processed via the Federal Reserve within two (2) Business Days from the time a Batch is received by Processor. The Federal Reserve will transfer such amounts to your financial institution.

If you have been classified by Discover Network as having a Discover Direct Strategic Relationship with Discover Network, we will not acquire your Discover Network transactions and they will be subject to our agreement with Discover Network.

You acknowledge and agree that if you have not agreed to or do not acquire transactions for any Card type, you have no liability or responsibility, whatsoever, for the settlement of or disputes regarding those transactions and you will pursue directly with the merchant and Organization all claims and disputes regarding those transactions. You agree to pay us for per item processing authorization and other fees in the Application for any not-acquired transaction services you receive from us. For the avoidance of doubt, with respect to the payments you have elected to accept on your Merchant Processing Application, you authorize us to submit Card transactions to and receive settlement for such transactions from the applicable Card Organization on your behalf.

D. Refunds/Exchanges (Credits)

D.1. Refunds.

- You must promptly complete and submit a Credit Draft for the total amount of the Credit, which must include the following information:
 - The reason number and expiration date;
 - The Cardholder's name;
 - Your name, city, state, and Merchant Account Number;
 - A description of the goods or services;
 - The transaction date of the Credit;
 - The total amount of the Credit; and
 - For Discover Network transactions, the approved currency used and the signature of your authorized representative or employee.
- You cannot process a credit transaction that does not correspond to a previous transaction on the original Sales Draft.
- Credit refunds must be for the exact dollar amount of the original transaction including tax, handling charges, etc. (You must identify the shipping and handling charges involved.) The refund amount may not be for more than the original Card sale amount.
- All dollar amounts and other handwritten information must be clearly written. Stamp marks on the Credit Draft will render it unacceptable (illegible).
- Do not circle or underline any information on the Credit Draft.
- Impound the Credit Draft with the same Card and post by the Cardholder to make the original purchase when applicable. You should not credit an account that differs from the account used for the original transaction.
- Never give cash or check credit refunds for Card sales.
- Have the Cardholder sign the Credit Draft, give the Cardholder the appropriate copy, and deposit the Credit Draft immediately. Failure to process a Credit within five (5) calendar days may result in a Chargeback.
- Authorization is not required for Credits.
- You cannot intentionally submit a sale and an offsetting Credit on a later date solely for the purpose of rebating and engaging in our *reverse* account agreement.
- You are responsible for paying all refunds submitted to us on your merchant account. We assume no responsibility for carrying any Credit or refunds.
- Do not process a Credit transaction once a Chargeback is received. Credits issued after a Chargeback has been received may not be recoverable and the merchant would be financially responsible for the credit as well as the Chargeback.
- YOU ARE RESPONSIBLE TO SECURE YOUR TERMINALS AND TO INSTITUTE APPROPRIATE CONTROLS TO PREVENT EMPLOYEES OR OTHERS FROM SUBMITTING CREDITS THAT DO NOT REFLECT DOMESTIC RETURNS OR REFUNDMENTS OF PRIOR TRANSACTIONS.

D.1.1 Processing a Credit for American Express Transactions:

There are additional requirements for a Credit for purchases or payments made on an American Express Card.

To issue a Credit, you must:

- Compare the last four digits on the Sales Draft against the Card presented (when applicable);
- Have the Cardholder sign the Credit Draft when applicable;
- Provide a copy of the Credit Draft to the Cardholder.

You must not issue a Credit when there is no corresponding Charge, not issue a Credit in exchange for cash or other consideration from a Cardholder. You must submit all Credits under the establishment where the Credit originated. A Credit must be issued in the currency in which the original Charge was submitted to us. You must store Credits in the Card used to make the original purchase; however, if the Credit refers to the terms of a gift by someone other than the Cardholder who made the original purchase, apply your usual return policy.

In the Cardholder indicator that the Card on which the purchase was originally made is no longer active or available, do the following:

- For all Cards except Prepaid Cards, advise the Cardholder that you must issue the Credit

in that Card. If the Cardholder has questions, advise him or her to call the customer service number on the back of the Card in question.

- If the inactive or unavailable Card is a Prepaid Card, apply your usual refund policy for returns.

If you issue a Credit, American Express will not refund the discount or any initial fees or assessments previously applied on the corresponding Charge. The discount or Chargeback will not be refunded.

Your return and cancellation policies must be clearly and clearly disclosed in the copy or sale in compliance with applicable law. Your policies must be provided to the Cardholder prior to completion of the Charge and printed on a copy of a receipt or Sales Draft. Your refund policy for purchases on the American Express Card must be at least as favorable as your refund policy for purchases made with other payment products or other payment methods.

Return Policy Recommendations

Provide clear and understandable sales contracts, including the following information:

- Customer service telephone number;
- Reference number for the return;
- Expected processing time for the credit;
- Return address (preferably on a pre-addressed shipping label, if applicable).

You must submit all Credits no later than seven (7) days of determining that a Credit is due.

Cancellation Policy Recommendations

- Provide document cancellation policy and terms and conditions on the contract the Cardholder signs or on our website, as applicable;
- Provide Cardholder with a cancellation number that can be tracked by our records.

American Express Return Policy For Prepaid Products

If your return policy for the purchase of prepaid products is different from your standard return policy, you must ensure that such prepaid product-specific return policy is clearly disclosed to the Cardholder at the time of purchase in accordance with applicable law, and also added to print on all receipts and copies of Sales Drafts or provided to Cardholders.

D.2. Exchanges.

- No additional paperwork is necessary for an exchange. Just follow your standard return policy.
- For an uneven exchange, complete a Credit Draft below the procedures outlined in Section 8.1 for the total amount of only the merchandise returned. The Cardholder's account will be credited for that amount. Then, complete a new Sales Draft for the total amount of any new merchandise purchased.

E. Retention of Records, Receipts and Chargebacks

E.1. Retain Legible Copies.

For Visa. You must securely retain legible copies of all Sales Drafts and Credit Drafts on any other transaction records for a period of *seventeen (17) months* from the date of each transaction and a period of *five (5) years* for the retention of handling Sales Drafts and Credit Drafts. The Sales Drafts on return must comply with all requirements (see Section 3.1).

For MasterCard and Discover. You must securely retain legible copies of all Sales Drafts and Credit Drafts on any other transaction records for a period of *thirteen (13) months* from the date of each transaction and a period of *five (5) years* for the retention of handling Sales Drafts and Credit Drafts. The Sales Drafts on return must comply with all requirements (see Section 3.1).

For Discover Network. You must securely retain legible copies of all Sales Drafts and Credit Drafts on any other transaction records for the longer of (i) 505 days or (ii) the resolution or any pending or threatened dispute, claims, disagreements or litigation involving the Card transaction. You must also keep images or other copies of Sales Drafts for no less than three (3) years from the date of the Discover Network transaction.

For American Express. You must submit the Credit to your processor for payment. You must securely retain legible copies of all Sales Drafts and Credit Drafts on any other transaction records for 24 months from the date you submit the corresponding Credit to us. You must also provide a copy of the Credit Draft to the Cardholder or, as required by applicable law, transmit the Card Number and do not print the Card's expiration date on copies of Credit Drafts delivered to the Cardholder.

9.2. Provide Sales and Credit Drafts. You must provide all Sales Drafts and Credit Drafts on other transaction records reported to us within the storage time limits established by Card Organization rules. You are responsible for any deficiencies in Card transaction data submitted or otherwise delivered to us.

10. Chargebacks, Reversals and Other Obligations

10.1. Chargebacks.

10.1.1. Generally. Both the Cardholder and the Issuer have the right to question or dispute a transaction. If such questions or disputes are not resolved in a Chargeback, may occur. As a result, we will debit our Settlement Account in settlement funds for the amount of each Chargeback. It is strongly recommended that, whenever possible, you contact the Cardholder directly to resolve a disputed transaction in a Chargeback, unless the dispute involves a Discover Network Cardholder, in which case Discover Network rules and regulations expressly prohibit you from contacting the Discover Network Cardholder regarding the dispute. You are responsible for all Chargebacks, not Chargeback fees, and related costs arising from such transactions.

10.1.2. Transaction Documentation Requests. In some cases before a Chargeback is initiated, the Issuer will request a copy of the Sales Draft, via a request for transaction documentation. We will forward the request to you. You must respond to the request within the time frame and manner set forth in the request. We will then forward your response to the Issuer. If you fail to timely respond, we will so notify the Issuer and a Chargeback may result. Upon receipt of a transaction documentation request, immediately retrieve the requested Sales Draft(s) using the following guidelines:

- Make a legible copy, centered on 8-1/2 x 11-inch paper (only one (1) Sales Draft per page).
- Write the case number from the request for transaction documentation on each copy/page.
- If applicable, make copies of a hotel folio, car rental agreement, mail, phone, internet order form, or other form of receipt.
- If a Credit transaction has been processed, a copy of the Credit Draft is also required.
- Letters are not acceptable substitutes for Sales Drafts.
- Fax or mail legible copies of the Sales Draft(s) and Credit Draft(s), if applicable, to the fax number or mail address provided on the request form.
- If you fax your response, please set your fax machine to print your fax number and name on the documents that you send. We can use this information to help determine where the documentation received originated from should additional research be required.
- Additionally, please set the scan resolution on your fax machine to the highest setting. The higher resolution setting improves the clarity of characters and graphics on the documentation transmitted and helps reduce the number of illegible fulfillments and/or Chargebacks.

If we do not receive a clear, legible and complete copy of the transaction documentation within the timeframe specified on the request, you may be subject to a Chargeback for which there may be no recourse.

A handling fee may be charged by the Issuer and will be debited from your Settlement Account or settlement funds if a transaction documentation request results from a difference in the following information on the Sales Draft and the transmitted record: Merchant name or an incorrect city, state, foreign country and/or transaction date.

10.1.3. Chargeback Process. Regardless of whether you respond to a transaction documentation request, a Chargeback may be debited to your Settlement Account for numerous reasons (see below). If the Issuer submits a Chargeback, we will send you a Chargeback notification, which may also include a request for transaction documentation. **Due to the short time requirements imposed by MasterCard, Visa, Discover Network and American Express, it is extremely important that you respond to a Chargeback notification and transaction documentation request within the time frame set forth in the notification.** Do not process a Credit transaction once a Chargeback is received; the Issuer will credit the Cardholder's account. Credits issued after a Chargeback has been received may not be recoverable and you may be financially responsible for the Credit as well as the Chargeback. If the information you provide is both timely and, in our sole discretion, sufficient to warrant a representation of the transaction and/or reversal of the Chargeback, we will do so on your behalf. However, representation and/or reversal is/are ultimately contingent upon the Issuer and/or Cardholder accepting the transaction under applicable Card Organization guidelines. Representation or reversal is not a guarantee that the Chargeback has been resolved in your favor.

For Visa Chargebacks: If we reverse the Chargeback and represent the transaction to the Issuer, the Issuer, at its sole discretion, may elect to submit the matter for arbitration before Visa. Visa currently charges a \$250 filing fee and a \$250 review fee. You will be responsible for all such fees and charges whether or not a decision is made in your favor, and any other applicable fees and charges imposed by Visa, as they may change from time to time. Such fees and charges will be debited from your Settlement Account or settlement funds, in addition to the Chargeback.

For MasterCard Chargebacks: If we reverse the Chargeback and represent the transaction to the Issuer, the Issuer, at its sole discretion, may elect to resubmit the Chargeback. In such event, at the discretion of Processor, we will debit your Settlement Account or settlement funds for the Chargeback. However, if you feel strongly that it is an invalid Chargeback, we may, on your behalf and at your request, submit the matter for arbitration before MasterCard. MasterCard currently charges a \$150 filing fee and a \$250 review fee. You will be responsible for all such fees and charges whether or not a decision is made in your favor and any other applicable fees and charges imposed by MasterCard as they may change from time to time. Such fees and charges will be debited from your Settlement Account or settlement funds, in addition to the Chargeback.

For Discover Network Chargebacks: If Discover Network rejects our representation request and you feel strongly that the Chargeback is invalid, we may, at the discretion of Processor and on your behalf and at your request, submit the matter for dispute arbitration before Discover Network. Discover Network charges fees for representation requests and an arbitration fee as published in their fee schedule.

For American Express Chargebacks: You may request a Chargeback reversal if the Chargeback was applied in error. In order for us to consider your request, you must have responded to the original inquiry within the specified timeframe set forth in your dispute notification, and provide all supporting documentation to substantiate the error.

If the Chargeback is not disputed within the applicable time limits set forth by MasterCard, Visa, Discover Network and American Express rules and regulations, reversal rights are

forfeited. Our only alternative, for Visa and MasterCard non-fraud Chargeback reason codes, is to attempt a "good faith collection" from the Issuer on your behalf. This process can take up to six (6) months and must meet the Issuer's criteria (e.g., at or above a set dollar amount). Good faith collection attempts are not a guarantee that any funds will be collected on your behalf. Issuers normally charge good faith collection fees, which are deducted from the transaction amount, if accepted in addition to any processing fees that are charged by us.

NOTE: Discover Network and American Express do not offer good faith collection for Acquirers.

MasterCard and Visa Card Organization Rules require that a merchant make a good faith attempt and be willing and able to resolve any disputes directly with the Cardholder. Discover Network rules and regulations, however, prohibit you and/or us from contacting the Cardholder directly regarding dispute(s) or any other matter, except as required for acceptance of Discover Network transactions, and require you and/or us to submit any responses to dispute notices directly to Discover Network.

Due to Card Organization Rules, you may not re-bill a Cardholder after a Chargeback is received for that transaction, even with Cardholder authorization.

We strongly recommend that you include a detailed rebuttal letter along with all pertinent documents when responding to a transaction request or a Chargeback notification (e.g., rental agreement, imprinted portion of the invoice or Sales Draft, the portion signed by the Cardholder, and the area where the authorization codes, with amounts and dates, are located). Due to the short time frames and the supporting documentation necessary to successfully (and permanently) reverse a Chargeback in your favor, we strongly recommend the following:

- Avoid Chargebacks by adhering to the guidelines and procedures outlined in these Operating Procedures.
- If you do receive a Chargeback, investigate, and if you dispute the Chargeback, submit the appropriate documentation within the required time frame.
- Whenever possible, contact the Cardholder directly to resolve the dispute, unless the dispute relates to a Discover Network Cardholder, in which case direct contact with the Discover Network Cardholder regarding the dispute is prohibited by Discover Network Card Organization Rules.
- If you have any questions, call Customer Service.

10.1.4. Chargeback Reasons. This section outlines the most common types of Chargebacks. This list is not exhaustive. For ease of understanding, we have combined like Chargebacks into six groupings. We have included recommendations on how to reduce the risk of Chargebacks within each group. These are recommendations only, and do not guarantee that you will be able to prevent Chargebacks.

1. Authorization Issues: Proper Authorization procedures were not followed and valid Authorization was not obtained.

The following scenarios could cause an Authorization Related Chargeback to occur:

- Authorization not obtained.
- Authorization was declined.
- Transaction processed with an expired card and Authorization was not obtained.
- Transaction was processed with an invalid account number and Authorization was not obtained.
- Card Recovery Bulletin (CRB) or Exception File was not checked (transactions below floor limit).

To reduce your risk of receiving an Authorization Related Chargeback:

- Obtain valid Authorization on the day of the transaction.
 - Card Present Transactions-Authorization must be obtained on the transaction date for the amount settled.
 - Card Not Present Transactions-Authorization must be obtained on the transaction date for the amount settled. However, if merchandise is being shipped, Authorization must be obtained within seven calendar days of the transaction ship date.
- If a declined response is received, then request another form of payment from the Cardholder.
- If a Referral response is received, then follow proper voice procedures to obtain a valid Authorization and obtain an imprint of the card.
- "Pick-up" response indicates that the Issuer is requesting for the card to be retained and returned back to them. The Card should not be accepted for payment. Additionally, you can choose to retain the Credit Card and return it to the Acquirer.
- Merchants should not exceed any predetermined thresholds for specific terminal types as specified by each Card Organization.

2. Cancellations and Returns: Credit was not processed properly or the Cardholder has cancelled and/or returned items.

The following scenarios could cause a Cancellation and Return Related Chargeback to occur:

- Cardholder received damaged or defective merchandise.
- Cardholder continued to be billed for cancelled recurring transaction.
- Credit transaction was not processed.

To reduce your risk of receiving a Cancellation and Return Related Chargeback:

- Issue Credit to the Cardholder for the same amount as the purchase in a timely manner.
 - Do not issue Credit to the Cardholder in the form of cash, check or in-store merchandise Credit as we may not be able to recoup your funds in the event the transaction is charged back.
- Ensure customers are fully aware of the conditions for recurring transactions. Cancel recurring billings as soon as notification is received from the Cardholder or as a Chargeback, and issue the appropriate Credit as needed to the Cardholder in a timely manner.
- Pre-notify the Cardholder of billings within 10 days (Domestic) and 15 (International) prior to billing, allowing the Cardholder time to cancel the transaction.
- Provide proper disclosure of your refund policy for returned/cancelled merchandise, or services to the Cardholder at the time of transaction in accordance with applicable law.
 - Card present, Cardholder signed the Sales Draft containing disclosure.
- If applicable, the words "NO EXCHANGE, NO REFUND," etc. must be clearly printed in 1/4-inch lettering on the Sales Draft near or above the Cardholder signature.
 - Ecommerce, provide disclosure on website on same page as check out requiring Cardholder to click to accept prior to completion.
 - Card Not Present, provide cancellation policy at the time of the transaction.
 - Provide cancellation numbers to Cardholder's when lodging services are cancelled.
- Ensure delivery of the merchandise or services ordered to the Cardholder.

3. Fraud: Transactions that the Cardholder claims are unauthorized, the account number is no longer in use or is fictitious, or the merchant was identified as "high risk."

The following scenarios could cause a Fraud Related Chargeback to occur:

- Multiple transactions were completed with a single card without the Cardholder's permission.
- Counterfeit card was utilized and proper acceptance procedures were not followed.
- Authorization was obtained, however, full track data was not transmitted.
- Cardholder states that they did not authorize or participate in the transaction.

NOTE: Visa Fraud Chargebacks: Chargeback representation rights do not exist if you failed to fulfill a key entered retrieval request and/or provide a sales slip that contains all required data elements. To preserve Chargeback representation rights, respond to all retrieval requests with a clear legible copy of the transaction document that contains all required data elements within the required timeframe that is specified by the retrieval request.

To reduce your risk of receiving a Fraud Related Chargeback:**Card Present Transactions:**

- Pre-notify the Cardholder of billings within ten (10) days.
- American Express customers have the option to receive written notification of the recurring transaction at least (10) days prior to submitting, or any time the Charge amount exceeds a maximum amount that has been set by the cardholder.
- Obtain an Authorization for all transactions.
- If you are utilizing an electronic device to capture card information, swipe, dip or wave all Card transactions through your electronic authorization device to capture Cardholder information. When applicable ensure the displayed Cardholder number matches the number on the Card.
- If you are unable to electronically capture the Card or if a Referral response is received, imprint the Card using a valid imprinting device that will capture the embossed Card and merchant information. Do not alter the imprint on the draft in any way. Manually entering the information into the terminal does not protect you from this type of Chargeback. All pertinent information relating to the transaction must be written on the manually imprinted draft (transaction date, dollar amount, authorization code and merchandise description) along with the Cardholder signature.

NOTE: Do not imprint on the back of a signed Sales Draft. The imprint must be on the transaction document that contains all transaction elements to prove the Card was present at the time of the transaction.

- Obtain the Cardholder signature for all transactions; ensure the signature on the Sales Draft matches the signature on the back of the Card.
- Process all transaction one time and do not Batch out transactions multiple times.
- Educate staff on procedures to eliminate point of sale (POS) fraud.

Card Not Present Transactions:

- Participation in recommended fraud mitigation tools
 - Verified by Visa Program
 - MasterCard SecureCode
 - Address Verification Services
 - CVV2, CVC2 and CID Verification

NOTE: While transactions utilizing these tools may still be disputed, the service may assist you with your decision to accept the Card for the transaction.

- Ensure you ship to the AVS confirmed address (bill to and ship to should match).
 - Obtain Authorization for all transactions.
 - Ensure merchant descriptor matches the name of the business and is displayed correctly on the Cardholder statement.
 - Ensure descriptor includes correct business address and a valid customer service number.
- American Express offers fraud mitigation tools for both Card Present and Card Not Present transactions to help verify that a Charge is valid. These tools help you mitigate the risk of fraud at the point of sale, but are not a guarantee that a Charge is in fact valid or bona fide, or that you will not be subject to a Chargeback. For optimal use of the tools, please visit American Express' Fraud Prevention Information at: www.americanexpress.com/fraudinfo.

4. Cardholder Disputes: Merchandise or services not received by the Cardholder, Merchandise defective or not as described.

The following scenarios could cause a Cardholder Dispute Chargeback to occur:

- Services were not provided or merchandise was not received by the Cardholder.
- The Cardholder was charged prior to merchandise being shipped or merchandise was not received by agreed upon delivery date or location.
- Cardholder received merchandise that was defective, damaged, or unusable for the purpose sold, or did not match the description on the transaction documentation/verbal description presented at the time of purchase.
- Cardholder paid with an alternate means and their Card was also billed for the same transaction.
- Cardholder cancelled service or merchandise and their Card was billed.
- Cardholder billed for a transaction that was not part of the original transaction document.
- The Cardholder claims to have been sold counterfeit goods.
- The Cardholder claims the terms of sale were misrepresented by the merchant.

To reduce your risk of receiving a Cardholder Dispute Related Chargeback:

- Provide Services or Merchandise as agreed upon and described to the Cardholder, clearly indicate the expected delivery date on the sales receipt or invoice.
- Contact the Cardholder in writing if the merchandise or service cannot be provided or is delayed, and offer the Cardholder the option to cancel if your internal policies allow.
- In the event that the Cardholder received defective merchandise or the merchandise received was not as described, resolve the issue with the Cardholder at first contact.
- If the merchandise is being picked up by the Cardholder, have them sign for the merchandise after inspection that it was received in good condition.
- Do not Charge the Cardholder until the merchandise has been shipped, ship according to the agreed upon terms and obtain signed Proof of Delivery from the Cardholder.
- If unable to provide services or merchandise, issue a Credit to Cardholder in a timely manner.
- Accept only one form of payment per transaction and ensure the Cardholder is only billed once per transaction.
- Do not bill Cardholder for loss, theft or damages unless authorized by the Cardholder.
- Ensure that a description of the service or merchandise provided is clearly defined.

5. Processing Errors: Error was made when transaction was processed or it was billed incorrectly.

The following scenarios could cause a Processing Error Chargeback to occur:

- Transaction was not deposited within the Card Organization specified timeframe.
- Cardholder was issued a Credit Draft, however, the transaction was processed as a sale.
- Transaction was to be processed in a currency other than the currency used to settle the transaction.
- The account number or transaction amount utilized in the transaction was incorrectly entered.
- A single transaction was processed more than once to the Cardholder's account.
- Cardholder initially presented Card as payment for the transaction, however Cardholder decided to use an alternate form of payment.
- Limited amount or self-service terminal transaction was processed for an amount which is over the pre-determined limit.

To reduce your risk of receiving a Processing Error Related Chargeback:

- Process all transactions within the Card Organization specified timeframes.
- Ensure all transactions are processed accurately and only one time.

NOTE: In the event that a transaction was processed more than once, immediately issue voids, transaction reversals or Credits.

- Ensure that credit transaction receipts are processed as Credits and sale transaction receipts are processed as sales.
- Ensure all transactions received a valid Authorization Approval Code prior to processing the transaction and obtain a legible magnetic swipe or imprinted Sales Draft that is signed.
- Do not alter transaction documentation or make any adjustments unless the Cardholder has been contacted and agrees to any modifications of the transaction amount.

- Ensure fuelled amounts, self-service and automated fuel dispenser amounts are not properly in relation to the pre-determined times.

10.2. Summary (Deposit) Adjustments/Electronic Receipts: Occasionally, it is necessary to adjust the dollar amount of your purchases (Summary deposit) and credit (or debit) on Settlement Account or settlement funds accordingly. The following is a list of the most frequent reasons for Summary (Deposit) Adjustments/ Electronic Receipts:

- Your summary reflected an arithmetic error
- Substantial adjustment included in your Agreement (e.g., American Express®)
- The dollar amount is immediately illegible
- The Cardholder's account number is immediately illegible
- Duplicate Sales Draft submitted
- Card number is incorrect/incomplete
- Summary indicated credit, but no credit was authorized

10.3. Disputing Other Debits and Summary Adjustments: It is extremely important that the items listed in this section be forwarded to the address listed on the notification.

If the Summary Adjustment is for an undebited or incorrect Cardholder account number, return the corrected Sales Draft with your next deposit. Also, if the transaction is over thirty (30) calendar days old, you must reauthorize and obtain a valid Authorization Approval Code.

A clear and legible copy of the Sales Draft containing the following should be obtained from your files:

- Date (Date)
- Cardholder's account number, name and signature
- Total amount of the sale and description of products/services, and
- Date and Authorization Approval Code

Include a dated cover letter detailing the reasons for requesting a review of the debit or Summary Adjustment and documentation to support your dispute. You should retain a copy of the correspondence and all documentation for your files. If the inquiry is related to price correspondence, be sure to include the correct number we previously used.

Immediately fax or mail the Sales Draft or Credit Draft to the fax number or address provided on your notification letter.

If you have any questions, please call the Customer Service number provided on the last page of this Program Guide. If a Customer Service Representative informs you that additional documentation is required in order to fully review the item, please immediately submit your rebuttal and supporting documentation to the fax number or address listed on the debit notification.

11. Account Maintenance

11.1. Change of Settlement Account Number: Do not change the Settlement Account to which you receive the proceeds of your transactions. You must call Customer Service or your Relationship Manager immediately. If you accept payment by pay order from Visa, MasterCard and Discover Network (such as the American Express Card), you are also responsible for contacting the Card Organizations or companies that accept those Cards to notify them of this change.

11.2. Change in Your Legal Name or Structure: You must call Customer Service or your Relationship Manager and request a new Agreement.

11.3. Change in Company DBA Name, Address or Telephone / Facsimile Number: To change your company or location (DBA Name, address or e-mail address or telephone/facsimile number), you must send the request in writing to the address on your statement.

11.4. Other Change(s) in Merchant Profile: You must immediately notify us of any change in the information on file with us in your merchant profile, including (i) any new license(s) or permit(s); (ii) change in ownership; (iii) the opening, closing or liquidation of business or any location; (iv) change in Card processing method (e.g., paper Sales Drafts to POS Devices); (v) voluntary or involuntary entry in a bankruptcy case; (vi) entry into a lease or other agreement with a Person that seeks to affect this Agreement; and (vii) any change from a business that exclusively conducts Card-present retail sales to one that accepts Card sales by mail, telephone or Internet transactions. We retain the right to terminate this Agreement if you fail to notify us of any change to the information in your merchant profile.

11.5. Charges for Changes to Account Maintenance: You may be charged for any changes reflected in this section or any other changes requested by you or otherwise necessary related to account maintenance.

12. Card Organization Monitoring

MasterCard, Visa, Discover, Novus and American Express have established guidelines, merchant monitoring programs and reports to track, monitor and identify such as, but not limited to excessive Credit, reported fraud and Chargebacks, and increased dispute activity. In the event you exceed the guidelines or engage in practices that could encompass such monitoring programs to submit suspicious transactions as identified by a Card Organization or any related program or reports, you may be subject to (i) operating procedure requirement modifications; (ii) Chargebacks; and/or increased fees; (iii) settlement delay or withholding; or (iv) termination of your Agreement, or (v) civil and/or criminal fines.

13. Supplies

Placing Orders.

- To order additional supplies, call Customer Service when you have two months' inventory left. We will ship your order at our standard shipping rate. The amount of supplies ordered on credit (on hand) should not exceed a three- to six-month supply.
- For an EMV/RFID, please contact Customer Service using the number provided on the last page of this Program Guide. If supplies are sent as an express delivery service, the delivery charges will be debited to your account.
- You are responsible for maintaining use of sales Chain and summary Media. We recommend that you store all supplies in a safe location.
- You may be charged for supplies and applicable shipping and handling charges.

14. Special Provisions for American Express

The provisions in this Section 14 apply to American Express Card acceptance and transactions. Also refer to www.americanexpress.com/merchantguide.

14.1. American Express Transaction Data: The transaction data you collect to facilitate the Charge must be made known provided directly to you by the Cardholder. You must not accept or have accepted transaction data from, nor shall you provide or have provided transaction data to, any third parties other than your covered parties. If you fail to comply with this requirement, in addition to other rights and remedies regarding "merchandise," you may be charged a fee as indicated on the Merchant Processing Application, we may suspend Card acceptance privileges at your establishment, or terminate the Agreement. Where Cardholder pays using payment or "e-wallet" accounts (which Cardholders may have created by providing Card number information when the account was established), the transaction data collected to facilitate the Card Not Present Charge has already been provided directly to the Cardholder. You are not required to have the Cardholder re-enter the transaction data. All information requested by American Express is disclosing one or more transactions, including information obtained at the point of sale information obtained or generated during Authorization and Submission, and any Chargeback.

14.2. Treatment of American Express Cardholder Information: You acknowledge that any and all American Express Cardholder information is confidential and the sole property of the Issuer, American Express or any of its Affiliates. Except as otherwise specified in the Agreement, you must not disclose Cardholder information, nor use or store it, other than to facilitate transactions at your establishment in accordance with the Agreement.

14.3. Disclosure and Use of Data Collected Under Agreement: You acknowledge American Express data and information that is provided to your Application and that we collect as part of performing American Express payment processing services or transaction related services, including information about you, American Express may use the information that you provide in the Application at the time of setup to screen and monitor you in connection with Card marketing and administrative purposes. American Express also may use such information to perform its responsibilities in connection with American Express Card acceptance, promote the American Express Network, perform analytics and create reports, and for any other lawful business purposes, including marketing purposes. American Express may otherwise use and share your information for business purposes and as permitted by Applicable Law. American Express uses reasonable administrative, technical and physical security measures to protect Program Merchant information, consistent with the sensitivity of the information.

14.3.1. Consent for American Express to Contact You by Phone, eMail, Text or Facsimile: American Express may use the information you provide in the Application as such information may be updated thereafter to send you communications or materials via email, SMS, text or facsimile regarding American Express products, services and resources available to you. You consent to receive unsolicited information and/or pre-recorded calls and communications (which may include SMS or text messages) at the telephone number(s) you have provided. If you provide a fax number, you consent and agree to receiving fax communications from American Express in connection with the foregoing. You understand that the calls, text or communications sent to you by American Express may be subject to charges or fees by your telecommunications or other applicable service provider that are your responsibility to pay. You understand that your consent under this Section 14.3.1 is not a condition of purchasing or receiving any product or service or enrolling into this Agreement.

Opt-Out: You may opt-out of receiving marketing related communications and materials from American Express by calling Pre-close on the Customer Service Number stated in Part III, Section A.5 of the Program Guide. If you have opted-out, you may still receive messages or communications from American Express related to important information about your account.

14.4. Conversion to a Direct Relationship with American Express: You acknowledge and agree that upon written notice from us, you will be converted to a direct American Express Card acceptance relationship with American Express if and when the annual American Express Card charges that you submit under this Agreement are greater than \$1,000,000. You agree that, upon conversion, you will be bound by American Express' then-current Card Acceptance Agreement with respect to American Express' Transactions, but American Express will not charge and other fees payable by you for American Express Card acceptance, and may so without being held liable to submit American Express Card transactions under this Agreement, but this Agreement will continue in full

force and effect with respect to other payments and services you elected to receive from your Affiliates.

14.5. No Assignment of Payments. You acknowledge and agree that you shall not assign to any third party any payments due to you under this Agreement in the result of American Express Card transactions, and all obligations arising from American Express Card charges will be for bona fide sales of goods and services on behalf of your establishment and free of liens, claims and encumbrances other than ordinary sales taxes, provided, however, that you may sell and assign future transaction receivables to one or more Affiliates and in any other funding source that partners with us or our Affiliates.

14.6. Third Party Beneficiary Rights. American Express is a direct and intended third party beneficiary of this Agreement, and may enforce any terms of this Agreement that apply to American Express, including American Express Card acceptance and transaction processing standards, against you.

14.7. Your Right to Opt Out of American Express Card Acceptance. You may opt out of accepting American Express Cards at any time without penalty or in any way affecting your right to accept any other payment products. In order to opt out you must complete the Limited Acceptance Form. To obtain a copy of this form you must call Payserve at the Customer Service Number stated in Part III, Section A.3 of the Program Rules.

14.8. Collections from American Express Cardholders. You may not bill or collect from any American Express Cardholder for any purchase or payment on the American Express Card unless a Chargeback has been received. You have fully paid for such charge and you therefore have the right to do so.

14.9. American Express-Excessive Disputes

You may be subject to various fees and assessments as set forth in the Application, including fees for excessive disputes. Some fees and assessments may be special product or service, while others may be applied based upon non-compliance of American Express policies and procedures. Many non-compliance fees and assessments can be avoided by correcting the actions that are causing such non-compliance.

14.10. American Express Right to Modify or Terminate Agreement.

American Express has the right to modify the Agreement in respect to American Express Card transactions or to terminate your acceptance of American Express Card transactions and to require you to re-acceptance your actions with respect to American Express Card transactions.

14.11. American Express Marketing Opt Out.

You may opt out of future American Express marketing communications by contacting us at 1-866-7-AMX.

14.12. American Express Program Threshold.

Monthly sales in excess of \$50,000 annually in AXP transactions meet a minimum sales volume requirement with AXP by calling 1-855-825-3247.

B. CARD GENERAL TERMS

In addition to the preceding Operating Procedures, our Agreement with you includes the following General Terms. If you follow any of the provisions of the Operating Procedures or General Terms, you may, more certain rights and we may, terminate the Agreement.

15. Services

Subject to Card Organization Rules, Services may be performed by one or more Affiliates; our agents or other third parties we may designate from time to time, in connection with this Agreement.

16. Operating Procedures: Card Organization Rules and Compliance

You agree to follow all requirements of this Agreement in connection with each Card transaction and to comply with all applicable Card Organization Rules, including without limitation the data security requirements described in Section 4. From time to time, we may amend the Operating Procedures, by providing you with at least 30 days' prior written notice, and those provisions will be deemed incorporated into this Agreement. However, for changes in the Card Organization Rules or for security reasons, certain changes in Card procedures may become effective with shorter notice. If there are any inconsistencies between the General Terms and the Operating Procedures, the General Terms will govern. You are responsible for staying apprised of all applicable changes in the Card Organization Rules and maintaining compliance with the Card Organization Rules. Card Organization Rules may be available on web sites such as:

<http://usa.visa.com/merchants/merchant-support/international/operating-procedures.jsp> and <http://www.mastercard.com/us/merchant/support/rules.html>. These links may change from time to time.

17. Settlement of Card Transactions

17.1. We will only be required to settle Card transactions for Card Types specified in our Application. Promptly after presentation of Sales Invoices pursuant to the Operating Procedures, we will initiate a transfer of the applicable settlement funds to you.

17.2. Unless otherwise agreed to in writing by the company, all discount fees are deducted daily. All settlements for Visa, MasterCard and Discover Network and American Express Card transactions will be net of Credit, Summary, Adjustments, applicable discount fees when due, Chargebacks and any other amounts then due to us. We may also set off from our payments otherwise due, any amounts owed to any of our respective Affiliates, whether or not arising out of or related to this Agreement.

17.3. All credits to your Settlement Account in other payments to you are provisional and are subject to among other things, our right to deduct our fees, our final audit Chargebacks including any related losses and fees, fines and any other charge imposed on us by the Card Organization as a result of your acts or omissions. You agree that we may debit or credit your Settlement Account from any delinquencies or charges fees pending Chargebacks and any other amounts owed to us or any of our respective Affiliates, or we may deduct such amounts from settlement funds on other amounts due by you to us or our respective Affiliates. You further agree we can offset any amounts owed to us or our Affiliates related to activity in other accounts maintained in the name of or guaranteed by you or any of your principals, partners or authorized signers. Alternatively, we may elect to finance you for any such amounts, net due 30 days after the invoice date or on each card's date as may be specified.

17.4. We will not be liable for any delays in receipt of funds or errors in debit and credit entries caused by you or any Affiliates.

17.5. In addition to any other remedies available to us under this Agreement, we agree that should any Event of Default (see Section 24.4) occur, we may, without notice, change processing or payment terms and/or suspend credits or other payments of any and all funds, money and amounts now due or hereafter to become due to you pursuant to the terms of this Agreement, until we have had reasonable opportunity to investigate such event.

17.6. You acknowledge and agree that transfers to and from the Settlement Account shall be based on the account number and routing number supplied by you. We are not responsible for detecting errors in the Settlement Account information you provide, including the account number and routing numbers. Even if any of those numbers do not correspond to the actual account or financial institution identified by name.

17.7. This Agreement is a contract whereby we are extending financial accommodations to you within the meaning of Section 365(c) of the U.S. bankruptcy code. Your right to receive any amounts due to us by you is expressly subject and subordinate to Chargeback, self, lien, security interest and right to a third party system of funds under this Agreement, without regard to whether such Chargeback, self, lien, security interest and the withholding of settlement funds rights are being applied in claims that are liquidated, unliquidated, fixed, contingent, matured or unmatured.

18. Exclusivity

During the term of this Agreement, you shall use us as your exclusive provider of all Services.

19. Fees: Adjustments: Collection of Amounts Due

19.1. In consideration of the Services provided by us, you shall be charged, and hereby agree to pay to us, and all fees set forth in this Agreement for the purposes of clarity, this includes the Application and any additional pricing supplements or subsequent communications, all of which shall be calculated and payable pursuant to the terms of this Agreement and any additional pricing supplements or subsequent communications.

If a transaction fails to qualify for your anticipated interchange level or you inadvertently or intentionally accept a transaction other than the type anticipated for your account (including a different Card type), then, as applicable to your pricing method, you will be charged a higher interchange. Discount Rate or Non-Qualified Interchange Fee, as well as any applicable surcharge for that transaction, all as further described in Section 6.5 (of Part III) of this Agreement and in the Application. With respect to independent or intentional acceptance of a transaction other than the type anticipated for your account (including a different Card type), you will also be subject to payment to us of our then-current transaction fee(s) with respect to such Card and/or transaction and be liable, obligated and responsible under this Agreement for any such transaction to the same extent as you would be if it was of a Card type eleven and approved.

For more information on Visa and MasterCard's interchange rates, please go to www.visa.com and www.mastercard.com.

19.2. All authorization fees will be charged for each transaction that you attempt to authorize. All capture fees will be charged for each transaction that you attempt to pay for settlement. If you are being billed a combined fee for both the authorization and capture of a transaction, the authorization and capture fees will be submitted as a single statement; otherwise the authorization and capture fees will each be charged separately. You are responsible for authorizing and/or capturing transactions that you submit to us for settlement to achieve the combined billing.

19.3. The fees for Services set forth in this Agreement are based upon assumptions associated with the anticipated annual volume and average transaction size for all Services set forth in this Agreement and your method of doing business. If the actual volume or average transaction size are not as expected or if you significantly alter your method of doing business, we may adjust your discount fee and transaction fees without prior notice.

19.4. The fees or Services set forth in this Agreement may be adjusted to reflect increases or new fees imposed by Card Organizations, including without limitation, interchange, assessment and other Card Organization fees, or to pass through increases or new fees charged to us by other Persons related to the Services. All such adjustments shall be your responsibility to pay and shall become effective upon the date any such change or addition is implemented by the applicable Card Organization or other Person as specified in our notice to you.

19.5. Subject to Section 24.3, we may also increase our fees or add new fees for Services for any reason at any time, by notifying you thirty (30) days' prior to the effective date of any such change or addition.

19.6. If you receive settlement funds by wire transfer, we may charge a wire transfer fee per wire.

19.7. To the extent the Automated Clearing House ("ACH") settlement process is used to effect debits or credits to your Settlement Account, you agree to be bound by the terms of the operating rules of the National Automated Clearing House Association, as modified from time to time. You hereby authorize us to initiate credit and debit entries and adjustments in your account through the ACH network and/or through direct debits/credits to the financial institution where your Settlement Account is maintained for amounts due under this Agreement and under any agreements with us or our respective Affiliates for any products or services, as well as for any credit entries in error. You hereby authorize the financial institution where your Settlement Account is maintained to effect all such debits and credits to our account. This authority will remain in full force and effect until we have given written notice to the financial institution where your Settlement Account is maintained that all money due under this Agreement and under any other agreements with us or our respective Affiliates for any products or services have been paid in full. You are solely responsible to inform us in writing if you claim any fees or other adjustments to be debited from an account other than your Settlement Account.

19.8. You agree to pay any fines imposed on us by any Card Organization resulting from Chargebacks and all fees, fines and other charges imposed on us by a Card Organization with respect to our acts or omissions. You are also responsible for all fees, fines and other charges imposed on us as a result of acts or omissions by your agents or third parties.

19.9. If your Chargeback percentage for any time period exceeds the estimated industry Chargeback percentage, you shall, in addition to the Chargeback fee and any applicable Chargeback handling fees or fines, pay an assessment or Chargeback fee for all Chargebacks occurring in such month in such line(s) of business. Each estimated industry Chargeback percentage is subject to change from time to time by us in order to reflect changes to the industry Chargeback percentages reported by Visa, MasterCard, American Express or Discover Network. Your Chargeback Percentage will be calculated as the larger of (a) the total Visa, MasterCard, American Express and Discover Network Chargeback rate in any line of business in any calendar month divided by the number of Visa, MasterCard, American Express and Discover Network transactions in that line of business submitted that month, or (b) the total dollar amount of Visa, MasterCard, American Express and Discover Network Chargebacks in any line of business reported in any calendar month divided by the total dollar amount of your Visa, MasterCard, American Express and Discover Network transactions in that line of business submitted in that month.

19.10. You agree to promptly and carefully review your merchant statements on other documents provided or made available to you (physically, electronically, or otherwise) provided by Us or others reflecting Card transaction activity, including activity in your Settlement Account. If you believe any adjustments should be made with respect to your Settlement Account, you must notify us in writing within sixty (60) days after any debit or credit to or should have been effected or such shorter period as provided in the terms and conditions that govern such account. If you notify us after such interval, we shall have

no obligation to originate or effect any adjustments. Any voluntary efforts by us to assist you in investigating such matters shall not create any obligation to continue such investigation or any future investigation.

19.11. If you do not pay us all fees and any other amounts due under this Agreement within thirty (30) days of the date of our merchant statement or other statement setting forth the amount due, then we may, in our sole discretion, charge you interest for such time that the amount and all accrued interest remain outstanding at the lesser of (a) 12% APR, or (b) the maximum rate permitted by applicable law.

19.12. Other Debits. We may also debit your Settlement Account of your settlement funds in the event we are required to pay Card Organization fees, charges, fines, penalties or other assessments as a consequence of your sales activities. Such debits shall not be subject to any limitations of time specified elsewhere in the Agreement, including without limitation the following, which will may add to or detract from this list as changes occur in the Card Organization Rules or our Operating Procedures pursuant to Section 16:

- Card Organization fees, charges, fines, penalties, assessments (or, in other assessments, including any fees levied against us or any amount for which you are obligated to indemnify us);
- Currency conversion was incorrectly calculated. **NOTE:** For Discover Network transactions, you are not permitted to convert from your local Thousand Network approved currency and another currency, nor may you quote the price of a transaction in U.S. Dollars if completed in another approved currency;
- Discount Rate was previously changed;
- Reversal of deposit posted to your account in error;
- Debit for Statement Adjustment for previously posted;
- Reversal of Credit for deposit previously posted;
- Debit for Chargeback net of posted to your account;
- Debit for FTR, Batch error fee;
- Card Organization Merchant's Chargeback, Fraud monitoring fees - excess exchangeback, handling fees;
- Failure of transaction to meet Member Control Authentication Service ("MCAS") - Cardholder account number in exception file;
- Organized transaction currency mismanagement provided;
- Travel Voucher exceeds maximum value;
- Debit and/or fee for mismanagement and/or Chargeback costs related to this Agreement or for compliance in our collection activities in an amount no less than \$10.00;
- Costs arising from replacement in damage to equipment control;
- Payment of current or past due amounts for any equipment purchase rental or lease;
- Incorrect merchant description frame and/or data, with/without;
- Incorrect transaction data submitted;
- Shipping and handling fees;
- Costs or expenses associated with responding to any subsequent transaction key or other legal process associated with your account maintained in less than 5150-05.

20. Chargebacks

20.1. You shall be responsible for reimbursing us for all transactions you submit that are charged back. See the Operating Procedures for additional information regarding Chargebacks and Chargeback procedures.

20.2. You shall reimburse us for any Chargebacks, return items, or other losses resulting from our failure to produce a Card transaction record required by us within the applicable time limits.

21. Representations, Warranties, Covenants, Limitations on Liability, Exclusion of Consequential Damages

21.1. Without limiting any other warranties hereunder, you represent, warrant and covenant with us, and with the submission of each Sales Order containing the following representations, warranties and covenants:

21.1.1. each Card transaction genuine and arises from a bona fide transaction permitted under the Card Organization Rules by the Cardholder directly with you, represents a valid obligation for the amount shown on the Sales Order, punctuated order, or Credit Draft, and does not involve the use of a Card for any other purpose.

21.1.2. each Card transaction represents an obligation of the related Cardholder for the amount of the Card transaction;

21.1.3. the amount charged for each Card transaction is not subject to any dispute, return or overpayment;

21.1.4. each Card transaction amount is only for respective merchandise or services (including taxes, but without any surcharges) sold, leased or rented by you pursuant to your business as indicated on the application and, except for any delivery or advance deposit Card transactions expressly authorized by this Agreement, that merchandising or service was actually delivered to or performed by the Cardholder, ensuring that Card transaction simultaneously upon your accepting and submitting that Card transaction for processing.

consent by operation of law or otherwise, is attributable to any transfer of voting control of you or your parent shall be considered an assignment or transfer of this Agreement. Furthermore, you shall individually and hold harmless from all liabilities, chargebacks, expenses, costs, fees and fines arising from such transfers or assignments. Submission of Card transactions to us for processing, for purposes of this Section 23, any transfer of voting control shall be considered an assignment or transfer of this Agreement.

23.2. The payment Services provided by us require access to a single bank account in which we may initiate both credits and debits. You may not enter into any agreement that could require, in any circumstance or event, the transfer of any payments or proceeds from Card transactions received by the Agreement to the custody or control of any Person. You may not assign any rights, including the right of payment under this Agreement, to any other person. In the event that you make an assignment or provide a security interest of receivables covered by this Agreement, then we may, in our option, elect to (a) refuse to acknowledge such assignment unless accompanied by an Authorization to both initiate debits of credits to the bank account of the assignee, (b) terminate this Agreement immediately, or (c) charge for any transfers that we are compelled to make promptly to fulfill such an assignment at the rate of \$100 per transfer.

23.3. Another Visa and MasterCard member may be substituted for Bank under this Agreement if this Agreement is performed with respect to Visa and MasterCard transactions. Upon substitution, such other Visa and MasterCard member shall be responsible for all obligations required of Bank for Visa and MasterCard transactions, including without limitation, full responsibility for us-Card program and such other obligations as may be expressly required by applicable Card Organization Rules.

Subject to Card Organization Rules, we may assign or transfer this Agreement and our rights, duties and obligations hereunder, and we may delegate or subcontract our rights, duties and obligations hereunder, in whole or in part, to any Person, whether in connection with a change in ownership or as set forth in the preceding paragraph, or otherwise, without notice to you or your parent.

23.4. Except as set forth elsewhere in this Section and as provided in the following sentence, this Agreement shall be binding upon successors and assigns and shall inure to the benefit of the parties and their respective permitted successors and assigns. Notwithstanding the benefit of this provision, any claim, recovery, transfer, assignment, debt or possession of other person charged with making payment of a party's assets or business, shall have any right to enforce, institute or assign this Agreement.

24. Term; Events of Default

24.1. This Agreement shall become effective upon the date this Agreement is approved by our Credit Department. You acknowledge that our Credit Department maintains a list of business types that are unqualified for our Services. We reserve the right to immediately terminate our account if it has been independently bounded with a business type on such Credit list.

24.2. The initial term of this Agreement shall commence and shall continue in force for three years after its first activation. Thereafter, it shall continue until we or you terminate this Agreement upon written notice to the other, as so otherwise authorized by this Agreement. Should you fail to timely or in writing of your request to terminate you acknowledge and agree you will continue to be charged fees pursuant to this Agreement, notwithstanding non-use of your account. If you have an equipment lease, termination of this Agreement does not terminate that equipment lease.

24.3. Notwithstanding the above and any other provisions of this Agreement, we may terminate this Agreement at any time and for any reason by providing 30 days' advance notice to you. We may terminate this Agreement immediately in both shorter notice upon an Event of Default as provided under Section 24.4 of this Agreement. In the event we provide notice to you of our termination of this Agreement, you shall be deemed to have terminated this Agreement without further cause or penalty by notifying us that you are terminating this Agreement prior to the effective date of such notice or increases. However, maintaining your merchant account, or your continued use of the Services after the effective date of our such termination shall be deemed your acceptance of such fee charges for the Services, throughout the term of this Agreement.

24.4. Any of the following events shall constitute an Event of Default:

24.4.1. a material adverse change in your business, financial condition or business prospects;

24.4.2. any assignment or transfer of voting control of you or your parent;

24.4.3. a sale of all or a substantial portion of your assets;

24.4.4. irregular Card sales by you, excessive Chargebacks, non-compliance with any applicable data security standards as determined by Services, in any Card Organization or any other Person, or an actual or suspected data security breach or any other circumstances which, in our sole discretion, may increase our exposure for your Chargebacks or otherwise present a financial or security risk to us;

24.4.5. any of your representations, warranties or covenants in this Agreement are breached in any respect;

24.4.6. you default in any material respect in the performance or observance of any term, condition or agreement contained in this Agreement, including, without limitation, the establishment or maintenance of funds in a Reserve Account as detailed in Section 25; or

24.4.7. you default in any material respect in the performance or observance of any term, condition or agreement contained in an agreement with any of our respective Affiliates or

24.4.8. you default in the payment when due, of any material indebtedness for payment of money;

24.4.9. you file a petition or have a petition filed by another party under the U.S. bankruptcy code or any other laws relating to bankruptcy, insolvency or similar arrangement for adjustment of debts, reorganization, liquidation or similar and appropriate manner any person filed against you is an insolvency case under such laws; apply for or consent to or fail to contest in a timely and appropriate manner, the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of you or of a substantial part of your property, or make a general assignment for the benefit of creditors, or take any action for the purpose of authorizing any of the foregoing;

24.4.10. your independent certified accountants shall refuse to deliver an unqualified opinion with respect to your annual financial statements and/or consolidated subsidiaries;

24.4.11. a violation by you of any applicable law, or Card Organization Rule, or one reasonably believed that termination of this Agreement is in the best interests of Services, or compliance with any law including without limitation the rules and regulations promulgated by the Office of Foreign Assets Control of the U.S. Department of the Treasury or any bureau as determined by Services of Section 35.21. Compliance with an "E" then upon the occurrence of 1) any Event of Default specified in subsections 24.4.4, 24.4.9 or 24.4.11, we may, in our option, terminate this Agreement in the event of default, and all amounts payable hereunder shall be immediately due and payable in full without demand or other notice of any kind, all of which are expressly waived by you; and 2) any other Event of Default, this Agreement may be terminated by us giving not less than 10 days' notice to you, and specified outstanding amounts payable hereunder shall be due and payable on demand.

24.5. Neither the expiration nor termination of this Agreement shall terminate the obligations and rights of the parties pursuant to provisions of this Agreement which by their terms are intended to survive or be perpetual or irrevocable. Such provisions shall survive the expiration or termination of this Agreement. All obligations by you in cash or otherwise for any obligations associated with transactions or charges submitted to us will survive termination of this Agreement until finally and irrevocably paid in full and settled.

24.6. If any Event of Default occurs regardless of whether such Event of Default has been cured, we may, in our sole discretion, exercise all of our rights and remedies under applicable law, and this Agreement including, without limitation, exercising our right under Section 23.

24.7. In the event you file for protection under the U.S. bankruptcy code in any other law relating to bankruptcy, insolvency, assignment for the benefit of creditors or similar law, and you continue to use our Services, it is your responsibility, in open and accurate to distinguish pre and post filing obligations. You acknowledge that as long as you utilize the accounts we established prior to such filing, we will not be able to systematically segregate your post-filing transactions or prevent us, or all of the pre-existing obligations. In that event, you will be responsible for submitting an accounting supporting any adjustments that you may claim.

24.8. The Card Organizations often maintain merchant lists such as the Merchant Alert, In-Credit High-risk Merchant List, ADOIT, which have had their merchant agreements or Card Acceptance rights terminated for cause. If this Agreement is terminated for cause, you acknowledge that you may be required to report your business name and the nature and other information regarding its operations to the Card Organizations for inclusion on such lists. You expressly agree and consent to such reporting if you are terminated as a result of the occurrence of an Event of Default for any reason specified in cause by Visa, MasterCard and Discover Network, or American Express. Furthermore, you agree to waive and hold harmless, defend and indemnify all claims which may arise as a result of such reporting.

24.9. After termination of this Agreement for any reason whatsoever, you shall continue to bear total responsibility for all Chargebacks, fees, Card Organization fines imposed on us as a result of your acts or omissions. Credits and adjustments resulting from Card transactions processed pursuant to this Agreement and all other amounts then due in which thereafter may become due under this Agreement.

25. Reserve Account; Security; Interest

25.1. You expressly authorize us to establish a Reserve Account pursuant to the terms and conditions set forth in this Section 25. The amount of such Reserve Account shall be set by us, in our sole discretion, based upon your processing history and the potential risk of loss to us that we may determine from time to time.

25.2. The Reserve Account shall be fully funded upon three (3) days' notice to you, or in instances of fraud or suspected fraud or an Event of Default. Reserve Account funding may be immediate. Such Reserve Account may be funded by all or any combination of the following: (a) use of non-debitable Card Settlement Account or any other accounts held by Bank or any of its Affiliates; (b) any financial institution maintained in the name of Client, any of its principals, or any of its partners; or (c) any of some are authorized signers of such account, including payments otherwise due to you, on your behalf, to us of a letter of credit, or (d) if we agree, your pledge to us of a fully transferable and negotiable certificate of deposit. Any such letter of credit or certificate of deposit shall be encumbered by a financial institution acceptable to us and may be used as a form satisfactory to us. In the event of termination of this Agreement by any party, an immediate Reserve Account may be established without notice in the manner provided above. Any Reserve Account will be held by us for the greater of two (2) months after termination of this Agreement or for such longer period of time as is consistent with our liability for your Card

transactions and Chargebacks in accordance with Card Organization Rules. We will hold funds pursuant to this Section 25 in reserve accounts until our funds are allocated to separate sub-accounts. Unless specifically required by law, you shall not be entitled to interest on any funds held by us in a Reserve Account.

25.3. If your funds in the Reserve Account are not sufficient to cover the Chargeback-adjustments, fees and other charges and amounts due from you, or if the funds in the Reserve Account are otherwise used, we reserve the right to promptly pay amounts on your request.

25.4.1. To secure your obligations to avoid our respective Affiliates under this Agreement and any other agreement for the provision of equipment, products or services (including any obligations for which payments in account of such obligations are subsequently mandated) declared to be fraudulent in preliminary, set aside or required to be repaid to avoid, involve or in otherwise order any bankruptcy act, state or federal law, common law or equitable cause, you grant to us a first priority lien and security interest in and to (i) the Reserve Account and (ii) any of your funds remaining in the Card transactions contemplated by this Agreement now or hereafter in our possession, in either now or hereafter due or to become due to you from us. Any such funds, money or amounts now or hereafter in our possession may be commingled with other funds of ours, or, in the case of any funds held pursuant to the foregoing paragraphs, with any other funds of other customers of ours. In addition to any rights now or hereafter granted under applicable law and by way of limitation of any such rights, we are hereby authorized by you at any time and from time to time without notice or demand to you or to any other Person (any such notice and demand being hereby expressly waived) to set off, recoup and to appropriate and to apply any and all such funds against and on payment of such obligations to us and our respective Affiliates under this Agreement and any other agreement with us or our respective Affiliates for any related equipment or related services (including any check services) whether such obligations are liquidated, unliquidated, fixed, contingent, matured or unmatured. You agree to duly execute and deliver to us such instruments and documents as we may reasonably request to perfect and confirm the lien, security interest right of set off, recoupment and subordination set forth in this Agreement.

25.4.2. For sake of clarification and not withstanding anything in the Agreement to the contrary, in the event Services defect, holdback, suspend, or cease set off any settlement amount or amounts otherwise due you pursuant to the terms of this Agreement collectively "Set Off Funds"), you acknowledge that such Set Off Funds will be held in a commingled Reserve Account of Services.

25.4.3. The replacement of or in addition to the first priority lien and security interest in the Reserve Account you grant to Services a first priority lien and security interest in and to any or more certificates of deposit. The certificates of deposit shall be unencumbered and shall be subject to an Acknowledgment of Holder of Certificate of Deposit and Control Agreement (the "Certificate of Deposit Control Agreement") by, between and among Customers, Services and the financial institution that has established and issued the certificate of deposit. The form of the Certificate of Deposit Control Agreement and the terms of any provision that it establishes and issues the certificate of deposit shall be satisfactory and acceptable to Services.

26. Financial and Other Information

26.1. Upon request, you will provide us and our Affiliates, quarterly financial statements within 45 days after the end of each fiscal quarter and annual audited financial statements within 90 days after the end of each fiscal year. Such financial statements shall be prepared in accordance with generally accepted accounting principles. You will also provide such other financial statements and other information concerning your business and your compliance with the terms and provisions of this Agreement as we may reasonably request. You authorize us and our Affiliates to obtain from third parties financial and credit information relating to you in consultation with our determination whether to accept this Agreement and our continuing evaluation of your financial and credit status. We may also receive and use information which you have provided to Bank for any other reason. Upon request, you shall provide, and/or cause to be provided, to us and our Affiliates in our representative (or regulatory) as well as third of the Card Organization's reasonable access to our records (or providers' facilities and records) for the purpose of performing an inspection and/or copying of books and records deemed appropriate. In such event, you shall pay the costs incurred by us or our Affiliates for such inspection, including, but not limited to, costs incurred for airfare and hotel accommodations.

26.2. We will provide you with written notice of any judgment, writ, seizure of assets, losses, execution or levy against you, substantial part (25% or more) of value of your total assets for later than three (3) days after you become aware of same.

27. Indemnification

27.1. You agree to indemnify, hold us and the Card Organization harmless from and against all losses, liabilities, damages and expenses (including reasonable attorneys' fees) resulting from the negligence or misrepresentation of any representation or warranty, breach of any covenant or agreement in any representation by you under this Agreement, (i) arising out of you or your employees or your agents, employees or a third party, in connection with Card transactions or otherwise arising from our provision of goods and services to our cardholders, (ii) arising out of you or use of the Services, or (iii) arising out of any third party indemnification we are obligated to make as a result of your actions (including indemnification of our Card Organization or Insurer).

27.2. Subject to the limitations set forth in Section 21.4, you agree to indemnify and hold us harmless from and against all losses, liabilities, damages and expenses (including reasonable attorneys' fees) resulting from any misrepresentation by us under

this Agreement or arising out of you or our employees' gross negligence or willful misconduct in connection with this Agreement, provided that this indemnity obligation shall not apply to Bank with respect to Non-Bank Cards.

28. Special Provisions Regarding Non-Bank Cards

28.1. Non-Bank Card transactions are provided to our by Processor and not by Bank and include transactions made using Discover Network, American Express, Voyager and WEX Cards (the "Services"). The Services provided, transactions processed and other matters contemplated under this Section 28 are subject to the terms of this Agreement, as applicable, except to the extent the terms of this Section 28 directly conflict with another provision of this Agreement (in which case the terms of this Section 28 will control, provided however: that (a) Bank is not a party to this Agreement and is not subject to Non-Bank Card services and (b) Bank is not liable to you in any way with respect to such Services and (c) you agree to pay Processor any payment processing, authorization and other fees described in the Application for any non-sequential transactions services you accept from Processor. For the purposes of this section the words "we," "us" and "us" refer only to Bank, Processor and not to the Bank. You authorize us to share information from your Application with American Express, Discover Network and any other Non-Bank Card Organization).

28.2. If you accept American Express, you understand that if, based upon your anticipated Card transaction volume you do not qualify for our full service program but have otherwise been approved for accepting American Express transactions, your authorizations will be obtained from and funded by American Express. American Express will provide you with its own agreement that governs those transactions. You understand and agree that we are not responsible and assume absolutely no liability with regard to any such transactions, including but not limited to the funding and settlement of American Express transactions, and that American Express will charge additional fees for the services you provide.

28.3. If you accept JCB, Diners Club International, UnionPay, BICard, and Discover, you agree to be bound by the Discover Network provisions of this Agreement. You also acknowledge and agree that JCB, Diners Club International, Discover, BICard and Discover transactions will be processed under and subject to Discover Network Card Organization Rules.

28.4. If you accept Voyager and/or WEX Cards, you agree to be bound by the WEX and/or Voyager rules. You also agree to be bound by all other provisions of this Agreement which are applicable to WEX and/or Voyager.

28.5. If you execute a separate WEX Merchant Agreement (WEX "Merchant Service Program"), you understand that we will provide such agreement to WEX, but that neither WEX nor we shall have any obligation whatsoever to us or our interest in processing WEX Cards unless and until WEX executes your WEX Merchant Agreement. If WEX executes your WEX Merchant Agreement and you accept WEX Cards, you understand that WEX transactions are processed, authorized and funded by WEX. You understand that WEX is solely responsible for all agreements that govern WEX transactions and that we are not responsible and assume absolutely no liability with regard to any such agreements or WEX transactions, including but not limited to the funding and settlement of WEX transactions. You understand that WEX will charge additional fees for the services that it provides.

28.6. If you elect to participate in the WEX Full Service Program, the following terms and conditions shall apply:

- You shall provide, at your own expense, all equipment necessary to obtain the electronic acceptance of the WEX Cards, including the operation and maintenance of the equipment, telecommunication link and provision of all networking services.
- All authorization request data for WEX Card sales must include WEX Cardholder account number, vehicle number, Card expiration date, driver's identification number, and the amount of the transaction, date and time of the transaction, quantity of goods sold, unit price and product code for the "Authorization Request Data". All manual WEX Card sales (i.e., sales facilitated by a card processor) must include an Authorization number or other approval code from WEX along with the aforementioned Authorization Request Data. The type of goods sold, quantity of goods sold, unit price per gallon of applicable taxes, and any coupons presented within the product detail of a transaction must be accurate. Product detail presented must also equal the total amount of the sale when calculated (i.e., Product qty x unit price must equal product amount. Sum of all product amounts including taxes must equal any coupons must equal total transaction amount).
- You shall not submit a WEX Card sale for processing to Bank if WEX is not present at the time of the WEX Card sale.
- You shall complete a WEX Card sale only upon the receipt of an Authorization approval message and not accept a WEX Card when a suspect Card declines message is received.
- You shall not submit a WEX Card sale for processing until the goods have been delivered or services performed.
- You shall not accept a WEX Card when the WEX Card appears to be counterfeit or forged or there is a reasonable belief that the WEX Card is counterfeit or forged.
- You shall provide a copy of the receipt for a WEX Card sale upon the request of the Cardholder, to the extent permitted by applicable law, which shall not include the full account number or driver's identification number.
- You shall require the Cardholder to sign a receipt when a WEX Card sale is not completed by an instant card reader.

- You shall take all commercially reasonable efforts to protect mutual WEX Card sales and Bank Card or money.
- You shall not divide the price of goods and services purchased on any single WEX Card sale among two or more sales receipts or permit a WEX Card sale when only partial payment is made by use of the WEX Card and the balance is made with another Bank Card.
- Client acknowledges that fuel tax removal at the point of sale is not permitted. For all payment system product codes that are taxable, transaction dollar amount and price per gallon (PPG) must contain the sum of the fuel cost and PPG inclusive of all applicable Federal, State, County, Local and other fuel taxes.
- You shall securely maintain records of all WEX Card sales, including the Authorization Request Data, for a period of one year and produce such records upon the reasonable request of WEX.
- You shall notify Processor of any errors committed within a settlement report within forty-five (45) days of receipt of such report. Processor will not accept reproaching requests for WEX transactions older than 90 days.
- You shall allow WEX to audit records upon reasonable advance notice, related to the WEX Full Service, and
- You shall permit WEX Card sales data to be reasonably requested to do so.
- Client acknowledges and agrees that its sole remedies with respect to the WEX Full Accounting Services shall be against Processor for the WEX Full Accounting Services and not WEX, except to the extent that WEX knows of any fraud related to the WEX Card and fails to provide notice of such fraud or WEX commits fraud in respect to the WEX Full Accounting Services.

28.7. If you accept Voyager Cards:

- In addition to the information listed in Section 1 (Market Card, Visa, Discover or Network, and American Express Acceptance) of the Operating Procedures, you should check Fleet Card, for any pending restrictions at the point of sale.
- In addition to the information provided under Section 1.5 (Special Terms) of the Operating Procedures, you shall establish a fair policy, for the exchange and return of merchandise. You shall promptly refund credits to or for any returns that are to be credited to a Voyager Cardholder's account. Unless required by law, you shall not give any cash refunds to any Voyager Cardholder in connection with a sale.
- In addition to the information required under Section 1.1 (Information Requirements of the Operating Procedures), the following information must be contained on the single page document containing the Sales Draft for Voyager transactions:
All authorization request data for Voyager Card sales must include Voyager Cardholder account number, Card expiration date, day of identification number, and the amount of the transaction, date and time of the transaction, quantity of goods sold, unit price, and product code (the "Authorization Request Data"). All mutual Voyager Card sales (i.e., sales facilitated by a card imprint) must include the Authorization number or other approval code from Voyager along with the aforementioned Authorization Request Data. The price of goods sold, quantity of goods sold, unit price, price per gallon (if applicable), taxes, and any coupons presented within the product detail of a transaction must be accurate. Product detail presented must also equal the total amount of the sale when calculated (i.e., Product qty x unit price must equal product amount. Sum of all product amounts including sales taxes and any coupons must equal total transaction amount).
- Client acknowledges that fuel tax removal at the point of sale is not permitted. For all payment system product codes that are taxable, transaction dollar amount and price per gallon (PPG) must contain the sum of the fuel cost and PPG inclusive of all applicable Federal, State, County, Local and other fuel taxes.
- If the increase in the number of Voyager transaction authorization calls from you not due to our or Voyager system outages in excess of 1% for a given month as compared to the previous month occurs, we may, at our discretion, deduct telephone charges, not to exceed \$25 (25 euros) per call, for the increased calls from your settlement of your Voyager transactions.
- In addition to the information provided under Section 1.1 (Settlement) of the Operating Procedures, settlement of Voyager transactions will generally occur by the tenth banking day after we process the applicable card transactions. We shall reimburse you for the dollar amount of sales submitted for a given day by you, reduced by the amount of (a) chargeback transactions, discounts, credits and the loss set forth in the Application, Net45 payment of any other amounts contained in the Settlement Report within forty (40) calendar days of receipt of such report. Neither we nor Voyager shall be required to reimburse you for sales submitted more than sixty (60) calendar days from the date of purchase.
- For daily transmission of sales data, you shall securely maintain (a) and complete records in connection with the information required to be provided under this paragraph for a period of not less than thirty-six (36) months from the date of the generation of the data. You may store records on electronic media, if you are responsible for the expense of retaining sales data records and Sales Data.
- In addition to the scenarios identified as Section 19.1.4 of this Program Code that could cause an authorization-related Chargeback incident with respect to Voyager transactions, Chargebacks shall be made in accordance with other Voyager rules. Notwithstanding information or caption of this paragraph or the Agreement, you shall remain liable for all outstanding Chargebacks of Voyager transactions.

- In addition to the information provided under Section 21 (Representations, Warranties, Covenants, Limitations of Liability, Exclusion of Consequential Damages) of the General Terms, in no event shall our cumulative liability to you for losses, claims, suits, counterclaims, demands or damages for any cause whatsoever in connection with Voyager transactions exceed the lesser of \$10,000.00 or the Voyager transaction Cap paid by you to us for the two months prior to the action giving rise to the claim.
- Notwithstanding anything in this Agreement to the contrary, our obligation to provide services to you relating to any Fleet Card will terminate automatically without penalty to us or the related Card Organization upon the earlier of (a) the termination or expiration of our agreement with such Card Organization, (b) at least twenty (20) days prior to notice by us to you, (c) your failure to comply with material terms relating to such Fleet Card transactions, or (d) written notice, if a Card Organization discontinues its Card.

29. Special Provisions for Debit Card

The special provisions outlined in this Section 29 apply only to those Debit Card transactions that are processed by a Cardholder entering a PIN (unless the transaction is a network supported PINless transaction). A PINless transaction is a Debit Card transaction that a merchant submits to us for settlement funding transactions with neither a PIN nor Signature. The Services provided, transactions processed and other matters contemplated under this Section 29 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 29 directly conflict with another provision of this Agreement, in which case the terms of this Section 29 will control.

- **29.1. Debit Card Acceptance.** Most, but not all, ATM Cards (ATM Cards) cards, accepted at the point of sale of participating locations. Examine the back of the Debit Card to determine if the Card participates in a PIN Debit network that you are authorized to accept. PIN Debit network Markings are usually printed on the back of the Card. If the Debit Card is valid and issued by a financial institution participating in a PIN Debit network, you must comply with the following general requirements for all participating PIN Debit networks, in addition to the specific requirements of that PIN Debit network.
 - You must honor all valid Debit Cards when presented that bear authorized PIN Debit network Markings.
 - You must treat transactions by Cardholders from all sources in the same manner.
 - You may not establish a maximum or maximum transaction amount for Debit Card acceptance.
 - You may not require additional information, besides the PIN, for the completion of the transaction unless the circumstances appear suspicious. A signature is not required for Debit Card transactions.
 - You shall not disclose transaction related information to any party other than your agent, a PIN Debit network, or issuer and then only for the purpose of resolution or error resolution.
 - You may not process a Credit Card transaction in order to provide a refund on a Debit Card transaction.

29.2. Transaction Processing.

The following general requirements apply to all Debit Card transactions:

- All Debit Card transactions must be authorized and processed electronically. There is no Voice Authorization or Imprinter procedure for Debit Card transactions.
- You may not complete a Debit Card transaction that has not been authorized. If you cannot obtain an Authorization at the time of sale, you should request another form of payment from the Cardholder or process the transaction as a Store and Forward or Reservation, in which case you assume the risk that the transaction fails to authorize, or otherwise declines. The Cardholder should be instructed to contact the issuer to find out why a transaction has been declined.
- Unless the transaction is a network supported PINless transaction, you may not complete a Debit Card transaction without entry of the PIN by the Cardholder. The PIN must be entered into the PIN pad only by the Cardholder. You cannot accept the PIN from the Cardholder verbally or in written form.
- The PIN Debit network used to process your transaction will depend upon, among other things, our own business considerations, the availability of the PIN Debit network at the time of the transaction and whether a particular Debit Card is enabled for a particular PIN Debit network. The PIN Debit network utilized to route your transaction may or may not be the lowest cost network available. We may, in our sole discretion, authorize PIN Debit network available to us for a given transaction (including a PIN Debit network affiliated with Processor) and in addition to receive PIN Debit networks available to you based on a variety of factors including in stability, features, functionality and our own business considerations.
- You must issue a receipt to the Cardholder upon successful completion of a transaction and reflect PAN Truncation (if).
- You may not manually enter the account number. The account number must be read electronically from the Magnetic Stripe. If the Magnetic Stripe is unreadable, you must request another form of payment from the Cardholder.
- Any applicable tax must be included in the total transaction amount for which Authorization is requested. Tax may not be collected separately in cash.
- **YOU ARE RESPONSIBLE TO SECURE YOUR TERMINALS AND INSTITUTE APPROPRIATE CONTROLS TO PREVENT EMPLOYEES OR OTHERS FROM**

SUBMITTING CREDITS AND VOIDS THAT DO NOT REFLECT BONA FIDE RETURNS OR REIMBURSEMENTS OF PRIOR TRANSACTIONS.

29.3. Cash Back From Purchase. You have the option of offering cash back to your customers when they make a PIN Debit Card purchase. You may set a minimum and maximum amount of cash back that you will allow. If you are not now offering this service, your terminal may require additional programming to begin offering cash back as long as it is supported by the PIN Debit Network.

29.4. Settlement. Within one Business Day of the original transaction, you must balance each location in our system for each Business Day that each location is open.

29.5. Adjustments. An adjustment is a transaction that is initiated to correct a Debit Card transaction that has been processed in error. You will be responsible for all applicable adjustment fees that may be charged by a Debit Card network. Some PIN Debit networks may have established minimum amounts for adjustments.

There are several reasons for adjustments being initiated:

- The Cardholder was charged an incorrect amount, either too little or too much
- The Cardholder was charged more than once for the same transaction
- A processing error may have occurred that caused the Cardholder to be charged even though the transaction did not complete normally at the point of sale.

All parties involved in processing adjustments are regulated by time frames that are specified in the operating rules of the applicable PIN Debit network. The Electronic Funds Transfer Act, Regulation E, and other applicable law.

30. Special Provisions Regarding EBT Transactions

If you elect to accept EBT Cards and engage in EBT transactions, the terms and conditions of this Section 30 shall apply.

EBT transactions are provided to you by Processor and not by Bank. The Services provided, transactions processed and other matters contemplated under this Section 30 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 30 directly conflict with another section of this Agreement, in which case the terms of this Section 30 will control, provided, however, that Bank is not a party to this Agreement insofar as it relates to EBT transactions, and Bank is not liable to you in any way with respect to such Services. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not to the Bank.

We offer electronic interfaces to EBT networks for the processing, settlement and switching of EBT transactions initiated through the use of a state-issued EBT card ("EBT Card") at your POS Terminal(s) for the provision of United States Department of Agriculture, Food and Nutrition Service ("FNS"), Supplemental Nutrition Assistance Program ("SNAP") and Women, Infants and Children Benefits ("WIC Benefits") and/or government delivered Cash Benefits (Cash Benefits, together with FNS, SNAP and WIC Benefits, collectively are referred to as the "EBT benefits") to EBT benefit recipients ("EBT customers"), subject to the terms below.

30.1. Acceptance of EBT Benefits. You agree to accept EBT Cards and provide EBT benefits to EBT customers through the use of a POS Terminal, PIN pad and printer or other equipment that meet standards set forth in the EBT Rules ("Authorized Terminal") applicable to such EBT benefits during your normal business hours, in a manner consistent with your normal business practices and in accordance with the EBT Rules.

The "EBT Rules" means (i) all procedures that we establish and provide to you from time-to-time regarding your acceptance of EBT Cards and provision of EBT benefits to EBT customers, (ii) the Quest Rules, as amended from time-to-time, issued by the National Automated Clearing House Association and as approved by the Financial Management Service of the U.S. Treasury Department, as necessary (and any rules that succeed or replace the Quest Rules); and (iii) other such laws, rules, regulations and procedures that are applicable to the acceptance of EBT Cards and the provision of EBT benefits by you under this Section 30, including without limitation, laws pertaining to delivery of services to EBT customers and EBT customer confidentiality, the federal Civil Rights Act of 1964, Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, Clean Air Act, Clean Water Act, Energy Policy and Conservation Act, Immigration Reform and Control Act of 1986, regulations issued by the Department of Agriculture pertaining to Food Stamp Program, and any additional procedures specified by the state regarding lost EBT Cards, forgotten PINs, discrepancies in benefits authorized and similar matters by providing EBT customers with information such as telephone numbers and addresses of the state or other appropriate agencies. The "Food Stamp Program" is the government benefits program operated under the authority of the Food Stamp Act of 1964.

You will provide EBT benefits to EBT customers, in accordance with the procedures set forth in the EBT Rules, in the amount authorized through your Authorized Terminal upon presentation by an EBT customer of an EBT Card and such EBT customer's entry of a valid PIN. If the Authorized Terminal fails to print EBT benefit issuance information as approved and validated as a legitimate transaction, you will comply with the procedures set forth in the EBT Rules for authorization of EBT benefits in such instance. You are solely responsible for your provision of EBT benefits other than in accordance with authorizations timely received from EBT service provider. You will not resubmit any EBT Card transaction except as specifically permitted by the EBT Rules and procedures applicable to such EBT Card transaction. You must provide a receipt for each EBT transaction to the applicable EBT customer.

You will not accept any EBT Card for any purpose other than providing EBT Benefits, including without limitation accepting an EBT Card as security for repayment of any EBT customer obligation to you. In the event of any violation of this provision, you will be obligated to reimburse the state or us for any EBT benefits unlawfully received by either you or an EBT customer to the extent permitted by law. Cash should never be dispensed for FNS, SNAP and WIC Benefits.

30.2. Manual EBT Vouchers. In accordance with the procedures set forth in this Section 30 and the EBT Rules, you will manually accept EBT Cards during periods of time when your Authorized Terminal is not working or the EBT system is not available, you will manually provide EBT benefits in the amount authorized through the applicable EBT service provider to the EBT customer at no cost to the EBT customer upon presentation by an EBT customer of his/her EBT Card. All manual voucher authorizations must be cleared on your POS terminal for payment of voucher to be made to you. In addition to any procedures set forth in the EBT Rules, the following limitations will apply to manual issuance of EBT Benefits by merchant:

- i. An authorization number for the amount of the purchase must be received by you from the applicable EBT service provider while the respective EBT customer is present and before you provide such EBT customer with any FNS, SNAP and WIC Benefits, or Cash Benefits, as applicable. You must not attempt to voice authorize a manual EBT transaction if the EBT customer is not present to sign the voucher. The EBT customer must sign the voucher. A copy of the voucher should be given to the EBT customer at the time of authorization and you should retain one copy for your records.
- ii. Specified EBT customer, clerk and sales information, including the telephone authorization number, must be entered properly and legibly on the manual sales draft.
- iii. All manual voucher authorizations must be cleared on your Authorized Terminal before payment of voucher will be made to you. Vouchers must be cleared within 10 Business Days after the date of applicable voice authorization. Vouchers cannot be cleared by any manner except by your Authorized Terminal therefore you should never mail vouchers requesting payment. If a voucher expires before it has been cleared by your Authorized Terminal for payment, no further action can be taken to obtain payment for the voucher.
- iv. In the event that, due to EBT host failure, EBT benefit availability for an EBT customer cannot be determined at the time you request authorization, the maximum authorized manual transaction and benefit encumbrance will be \$60.00 or such other state specific floor limit as set forth in the most current version of the applicable EBT Rules.
- v. Except as specifically provided in the applicable EBT Rules, you will not be reimbursed and will be solely responsible for a manual transaction when you fail to obtain an authorization number from the applicable EBT service provider as set forth in this Section 30 or otherwise fail to process the manual transaction in accordance with the EBT Rules.
- vi. If you have not received an authorization number in accordance with paragraph 30.1 above, you may not "re-submit" a manual sales draft for payment for the same transaction.

30.3. Acceptance of Cash Benefits. If you agree to accept EBT Cards and to provide Cash Benefits, you agree to maintain adequate cash on hand to issue EBT service provider authorized Cash Benefits and will issue such Cash Benefits to EBT customers in the same manner and to the same extent cash is provided to your other customers. You may not require, and may not in your advertising suggest, that any EBT customers must purchase goods or services from you as a condition to receiving Cash Benefits, unless such condition applies to other customers as well. You may not designate and direct EBT customers to special checkout lanes restricted to use by EBT customers unless you also designate and direct other customers to special checkout lanes for Debit Cards or Credit Cards and/or other payment methods such as checks other than cash.

30.4. Interoperability. If you accept EBT Cards and provide EBT benefits (FNS, SNAP and WIC Benefits and/or Cash Benefits), you must do so for EBT customers from all states. If you provide FNS, SNAP and WIC Benefits under this Agreement, you represent and warrant to us that you are a FNS authorized merchant and are not currently disqualified or withdrawn from redeeming food stamp coupons or otherwise disqualified or withdrawn by FNS. You agree to secure and maintain at your own expense all necessary licenses, permits, franchises, or other authorities required to lawfully effect the issuance and distribution of EBT benefits under this Agreement, including without limitation, any applicable franchise tax certificate and non-governmental contractors' certificate, and covenant that you will not accept EBT Cards or provide EBT benefits at any time during which you are not in compliance with the requirements of any EBT Rules.

30.5. Required Licenses. If you provide FNS, SNAP and WIC Benefits under this Agreement, you represent and warrant to us that you are a FNS authorized merchant and are not currently disqualified or withdrawn from redeeming food stamp coupons or otherwise disqualified or withdrawn by FNS. You agree to secure and maintain at your own expense all necessary licenses, permits, franchises, or other authorities required to lawfully effect the issuance and distribution of EBT benefits under this Agreement, including without limitation, any applicable franchise tax certificate and non-governmental contractors' certificate, and covenant that you will not accept EBT Cards or provide EBT benefits at any time during which you are not in compliance with the requirements of any EBT Rules.

30.6. Term and Termination. If you are disqualified or withdrawn from the Food Stamp Program, your authority to issue benefits will be terminated concurrently therewith. Such disqualification or withdrawal will be deemed a breach of this Agreement with respect to

your authority to issue Cash Benefits and, in the event of such disqualification, we have the right to immediately terminate the provision of service under this Section 30 or the Agreement in its entirety. With respect to the issuance of Cash Benefits only, your authority to issue Cash Benefits may be suspended or terminated immediately at the sole discretion of us, the state or its EBT service provider, effective upon delivery of a notice of suspension or termination specifying the reasons for such suspension or termination if there will be (i) any suspension, injunction, cessation, or termination of the EBT service provider's authority to provide EBT services to the state; (ii) failure by you, upon not less than thirty (30) days' prior written notice, to cure any breach by you of these terms and conditions, including without limitation, your failure to support the issuance of EBT benefits during your normal business hours consistent with your normal business practices; your failure to comply with EBT benefit issuance procedures; your impermissible acceptance of an EBT Card; or your disqualification or withdrawal from the Food Stamp Program; or (iii) based on a state's or its EBT service provider's investigation of the relevant facts, evidence that you or any of your agents or employees are committing, participating in, or have knowledge of fraud or theft in connection with the dispensing of EBT benefits. If you fail to cure any breach as set forth above, you may appeal such suspension or termination to the applicable state for determination in its sole discretion.

In the event that your authority to accept benefits is suspended or terminated by a state or its EBT service provider, and you successfully appeal such suspension or termination to the state or its EBT service provider, we shall be under no obligation to reinstate the services previously provided under this Section 30 or the Agreement, as applicable.

The provision of services under this Section 30 shall terminate automatically if our agreement or our service provider's agreement with any applicable state's EBT service provider terminates for any reason.

You will give prompt notice to us if you plan to stop accepting EBT Cards and providing EBT benefits or if you are unable to comply with the terms of this Section 30.

30.7. Confidentiality of EBT System Information. All information related to EBT customers and/or the issuance of EBT benefits shall be considered confidential information. Individually identifiable information relating to an EBT customer or applicant for EBT benefits will be held confidential and will not be disclosed by you or your directors, officers, employees or agents, without prior written approval of the applicable state.

You will: (a) implement appropriate measures designed to: (1) ensure the security and confidentiality of all non-public personal information or materials regarding customers ("NPPI"); (2) protect against any anticipated threats or hazards to the security or integrity of NPPI; (3) protect against unauthorized access to or use of NPPI that could result in substantial harm or inconvenience to any customer and (4) ensure the proper disposal of NPPI; and (b) take appropriate actions to address incidents of unauthorized access to NPPI, including notification to us as soon as possible.

The use of information obtained by you in the performance of your duties under this Section 30 will be limited to purposes directly connected with such duties.

30.8. EBT Service Marks. You will adequately display any applicable state's service Marks or other licensed marks, including the Quest Marks, and other materials supplied by us (collectively the "Protected Marks") in accordance with the standards set by the applicable state. You will use the Protected Marks only to indicate that EBT benefits are issued at your location(s) and will not indicate that we, any state or its EBT service provider endorse your goods or services. Your right to use such Protected Marks pursuant to this Agreement will continue only so long as this Section 30 remains in effect or until you are notified by us, any state or its EBT service provider to cease their use or display. You will not use the Marks of any EBT service provider without prior written approval from such EBT service provider.

30.9. Miscellaneous.

30.9.1. Errors. You will fully cooperate with us and any other participants in the EBT system in the resolution of errors and disputes regarding EBT transactions processed pursuant to this Section 30. You will promptly notify us of any such errors or disputes.

30.9.2. Issuance Records.

- You agree to make available such informational materials as may be required by the state, its EBT service provider or any applicable regulations pertaining to the issuance of Benefits.
- You will retain all EBT-related records (including but not limited to manual sales drafts or vouchers) in the manner required by the EBT Rules or otherwise reasonably requested by us for three (3) years following the date of the applicable EBT transaction, or for such additional period as may be required by the EBT Rules. Records involving matters in litigation will be kept by you for a period of not less than three (3) years following the termination of the applicable litigation. Copies of any documents in media other than paper (e.g., microfilm, etc.) related to this Section 30 may be substituted for the originals to the extent permitted under applicable EBT Rules and provided that legible paper copies can be reproduced within a reasonable time after such records are requested.
- You will make all EBT-related records available for audit upon request to representatives of the state or its EBT service provider, or other authorized state or federal government agency during normal business hours.
- To ensure compliance with this Agreement, including without limitation this Section 30, the state, its EBT service provider, or other authorized state or federal government agency, will at all times, upon advance notice except in the case of suspected fraud or

other similar activity, have the right to enter, during normal business hours, your premises to inspect or evaluate any work performed under this Agreement, or to obtain any other information required to be provided by you or otherwise related to this Agreement.

30.9.3. Training. You will train and permit your employees to receive training regarding the issuance of EBT benefits.

30.9.4. Amendments. Notwithstanding anything to the contrary in this Agreement, if any of these terms and conditions are found to conflict with the EBT Rules or federal or state policy, these terms and conditions are subject to reasonable amendment by us, a state or its EBT service provider to address such conflict upon written notice to you and such amendment shall become effective upon such notice.

30.9.5. State Action. Nothing contained herein shall preclude a state from commencing appropriate administrative or legal action against you or for making any referral for such action to any appropriate federal, state, or local agency.

30.9.6. Reference to State. Any references to state herein will mean the state in which you accept EBT benefits pursuant to this Section 30. If you accept EBT benefits in more than one state pursuant to this Section 30, then the reference will mean each such state severally, not jointly.

30.9.7. Third Party Beneficiaries. These terms and conditions, do not create, and will not be construed as creating, any rights enforceable by any person not having any rights directly under this Agreement, except that the state and its issuer, as defined in the Quest Rules, will be deemed third party beneficiaries of the representations, warranties, covenants and agreements made by you under the Agreement, including without limitation this Section 30.

31. Special Provisions Regarding Wireless Service

If you elect to purchase the Wireless Services from us as indicated on the Application, then the following terms and conditions of this Section 31, referred to as the "Wireless Services Terms," shall apply. THE WIRELESS SERVICES ARE BEING SOLD TO YOU FOR USE IN BUSINESS AND ARE NOT BEING SOLD TO YOU FOR HOUSEHOLD OR PERSONAL USE. Sale of Wireless Services is made by Processor and not the Bank. The Services provided, transactions processed and other matters contemplated under this Section 31 are subject to the rest of this Agreement, as applicable, except to the extent the terms of this Section 31 directly conflict with another section of this Agreement, in which case the terms of this Section 31 will control; provided, however, that Bank is not a party to this Agreement insofar as it relates to Wireless Services, and Bank is not liable to you in any way with respect to such services. For the purposes of this section, the words "we," "our" and "us" refer only to the Processor and not to the Bank.

Through one or more third party vendors ("Wireless Vendor(s)") selected by us in our sole discretion, we have acquired the right to resell certain wireless data communication services that use radio base stations and switching offered by certain cellular telephone and data networks throughout the country (the "Wireless Networks") in order to allow you to capture and transmit to Processor and Bank certain wireless Card Authorization transactions or to transmit other communications to our system ("Wireless Services").

If you elect to purchase voice and/or data services directly from a third party provider for use with the Wireless Equipment as permitted by Processor, you acknowledge and agree that this Agreement does not address or govern those voice and/or data services or your relationship with that third party provider, and Services are in no way responsible for providing, maintaining, servicing or supporting such third party voice and/or data services.

31.1. Purchase of Wireless Services. The prices that you will pay for the Wireless Services are set forth on the Application. In connection with your purchase of Wireless Services, you will receive access to a certain Wireless Network(s).

- Licenses.** You agree to obtain any and all licenses, permits or other authorizations required by the Federal Communications Commission ("FCC") or any other regulatory authority, if any, for the lawful operation of Wireless Equipment used by you in connection with your receipt of Wireless Services. You will promptly provide us with all such information as we may reasonably request with respect to matters relating to the rules and regulations of the FCC.
- Wireless Equipment.** You agree that in order to access the Wireless Services, you must use wireless POS Terminals and accessories approved for use with the Wireless Services by Processor from time to time in its sole discretion (the "Wireless Equipment"). If Wireless Equipment is purchased by you from us as indicated on the Application, then the terms of this Agreement apply to your use of such Wireless Equipment.
- Improvements/General Administration.** We and the Wireless Vendor(s) reserve the right to make changes, from time to time, in the configuration of the Wireless Services, Wireless Networks, Wireless Equipment, Wireless Software, rules of operation, accessibility periods, identification procedures, type and location of equipment, allocation and quantity of resources utilized, programming languages, administrative and operational algorithms and designation of the control center serving you at the particular address. In addition, we reserve the right to schedule, from time to time, interruptions of service for maintenance activities.
- Suspension of Wireless Services.** We or a Wireless Network may suspend the Wireless Services to: (a) prevent damages to, or degradation of, our or a Wireless Network's network integrity that may be caused by a third party; (b) comply with any law, regulation, court order or other governmental request which requires immediate action; or (c) otherwise protect us or a Wireless Network from potential legal liability. To the extent commercially

reasonable, we shall give notice to you before suspending the Wireless Services to you. If not commercially reasonable to give prior notice, we will give notice to you as soon as commercially practicable thereafter. Availability of the Wireless Services may vary due to events beyond the control of us or our Wireless Vendors. In the event of a suspension of the Wireless Services, we or the applicable Wireless Vendor will promptly restore the Wireless Services after the event giving rise to the suspension has been resolved.

31.2. Software Licenses. Processor hereby grants to you a non-exclusive, non-transferable, revocable limited sublicense to use any wireless software (including any documentation relating to or describing the wireless software) downloaded by you or your designee from Processor's systems onto the Wireless Equipment in connection with your purchase and use of the Wireless Services in accordance with the terms of this Agreement, including this Section 31. Any thing in this Agreement to the contrary notwithstanding, we or certain third parties retain all ownership and copyright interest in and to all Wireless Software, related documentation, technology, know-how and processes embodied in or provided in connection with the Wireless Software, and you shall have only a nonexclusive, non-transferable license to use the Wireless Software in your operation of the Wireless Equipment for the purposes set forth in this Agreement. Nothing in this Agreement confers any title or ownership of any such Wireless Software to you or shall be construed as a sale of any rights in any such Wireless Software to you. You agree to accept, agree to and be bound by all applicable terms and conditions of use and other license terms applicable to such Wireless Software. You shall not reverse engineer, disassemble or decompile the Wireless Software. You shall not give any Person access to the Wireless Software without our prior written consent. Your obligations under this Section 31.2 shall survive the termination of this Agreement. You acknowledge that the only right you obtain to the Wireless Software is the right to use the Wireless Software in accordance with the terms in this Section.

31.3. Limitation on Liability. We shall have no liability for any warranties by any party with respect to uninterrupted Wireless Services, as set forth in Section 31.10, or for any Persons unauthorized access to Client's data transmitted through either the Wireless Equipment or Wireless Services (including the Wireless Software), or Wireless Networks, regardless of the form of action (whether in contract, tort (including negligence), strict liability or otherwise). The foregoing notwithstanding, for any other liability arising out of or in any way connected with these Wireless Services terms, including liability resulting solely from loss or damage caused by partial or total failure, delay or nonperformance of the Wireless Services or relating to or arising from your use of or inability to use the Wireless Services, Processor's Bank's, and Wireless Vendor(s)' liability shall be limited to your direct damages, if any, and, in any event, shall not exceed the lesser of the amount paid by you for the particular Wireless Services during any period of failure, delay, or nonperformance of the Wireless Services or \$50,000.00. In no event shall Services, Wireless Vendor(s) or our respective Affiliates be liable for any indirect incidental, special, consequential or punitive damages. The remedies available to you under these Wireless Services Terms will be your sole and exclusive remedies with respect to the Wireless Services.

31.4. Indemnification. In addition to any other indemnifications as set forth in this Agreement, you will indemnify and hold Services, Wireless Vendor(s) and our respective officers, directors, employees, and Affiliates harmless from and against any and all losses, claims, liabilities, damages, costs or expenses arising from or related to: (a) the purchase, delivery, acceptance, rejection, ownership, possession, use condition, liens against, or return of the Wireless Equipment or the Wireless Software (including the Wireless Software), as applicable; (b) your negligent acts or omissions; (c) any breach by you of any of your obligations under this Section 31; or (d) any Person's unauthorized access to Client's data and/or unauthorized financial activity occurring on your Merchant Account Number hereunder, except to the extent any losses, liabilities, damages or expenses result from our gross negligence or willful misconduct.

31.5. Confidentiality. All information or materials which could reasonably be considered confidential or competitively sensitive that you access from or relate to either Wireless Vendor(s) or Services related to the subject matter of these Wireless Services Terms will be considered confidential information. You will safeguard our confidential information with at least the same degree of care and security that you use for your confidential information, but not less than reasonable care.

31.6. Termination. In addition to any other provision in this Agreement, the Wireless Services being provided under this Section 31 may terminate:

- a) Immediately upon termination of the agreement between us (or our Affiliates) and Wireless Vendor(s), provided that we will notify you promptly upon our notice or knowledge of termination of such agreement, provided further that if Wireless Vendor(s) loses its authority to operate less than all of the Wireless Services or if the suspension of any authority or non-renewal of any license relates to less than all of the Wireless Services, then these Wireless Services Terms will terminate only as to the portion of the Wireless Services affected by such loss of authority, suspension or non-renewal; or
- b) Immediately if either we or our Affiliates or Wireless Vendor(s) are prevented from providing the Wireless Services by any law, regulation, requirement, ruling or notice issued in any form whatsoever by judicial or governmental authority (including without limitation the FCC).

31.7. Effect of Termination. Upon termination of these Wireless Services Terms for any reason, you will immediately pay to us all fees due and owing to us hereunder. If these Wireless Services terms terminate due to a termination of the agreement between us or our Affiliates and Wireless Vendor(s), then we may, in our sole discretion, continue to provide the Wireless Services through Wireless Vendor(s) to you for a period of time to be

determined as long as you continue to make timely payment of fees due under these Wireless Services Terms.

31.8. Third Party Beneficiaries. Wireless Vendor(s) are third party beneficiaries of these Wireless Services Terms and may enforce its provisions as if a party hereto.

31.9. Other Applicable Provisions. You shall agree to be bound by all other terms and conditions of this Agreement.

31.10. Disclaimer. Wireless Services use radio transmissions, so Wireless Services can't be provided unless your Wireless Equipment is in the range of one of the available Wireless Networks' transmission sites and there is sufficient network capacity available at that moment. There are places, particularly in remote areas, with no service at all. Weather, topography, buildings, your Wireless Equipment, and other conditions we don't control may also cause failed transmissions or other problems. PROCESSOR, BANK, AND WIRELESS VENDOR(S) DISCLAIM ALL REPRESENTATIONS AND WARRANTIES RELATING TO WIRELESS SERVICES. WE CANNOT PROMISE UNINTERRUPTED OR ERROR-FREE WIRELESS SERVICE AND DO NOT AUTHORIZE ANYONE TO MAKE ANY WARRANTIES ON OUR BEHALF.

32. Special Provisions Regarding TransArmor Solution

This Section 32 and the benefits described shall apply only if you subscribe to the TransArmor Solution and pay the applicable fees. If you subscribe only to TransArmor Data Protection or TransArmor Solution PCI as set forth in the Application, you will not receive other parts of TransArmor Solution including, without limitation, Liability Waiver.

32.1. Scanning Authority; Scanning Obligations. You represent and warrant that you have full right, power, and authority to consent for TransArmor Solution to scan for vulnerabilities in the IP address and/or URL and/or domain names identified to us by you for scanning, whether electronically or by any other means, whether during initial enrollment or thereafter. If applicable, you shall obtain all consents and authorizations from any third parties necessary for us or our vendors to perform the TransArmor Solution services, including, without limitation, third party data centers, co-locations and hosts. We will not be required to execute agreements with any such third parties. You agree to defend, indemnify and hold us and our vendors harmless from any third party claim that such access was not authorized. You may use TransArmor Solution and portals only to scan IP addresses, URLs and domain names owned by and registered to you. You understand that your failure to provide a complete list of and complete access to your IP addresses will significantly impair the scanning services and may result in incomplete or inaccurate results. You agree that the TransArmor Solution services hereunder, including without limitation their functionality and contents, constitute confidential information, and your use and/or access to the TransArmor Solution is subject to the terms of confidentiality set forth in this Agreement.

32.2. Data Collection. In the course of providing the TransArmor Solution, we may collect information relating to activities on your network (the "Data") including, but not limited to: network configuration, TCP/IP packet headers and contents, log files, malicious codes, and Trojan horses. We retain the right to use the Data or aggregations thereof for any reasonable purpose.

32.3. Data Protection; Responsibilities of Client. Data Protection applies only to card transactions sent from you to us for authorization and settlement pursuant to the Agreement, and specifically excludes electronic check transactions. You are responsible to comply with the following regarding your use of Data Protection:

- (a) Data Protection can only be used with a point of sale device, gateway and/or equipment that is certified by us as Data Protection eligible. It is your responsibility to ensure that you have eligible equipment in order to use Data Protection.
- (b) You must demonstrate and maintain your current PCI DSS compliance certification. Compliance must be validated either by a Qualified Security Assessor (QSA) with corresponding Report on Compliance (ROC) or by successful completion of the applicable PCI DSS Self-Assessment Questionnaire (SAQ) or Report on Compliance (ROC), as applicable, and if applicable to your business, passing quarterly network scans performed by an Approved Scan Vendor, all in accordance with card organization rules and PCI DSS. Use of the Data Protection will not, on its own, cause you to be compliant or eliminate your obligations to comply with PCI DSS or any other Card Organization Rule. You must also ensure that all third parties and software that you use for payment processing comply with PCI DSS.
- (c) You must deploy Data Protection (including implementing any upgrades to such service within a commercially reasonable period of time after receipt of such upgrades) throughout your point of sale systems or any facility where you process and/or store transaction data ("Merchant Systems") including replacing existing Card numbers on your Merchant Systems with Tokens. Full Card numbers must never be retained, whether in electronic form or hardcopy.
- (d) You must use the Token in lieu of the Card number for ALL activities subsequent to receipt of the authorization response associated with the transaction, including without limitation, settlement processing, retrieval processing, chargeback and adjustment processing and transaction reviews.
- (e) If you send or receive batch files containing completed Card transaction information to/from us, you must use the service provided by us to enable such files to contain only Tokens or truncated information.
- (f) You must use truncated report viewing and data extract creation within reporting tools provided by us.

(g) You are required to follow rules or procedures we may provide to you from time to time related to your use of Data Protection ("Data Protection Rules and Procedures"). We will provide you with advance written notice of any such rules or procedures or changes to such rules or procedures.

(h) You will use only unaltered version(s) of Data Protection and will not use, operate or combine Data Protection or any related software, materials or documentation, or any derivative works thereof with other products, materials or services in a manner inconsistent with the uses contemplated in this Agreement.

(i) You will promptly notify us of a breach of any these terms.

32.4. Tokenization Limited Warranty. Subject to the terms of this Agreement, we (i) warrant that each token returned to you through Data Protection cannot be used to initiate a financial sale transaction by an unauthorized entity/person outside your point of sale systems and facilities where you process and/or store transaction data (the "Limited Warranty"); and (ii) agree to indemnify and hold you harmless from direct damages, including third party claims, resulting from our breach of the Limited Warranty. This express remedy for our breach of the Limited Warranty constitutes our entire liability and your sole and exclusive remedy for our breach of the Limited Warranty.

The Limited Warranty is void if (a) you use Data Protection in a manner not contemplated by, or you are otherwise in violation of, this Agreement or any other agreement relating to Cards eligible for Data Protection; (b) you are grossly negligent or engage in intentional misconduct; or (c) you no longer have a processing relationship with us.

32.5. Disclaimer; TransArmor Solution Does Not Guarantee Compliance or Security.

32.5.1. USE OF TRANSARMOR SOLUTION, SOFTWARE OR ANY EQUIPMENT (INCLUDING ANY SERVICES, SOFTWARE OR EQUIPMENT PROVIDED BY OR THROUGH A THIRD PARTY) IS AT YOUR OWN RISK, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE TRANSARMOR SOLUTION, EQUIPMENT AND ANY SOFTWARE IS PROVIDED "AS IS" AND WE DISCLAIM ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, MADE TO YOU OR ANY OTHER PERSON, INCLUDING ANY WARRANTIES REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR THAT THE TRANSARMOR SOLUTION, EQUIPMENT OR ANY SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR FREE OR THAT THE TRANSARMOR SOLUTION, EQUIPMENT OR SOFTWARE ARE SECURE, FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR DO NOT INFRINGE THE RIGHTS OF ANY PERSON.

32.5.2. USE OF THE TRANSARMOR SOLUTION DOES NOT (A) GUARANTEE COMPLIANCE WITH ANY OF THE RULES OR SECURITY STANDARDS ESTABLISHED BY THE CARD ORGANIZATIONS, INCLUDING PCI DSS; (B) ELIMINATE YOUR OBLIGATION TO COMPLY WITH SUCH REQUIREMENTS; OR (C) GUARANTEE SECURITY OR PREVENT A SECURITY BREACH OR COMPROMISE. WE MAKE NO WARRANTIES, EITHER EXPRESSED OR IMPLIED, THAT PARTICIPATION AND/OR USE OF TRANSARMOR SOLUTION WILL DETECT EVERY VULNERABILITY ON YOUR SYSTEM. IF ANY, OR THAT OUR VULNERABILITY ASSESSMENTS, SUGGESTED SOLUTIONS OR ADVICE WILL BE ERROR-FREE OR COMPLETE. YOU AGREE THAT WE SHALL NOT BE RESPONSIBLE OR LIABLE FOR THE ACCURACY OR USEFULNESS OF ANY INFORMATION PROVIDED BY US, OR FOR ANY USE OF SUCH INFORMATION.

32.5.3. You acknowledge and understand that accessing, retrieving, transmitting, and scanning IP addresses and other data in the manner undertaken by the TransArmor Solution involves inherent risks, including risks related to system or network performance and availability, and data corruption. You assume full responsibility to backup and/or otherwise protect your data against loss, damage or destruction, and to take appropriate measures to respond to any potential adverse impact of the systems or disruption of service.

32.6. Intellectual Property Rights.

32.6.1. All right, title, and interest in and to all confidential information and intellectual property related to the TransArmor Solution (including the Marks, all Software, the content of any materials, web screens, layouts, processing techniques, procedures, algorithms, and methods and any updates, changes, alterations, or modifications to or derivative works from such intellectual property), owned, developed or licensed by us prior to, during the term of, or after this Agreement, or employed by us in connection with the TransArmor Solution, shall be and remain, as among the Parties or our Affiliates', our vendees' or our licensors' (as applicable) sole and exclusive property, and all right, title and interest associated with the TransArmor Solution, Equipment and Software not expressly granted by us in this Agreement are deemed withheld. You may not use our Marks in any manner, including in any advertisements, displays, or press releases, without our prior written consent.

32.6.2. You may not, nor may you permit any third party to do any of the following: (a) decompile, disassemble, reverse engineer, or otherwise attempt to reconstruct or discover by any means any source code, underlying ideas or algorithms of the TransArmor Solution, Software or Equipment (or any part), except to the extent that such restriction is expressly prohibited by law; (b) modify, translate, or alter in any manner, the TransArmor Solution, Software or Equipment (or any part) or the Marks; (c) create derivative works of or based on the TransArmor Solution (or any part), Software or the Marks; (d) except for backup and archival purposes, directly or indirectly copy the TransArmor Solution or any Software (or any part); (e) republish, upload, post, transmit, disclose, or distribute (in any format) the TransArmor Solution or Software (or any part) except as permitted in this Agreement; or (f) remove, relocate, or otherwise alter any proprietary rights notices from the

TransArmor Solution, Software or Documentation (or any part) or the Marks.

32.6.3. If we provide you with copies of or access to any Software or Documentation, unless otherwise expressly stated in writing, that Software and Documentation is provided on personal, non-exclusive, non-transferable, non-assignable, revocable limited license for the period of your subscription to the applicable TransArmor Solution service and solely for you to access and use the Software and Documentation to receive the relevant TransArmor Solution service for its intended purpose on systems owned or licensed by you. Software can only be used with certain computer operating systems and it is your responsibility to ensure that you have the appropriate hardware and software to use the Software.

32.6.4. You shall not take any action inconsistent with the stated title and ownership in this Section 31. You will not file any action, in any forum that challenges the ownership of any part of the TransArmor Solution or any software, materials or Documentation. Failure to comply with this provision will constitute a material breach of this Agreement. We have the right to immediately terminate your access to and use of the TransArmor Solution in the event of a challenge by you.

32.6.5. If you are acquiring any of the TransArmor Solution services on behalf of any part of the United States Government (Government), any use, duplication, or disclosure by the Government is subject to the restrictions set forth in subparagraphs (a) through (d) of the Commercial Computer Software-Restricted Rights clause at FAR 52.227-19 when applicable, or in subparagraph (c)(1)(iii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, and in similar clauses in the NASA FAR Supplement; (b) we are the contractor/manufacturer, with the address set forth in this Agreement; and (c) any use, modification, reproduction, release, performance, display or disclosure of TransArmor Solution and/or the accompanying documentation by the Government or any of its agencies shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by this Agreement.

32.7. Software Updates, Maintenance and Changes.

32.7.1. We may perform maintenance on Software or TransArmor Solution which may result in service interruptions, delays, or errors. We will not be liable for any such interruptions, delays, errors, or bugs. You agree that we may contact you in order to assuage you with the Software or Services and obtain information needed to identify and fix any errors. We may, at our discretion, release enhancements, improvements or other updates to any Software, or otherwise make any changes to the TransArmor Solution (or any part).

32.7.2. You acknowledge and understand that certain Software can automatically install, download, and/or deploy updated and/or new components, which may include a new version of the Software itself. You shall not, in any event or in any manner, impede the update process. You agree to assume full responsibility and indemnify us for all damages and losses, of any nature, for all adverse results or third party claims arising from your impeding the update process.

32.8. Accessing Services via the Internet or third parties. You agree that we shall not be liable to you for any claims, damages, losses, obligations, costs or expenses or other liability arising directly or indirectly from or otherwise concerning (a) any termination, suspension, delay or disruption of service (including billing for a service) by the internet, any common carrier or any third party service provider; (b) any failure, disruption or malfunction of the TransArmor Solution, the Internet, or any communications network, facility or equipment beyond our or a third party's reasonable control, whether or not attributable to one or more common carriers; or (d) any failure to transmit, obtain or collect data or for human, machine or software errors or faulty or erroneous input by you.

32.9. Access and Use of Services.

32.9.1. Unless we otherwise agree in writing, the TransArmor Solution shall be for your internal business use in the United States and US territories or possessions only.

32.9.2. You shall not and shall not permit any third party to: (a) access or attempt to access any of the TransArmor Solution service that is not intended to be available to you; (b) access or use (in any format) the TransArmor Solution (or any part) through any time-sharing service, service bureau, network, consortium, or other means; (c) without our advanced written consent, use, ship or access TransArmor (or any part) outside or from outside of the United States; (d) perform or attempt to perform any actions that would interfere with the proper working of any part of the TransArmor Solution; prevent access to or use of any of the TransArmor Solution by other users, or in our reasonable judgment, impose a large load on our infrastructure, network capability or bandwidth; or (e) use the TransArmor Solution (or any part) except as permitted in this Agreement.

32.9.3. We have the right to rely on user names, password and other sign on credentials/access controls for the TransArmor Solution or any Software (including Federated Single Sign-on credentials) provided or approved by us to authenticate access to, and use of, the Services and any Software.

32.10. Indemnification. In addition to other indemnifications provided in this Agreement, you agree to indemnify and hold us, our Affiliates and third party service providers harmless from and against all losses, liabilities, damages and expenses arising from (a) your use of the TransArmor Solution, including any Software or Equipment provided under this Agreement; or (b) any other persons authorized or unauthorized access and/or use of the TransArmor Solution (or any part), Software or Equipment, whether or not using your unique username, password, or other security features.

32.11. Liability Waiver.

32.11.1. Subject to your subscribing to the entire TransArmor Solution bundle and to the

term of this Agreement, we agree to waive liability that you have to us under this Agreement for Security Event Expenses resulting from a Data Security Event first discovered by you or us while you are receiving and utilizing the TransArmor Solution (the "Liability Waiver").

32.11.2. The maximum amount of Liability Waiver for all Security Event Expenses arising out of or relating to your Data Security Events first discovered during any TransArmor Program Year for EMV Upgrade Costs is further limited as follows:

(a) \$100,000 (or maximum per each MII) on file; and

(b) \$500,000 aggregate maximum for all file on MII's.

32.11.3. In addition to Section 32.11.2., the maximum amount of Liability Waiver during any TransArmor Program Year for EMV Upgrade Costs is further limited as follows:

(a) \$50,000 maximum per each MII on file; and

(b) \$25,000,000 aggregate maximum for all file on MII's.

32.11.4. All Security Event Expenses resulting from the same "continuous, related" or repeated event or Event will be deemed to arise out of one Data Security Event.

32.11.5. This Liability Waiver shall not apply in relation to:

(a) your failure to comply with the terms of this Agreement;

(b) any Data Security Event occurring before you started receiving the TransArmor Solution; or

(c) any Data Security Event relating against you that is not the direct result of a Data Security Event.

If any Data Security Event relating to you where you have experienced a prior Data Security Event, unless you or your data certified to PCI compliance by a qualified security assessment, any expenses incurred for, or as a result of, regularly scheduled recurring or routine security assessments, regular examinations, inquiries or compliance activities.

If any Data Security Event is on file categorized by any Card Organization as a "Class 1" or "Class 2" process, more than ten million (10,000,000) Card transactions during the twelve month period prior to the date this Section became effective.

(g) any expenses, other than Security Event Expenses, incurred by you arising out of or resulting, directly or indirectly, from a Data Security Event, including expenses incurred to bring you into compliance with the PCI Data Security Standard or any similar security standard.

(h) any Security Event Expenses arising out of or resulting, directly or indirectly, from an event of force majeure, any dishonest, fraudulent, criminal or malicious act, event or omission, or any violation of the law, including any claim, suit, action or proceeding against you that is brought by or on behalf of any federal, state or local government agency, or

(i) any Data Security Event arising out of your software not reliably maintained, provided, however, this exclusion shall not apply to a Data Security Event arising out of your: (a) testing or other software used by a third party to obtain fraudulent access to data in your computer system or to collect data or attempt to harm your computer system; (b) breach in a computer system in which you and other merchants, with no legal relationship to one another, have hosted accounts or share a common database, operating system or software applications; or (c) your allowing any party (other than its employees or its affiliate) to access Confidential Information.

32.11.6. Notwithstanding the Liability Waiver, you can still continue to perform all obligations under this Agreement, including your obligation to comply with data security requirements, and you waive no rights or remedies under this Agreement, including your right to terminate or suspend this Agreement if a Data Security Event occurs.

32.12. Export Compliance

32.12.1. You agree not to export or re-export Software or Equipment or any underlying information except in full compliance with all applicable laws and regulations.

32.12.2. Some of the Software or Equipment or any underlying information may be controlled or otherwise exported or re-exported (a) to any Country to which the United States has embargoed goods; (b) to any national, national of, resident of, or entity in the United States Treasury Department's list of Specially Designated Nationals or the United States Commerce Department's Table of Denied Parties; or (c) to any market not in full compliance with the requirements of the United States Bureau of Industry and Security and all applicable Export Administration Regulations.

32.12.3. If you have rightfully obtained Software or Equipment or any underlying information outside of the United States, you agree not to re-export the same except as permitted by the laws and regulations of the United States and the laws and regulations of the jurisdiction in which you obtained it. You warrant that you are not located in, under the control of, or a national or resident of any such country or in any such law.

32.13. Definitions:

(a) **Card Organization Assessment** means a mandatory assessment, fee-free or partially fee-based against you or us by a Card Organization as the result of a Data Security Event or any security assessment conducted as the result of a Data Security Event, provided that the Card Organization Assessment shall not exceed the maximum security assessment fee-free or partially fee-based permitted upon the occurrence of a Data Security Event by the applicable rules or agreement in effect as of the inception date of this Agreement for such Card Organization.

(b) **Cardholder Information** means the data contained in, and/or otherwise provided to Client, that is required by the Card Organization or its member to process, approve and settle a Card transaction.

(c) **Card Replacement Expenses** means the cost of the fees you must pay, including by the Card Organization to replace compromised Cards as the result of a Data Security Event or any security assessment conducted as the result of a Data Security Event.

(d) **Data Protection** is a TransArmor Solution service that provides encryption of cardholder data at your payment environment and replaces the data with a token or randomly generated number.

(e) **Data Security Event** means the actual or suspected unauthorized access to or use of Confidential Information, arising out of your possession of or access to such Confidential Information, which has been reported to a Card Organization by you or us or (a) to our works of Card Organization (All Security Event Expenses and Post-Event Services Expenses resulting from the same, continuous, related or repeated event or which arise from the same, related or continuous series of facts, will be deemed to arise out of one Data Security Event).

(f) **Documentation** means documents, instructions, web-pages, brochures or other materials provided by or relating to the Software or the TransArmor Solution.

(g) **Equipment** means equipment needed to be purchased by you under this Agreement and any documents setting out additional terms on which Equipment is rented to or purchased by you.

(h) **EMV Upgrade Costs** means cost to upgrade payment acceptance and processing hardware and software to enable you to accept and process EMV-enabled Card payment in compliance with PCI Data Security Standards.

(i) **Forensic Audit Expenses** means the costs of a security assessment conducted by a qualified security organization approved by a Card Organization or PCI Security Standards Council to determine the cause and extent of a Data Security Event.

(j) **Liability Waiver** has the meaning as set forth in Section 32.11.1 above.

(k) **Marks** means the names, logos, emblems, brands, service marks, trademarks, trade names, tag lines or other proprietary designations.

(l) **Post-Event Services Expenses** means the total fees and expenses incurred by you in your work with our post-event services, for any service specifically approved by us in writing, including, without limitation, identity theft education and assistance and credit line monitoring. Such services must be provided by or on behalf of us or our affiliate(s) as following discovery of a Data Security Event to a Cardholder whose Confidential Information is the subject of that Data Security Event for the primary purpose of mitigating the effects of such Data Security Event.

(m) **Program Year** means the period from November 1st through October 31st of each year.

(n) **Security Event Expenses** means Card Organization Assessments, Forensic Audit Expenses and Card Replacement Expenses. Security Event Expenses also includes EMV Upgrade Costs you agree to incur to fund a Card Organization Assessment.

(o) **Software** means all those are computer programs, related documentation, technology, firmware and/or processes embodied in the Equipment (i.e., firmware or software) provided to you under this Agreement. For the avoidance of doubt, the term Software shall not include any third party software available as part of a service provided from someone other than us or our vendors or which may be obtained by you separately from the TransArmor Solution or any applications downloaded by you through an application marketplace.

(p) **TransArmor PCI** is a TransArmor Solution service that provides necessary PCI DSS Self-Assessment Questionnaire (SAQ) and annual PKI vulnerability and

(q) **TransArmor Solution** is the suite of security services provided by us and known as TransArmor.

33. Special Provisions Regarding Clover Service

If you elect to use the Clover Service, the following additional terms and conditions of this Section 33 shall apply.

The Clover Service is provided to you by Processor and not Bank. The Clover Service, transactions processed, and other matters contemplated under this Section 33 are subject to the terms and conditions of the Agreement, as applicable, except to the extent the terms of this Section 33 directly conflict with another provision of the Agreement, in which case the terms of this Section 33 will control, provided however, Bank is not a party to this Agreement under any provision of the Clover Service, and its acknowledgment that Bank is not a party to any way with respect to the Clover Service. For the purposes of this Section 33, the words "we" and "us" refer only to the Processor and not the Bank.

33.1. Definitions. Capitalized terms used herein shall have the meanings given to such terms as set forth in this Section 33 or as defined in the Glossary of terms here in this Agreement.

"Clover" means Clover Network, Inc.

"Clover Marks" means the trademarks or service marks of Clover and affiliates of Processor.

"Clover Service" means the website associated with the Clover Service, the object code version of Clover software applications (whether or not licensed by Clover) resident on a Device at the time we provide you with the Device, and the object code version of the software that enables the application resident on a Device at the time of provisioning, and any related updates (including software maintenance or bug fixes) that are designed to assist with the management of your business and enable payment processing at the point of sale, and any materials, documentation and derivative works released by Processor from time to time. For the avoidance of doubt, the term software in the preceding sentence does

not include any software that may be obtained by you separately from the Clover Service (e.g., any applications downloaded by you through an application marketplace). The Clover Service is deemed part of the "Services," as defined in and provided under the Agreement.

"Customer" means a Person who makes a purchase of goods or services from you, the transaction for which utilizes the Clover Service.

"Customer Information" means information about your Customers (e.g., name, mailing address, e-mail address, telephone number) obtained in connection with your use of the Clover Service.

"Device" means a tablet, smartphone, or other mobile or fixed form factor identified by Processor from time to time as compatible with and capable of supporting the Clover Service.

"Third Party Services" are the services, products, promotions or applications provided by someone other than Processor.

33.2. License Grant. During the term of the Agreement, Processor grants you a personal, limited, non-exclusive, revocable, non-transferable license, without the right to sublicense or assign in any way, to electronically access and use the Clover Service solely in the United States to manage your establishment and conduct associated point of sale activities within the United States in accordance with the terms of this Section 33. For purposes of this Section 33, "United States" does not include U.S. Territories or possessions. The Clover Service is for your internal business use only. This Section 33 does not grant you any rights to the Clover Marks. All intellectual property and proprietary rights in or related to the Clover Service and the Clover Marks are and will remain our, our affiliates', our vendors', or our licensors' (as applicable) sole and exclusive property, and any and all right, title and interest associated with the Clover Service not expressly granted by Processor in this Section 33 are deemed withheld.

33.3. Restrictions. You may not, nor may you permit any third party to do any of the following: (a) access or attempt to access the Clover Service (or any part) that is not intended or made available for public use; (b) decompile, disassemble, reverse engineer, or otherwise attempt to reconstruct or discover by any means any source code, underlying ideas or algorithms of the Clover Service (or any part), except to the extent that such restriction is expressly prohibited by law; (c) modify, translate, or alter in any manner, the Clover Service (or any part) or the Clover Marks; (d) create derivative works of or based on the Clover Service (or any part) or the Clover Marks; (e) except for backup and archival purposes, directly or indirectly copy the Clover Service (or any part); (f) republish, upload, post, transmit, disclose, or distribute (in any format) the Clover Service (or any part) except as permitted herein; (g) access or use (in any format) the Clover Service (or any part) through any time-sharing service, service bureau, network, consortium, or other means; (h) rent, lease, sell, sublicense, assign, or otherwise transfer your license rights to any third party, whether by operation of law or otherwise; (i) use or ship the Clover Service (or any part) outside of the United States, or access the Clover Service (or any part) from outside the United States, without in any case obtaining our advance written consent; (j) remove, relocate, or otherwise alter any proprietary rights notices from the Clover Service (or any part) or the Clover Marks; (k) perform or attempt to perform any actions that would interfere with the proper working of the Clover Service, prevent access to or use of the Clover Service by other users, or in our reasonable judgment impose an unreasonable or disproportionately large load on our infrastructure, network capability or bandwidth; or (l) use the Clover Service (or any part) except as permitted in subsection 33.2 above.

You shall not take any action inconsistent with the stated title and ownership in subsection 33.2 above. You will not file any action, in any forum that challenges the ownership of any part of the Clover Service, any related software, materials or documentation. Failure to comply with this provision will constitute a material breach of this Agreement. We have the right to immediately terminate your access to and use of the Clover Service in the event of a challenge by you.

33.4. Clover Service Limitations and Requirements.

33.4.1. You may access the Clover Service through your Device using a wired (ethernet) or wireless (wifi or cellular) connection to the Internet. You are solely responsible for the payment of any fees that may be imposed by your Internet/data provider. Your use of the Clover Service may be subject to: (a) the terms of your agreements with your Internet data provider; and (b) the availability or uptime of the services provided by your Internet/data provider.

33.4.2. You may use the Clover Service to conduct point of sale activities offline; transactions initiated offline will be queued and submitted for authorization when Internet connectivity to the Clover System is restored. However, you assume all risk, responsibility and liability associated with any transaction that you choose to conduct while the Clover Service is used offline.

33.4.3. The Clover Service does not function with every mobile device. Processor may after which Devices are approved as compatible with the Clover Service in our discretion from time-to-time.

33.4.4. We may perform maintenance on the Clover Service from time to time which may result in service interruptions, delays, or errors. We will not be liable for any such interruptions, delays, errors, or bugs. You agree that we may contact you in order to assist you with the Clover Service and obtain information needed to identify and fix any errors.

33.4.5. You shall at all times comply with any operating procedures, requirements, or guidelines regarding your use of the Clover Service that are posted on the Clover website or otherwise provided or made available to you (collectively, "Clover Ops Guide").

33.4.6. You shall comply with the following requirements in connection with your use of the Clover Service:

- (a) With respect to each Customer who requests the delivery of transaction receipts via text message or email, such Customer must enter his phone number or email address in the appropriate space displayed on the Device himself; you are NOT permitted to add or modify any Customer Information (including but not limited to phone number and email address) on behalf of a Customer.
- (b) With respect to each Customer who desires to receive marketing material or other communications from you via text message or email, such Customer must check the appropriate consent check box displayed on the Device himself; you are NOT permitted to add or modify a Customer's consent indication on his behalf.
- (c) You (or your agents acting on your behalf) may only send marketing materials or other communications to the Customer's provided phone number, street address, and/or email address if the Customer has specifically consented by checking (himself/the applicable box displayed on the Device).
- (d) NOTWITHSTANDING THE CAPABILITY OF THE CLOVER SERVICE TO COLLECT AND STORE CUSTOMER INFORMATION AND TO ALLOW YOUR CUSTOMERS TO ELECT TO RECEIVE MARKETING MATERIALS FROM YOU, SOME STATES MAY LIMIT YOUR USE OF SUCH INFORMATION ONCE COLLECTED, EVEN IF THE CUSTOMER HAS PROVIDED HIS CONSENT, AND/OR YOUR DISCLOSURE OF SUCH INFORMATION TO THIRD PARTIES. YOU ACKNOWLEDGE AND AGREE THAT (i) YOUR USE OF CUSTOMER INFORMATION OBTAINED IN CONNECTION WITH THE CLOVER SERVICE MAY BE SUBJECT TO LOCAL, STATE, AND/OR FEDERAL LAWS, RULES, AND REGULATIONS, (ii) YOU ARE SOLELY RESPONSIBLE FOR KNOWING SUCH LAWS, RULES, AND REGULATIONS, AND (iii) YOU WILL AT ALL TIMES STRICTLY COMPLY WITH ALL SUCH LAWS, RULES, AND REGULATIONS.
- (e) If TransArmor software is resident on your Device at the time we provide you with the Device and therefore part of the Clover Service, it will be used to perform such encryption and tokenization ("TransArmor Service") and the additional terms set forth in Section 32 apply. However you will only receive the applicable TransArmor service subscribed by you as set forth in the Application.
- (f) You are responsible to provide and obtain any disclosures and consents related to the E-SIGN Act that may be required in connection with your communications and agreements with your Customers.

33.5. Fees. You shall pay Processor the fees for Clover Service as set forth on the Application.

33.6. Term and Termination. The Clover Service may be terminated at any time by either party upon thirty (30) days' written notice to the other party. Notwithstanding the foregoing sentence, upon as much advance notice as is commercially practicable, we may suspend or terminate the Clover Service if (a) we determine that you are using Clover Service for any fraudulent, illegal, or unauthorized purpose; (b) you violate the terms of this Section 33 or an Event of Default occurs under the Agreement; (c) we terminate our agreement with any third parties that are involved in providing the Clover Service; or (d) Processor otherwise decides to discontinue providing the Clover Service. You acknowledge and agree that an occurrence of (a) or (b) above may be deemed an Event of Default under the Agreement, thereby affording Processor and Bank all rights and remedies as set forth in the Agreement triggered by such an Event of Default, which may include immediate termination of the Agreement without notice.

33.7. Third Party Services. The Clover Service may contain links to Third Party Services (e.g., an application marketplace). If you decide to use Third Party Services, you will be responsible for reviewing and understanding the terms and conditions associated with Third Party Services (including obtaining and maintaining any required third party hardware and/or software that is required for the Third Party Services to work with the Clover Service). Your access of any Third Party Services is at your own risk. Third Party Services are not governed by the terms and conditions of this Section 33 or the Agreement. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THIRD PARTY SERVICES (E.G., APPLICATION MARKETPLACE AND ANY APPS AVAILABLE AT SUCH APPLICATION MARKETPLACE) IS DOWNLOADED AT YOUR OWN RISK. PROCESSOR WILL NOT BE RESPONSIBLE FOR ANY ACTIONS OR ANY FAILURES TO ACT OF ANY THIRD PARTY, AND PROCESSOR EXPRESSLY DISCLAIMS ANY LIABILITY RELATED TO ALL THIRD PARTY SERVICES. PROCESSOR DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY THIRD PARTY SERVICE OR PRODUCT ADVERTISED OR OFFERED THROUGH THE CLOVER SERVICE OR ANY HYPERLINKED WEBSITE OR SERVICE, OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND PROCESSOR WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND PROVIDERS OF THIRD PARTY SERVICES OR PRODUCTS.

33.8. Account Registration. We may require you to register and create a "Member" or "Merchant" account to use the Clover Service. If and when prompted by our registration process, you agree to (a) provide true, accurate, current and complete information about yourself and/or your business, and (b) maintain and update this information to keep it true, accurate, current and complete. If any information provided by you is untrue, inaccurate, not current or incomplete, we have the right to terminate your Clover Service account ("Account") and refuse any and all current or future use of the Clover Service.

33.9. Privacy and Data Use. All data collected from you at or via Clover.com or in connection with your use of the Clover Service, including Customer Information and information about your business and employees used with or stored in or by the Clover Service ("collectively, "Account Data") is collected by Clover and not Processor or Bank. Therefore, the use and sharing of such Account Data is controlled by the Clover-Processor Policy available at https://www.clover.com/privacy_policy. You acknowledge and agree that we may access your Account Data upon our request in a clear, and our use of your Account Data is governed by the terms set forth in the Agreement.

33.10. Protecting Your Information. You are solely responsible for ensuring that your account numbers, passwords, security questions and answers, login details and any other security or access information used by you to access the Clover Service are kept safe and confidential. You must prevent unauthorized access to and use of any Account Data. You are responsible for all electronic communications sent to us or to any third party, including Clover, containing Account Data. When we receive communications containing Account Data, we assume no part of it is from you. You must immediately notify us if you become aware of any loss, theft or unauthorized use of any Account Data. We reserve the right to deny you access to the Clover Service, in whole or in part, if we believe that any loss, theft or unauthorized use of any Account Data or access information has occurred.

33.11. Accuracy of Information. You are solely responsible for ensuring the accuracy of all information and data regarding your business that you provide to us or our service providers in connection with the Clover Service (e.g., items loaded onto the Device). In addition, you are solely responsible for verifying that all information and data loaded onto a Device by us or our service providers at your request are accurate prior to your business use of such Device. We and our service providers disclaim any and all liability arising out of any inaccuracies with respect to such information or data.

33.12. Clover Service Disclaimer. USE OF THE CLOVER SERVICE OR ANY EQUIPMENT PROVIDED WITH THE CLOVER SERVICE IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE CLOVER SERVICE IS PROVIDED "AS IS," AND PROCESSOR OR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND (EXPRESS OR IMPLIED) WITH REGARD TO THE CLOVER SERVICE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF ACCURACY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. AS TO THE CLOVER SERVICE, WEI FUNCTION, UNLESS WE PUT IT OR KNOE OR BELIEVE THAT THE CLOVER SERVICE IS NOT BE THE HELP OF VENDOR OR OTHER PART WITH COMPONENTS OR THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED.

33.13. Indemnity. Without limiting your indemnification obligations under the Agreement, you agree to indemnify and hold Processor harmless from and against all losses, liabilities, damages and expenses (including reasonable attorneys' fees) arising out of or relating to:

- a) Your failure to comply with all terms and conditions in this Section 33, including but not limited to those in the Open Guide;
- b) Your use of any Customer Information obtained in connection with your use of the Clover Service;
- c) The content or delivery of any marketing messages that you send in case to be sent to any Customer phone number or email address collected through the use of the Clover Service; or
- d) Any other party's access and use of the Clover Service with your unique payment gateway or other appropriate account code.

33.14. Notices. We may provide notices and other information regarding the Clover Service to you via the methods described in the Agreement or in the Clover Confirmation Agreement set forth below.

33.15. Amendment. We have the right to change or add to the terms of this Section 33 at any time, and to change, delete, discontinue, or impose conditions on any feature in respect of the Clover Service with notice provided to you as set forth in subsection 33.14 above. Any use of the Clover Service after our publication of any such changes shall constitute your acceptance of this Agreement as modified.

33.16. Ideas. You hereby agree not to use, in any form, to submit comments or ideas about the Clover Service, including, without limitation, about how to improve the Clover Service ("Ideas"). By submitting any Idea, you agree that you we expressly disclaim any confidentiality obligation or restriction, express or implied, with respect to any Idea. (b) Your submission will become confidential, and we are free to use and disclose any Idea on an unrestricted basis without notifying or compensating you. You release us from all liability and obligations that may arise from our receipt, review, use or disclosure of any portion of any Idea.

33.17. Third Party Beneficiaries. Processor or Affiliate or any Processor or Processor may be providing the Clover Service to a third party beneficiary of this Section 33, and each of them may enforce its provisions if it was a party hereto. Except as expressly provided in this subsection 33.17, nothing in this Section 33 is intended to confer upon any Person any right or remedies, and the parties do not intend for any Person to be third-party beneficiary of this Section 33.

E-SIGN CONSENT AGREEMENT

1. Consent

(b) Signing the Confirmation Page. You consent and agree that:

- a) Processor can provide this Disclosure required by law and other information about your legal rights and duties to you electronically;

b) Where required or requested, your electronic signature (via "click-through" or other method via agreement and document) relating to the Clover Service has the same effect as if you signed them in ink;

c) Processor can send all communications, billing statements, amendments to the Clover Service, notices and other disclosures of information regarding the Clover Service or your use of the Clover Service or the Service as defined in the Agreement (collectively, "Disclosures") to you electronically (i.e., via email, text or access to a web site that we designate in an e-mail notice we send to you at the time the information is available) or in a hard copy, as is permitted by law, by access to a website that we will generally designate in advance for such purpose;

d) If you want a paper copy, you can print a copy of the Disclosure, or download the information for your records;

e) This consent applies to all future Disclosures sent to you in connection with the Clover Service, the Agreement or your use of the Clover Service or the Service as defined in the Agreement.

2. Legal Effect

(b) Concerning. You agree that electronic Disclosures have the same meaning and effect as if Processor provided paper Disclosures to you. When Processor sends you an email or other electronic notification alerting you that the Disclosure is available electronically and makes it available online, that shall have the same meaning and effect as if Processor provided a paper Disclosure to you, whether or not you choose to view or print or download the Disclosure.

34. Choice of Law; Venue; Waiver of Jury Trial

34.1. Choice of Law. Our Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without regard to its choice of law provisions.

34.2. Venue. We have substantial facilities in the State of Illinois and many of the services provided under this Agreement are provided from those facilities. The exclusive venue for any actions or claims arising under or related to this Agreement shall be in the appropriate state or federal court located in Cook County, Illinois.

34.3. Waiver of Jury Trial. ALL PARTIES HEREBY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY CLAIM OR ALLEGED TORT ARISING UNDER THIS AGREEMENT.

35. Other Agreements

35.1. Force Majeure. No party shall be liable for any defective delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused directly or indirectly by either flood, earthquake, elements of nature or other acts of God, or any, known or unknown, outbreak or escalation of hostilities, riot, acts of civil disorders in any country, and any act of invasion of the other party or any government authority, (i) such force majeure (whether or not amplified) demands are reasonable or more than the party's power to resist, or (ii) the nonperformance by a party for any similar cause beyond the reasonable control of such party, including without limitation, failure in telecommunications or other equipment. In any such event, the non-performing party shall be excused from any further performance and observance of the obligations or a liability for making or such a contract or prevail and such party continues to use commercially reasonable efforts to recommence performance or observance as soon as practicable. Notwithstanding anything to the contrary in this paragraph, your failure to receive payment or funds from a Person shall not excuse the performance of your obligations to us under this Agreement.

35.2. Compliance with Laws. In performing its obligations under this Agreement, each party agrees to comply with all laws and regulations applicable to it. You further agree to cooperate and provide information requested by Services or Services determine necessary to facilitate Services compliance with any applicable law including without limitation the rules and regulations promulgated by the Office of Foreign Assets Control of the U.S. Department of the Treasury. You further acknowledge and agree that you will not use your merchant account and/or the Service for illegal transactions, for example, those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq. as may be amended from time to time, those involving any Person listed on the U.S. Department of Treasury's Office of Foreign Assets Control, Specially Designated Nationals and Blocked Persons List available at www.treasury.gov/ofac or the U.S. Department of State's Terrorism Exclusion List available at www.state.gov, or for the processing and acceptance of transactions in certain jurisdictions pursuant to 31 CFR Part 501 et seq. and other laws enforced by the Office of Foreign Assets Control ("OFAC") and any transaction with illegal activity of any kind.

35.3. Notices. Except as otherwise specifically provided, all notices and other communications required or permitted hereunder (other than those involving normal operational matters relating to the processing of Card transactions) shall be in writing, if in writing, to our address appearing in the Application or by any electronic means, including but not limited to the e-mail address you have provided in the Application. If we are at our address appearing in Section 5.9 of Part III of this Agreement, with a copy to Attention: General Counsel (Office: 3475 N.W. 13th Avenue, Coral Springs, FL 33065, and Notices shall be deemed to have been given if sent by mail or e-mail, upon the earliest of (a) 5 days after mailing or when actually received or, in the case of e-mail, when delivered; and (b) if sent by facsimile machine, when the cover confirmation copy is actually received. Notice given in any other manner shall be effective when actually received. Notices sent to the prior last known address (including e-mail address), as indicated in our records, shall constitute attempts to give notice to the Merchant under this Agreement. If you change your

address (including your e-mail address), you must notify an authorized signatory prior to the effective date of any such change. Failure to provide or verify a valid address (including e-mail address) may result in the termination of this Agreement. Notwithstanding the above, all bank notices in connection with this Agreement must be sent to the following address: Merchant Services Department, 5251 Westheimer Road, Fourth Floor, Houston, Texas 77056. After Bankruptcy and Collection Notifications. All such notices must include the related merchant name and merchant number. Failure to provide Notice to this address or include this pertinent merchant information will be deemed ineffective. All notices must include your merchant number(s) and merchant number(s). Failure to provide notice in the manner described in this Section will be deemed ineffective.

35.4. Headings. The headings contained in this Agreement are for convenience of reference only and shall not in any way affect the meaning or construction of any provision of this Agreement.

35.5. Severability. The parties intend every provision of this Agreement to be severable. If any part of this Agreement is not enforceable, the remaining provisions shall remain valid and enforceable.

35.6. Entire Agreement; Waiver. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter thereof, and supersedes any previous agreement and understanding. A party's assent to a breach of any term or condition of this Agreement shall not be deemed a waiver of any subsequent breach of the same or another term or condition.

35.7. Amendments. We may modify any provision of this Agreement by providing written notice to you. You may choose not to accept the requirements of any such change by terminating the Agreement within ten (10) days of receiving notice. If you choose to accept any such change, you are acknowledging that the change is not a material change and that you are waiving any other remedies for that might otherwise apply. For purposes of this section, an electronic or "click-wrap" notice, provided in writing or signed this Agreement and a hard copy check, "I Accept" or "I Agree" or otherwise accepting through an electronic process, shall constitute an assent as required herein. This Section 35.7 does not apply to fee changes, which are governed by Sections 19.4 and 19.5.

35.8. Third Party Beneficiaries. Except for the Affiliates and the Persons to whom providing the Services are third party beneficiaries of this Agreement and such of their non-exclusive provisions as it may be a party hereto. Except in expressly provided in this Agreement, nothing in this Agreement is intended to confer upon any Person any rights or remedies, and the parties do not intend for any Person to be third-party beneficiaries of this Agreement.

35.9. Card Organization Rules. The parties acknowledge that the Visa, MasterCard, Discover Network and American Express Card Organization Rules give Visa, MasterCard, Discover Network, and American Express certain rights in certain termination or modification of this Agreement with respect to transactions involving Visa, MasterCard, Discover Network and American Express Cards and the Visa, MasterCard, Discover Network and American Express Card systems and to investigate you. The parties also acknowledge that issuers of other Cards, for which we perform services on your behalf, may have similar rights under their applicable Card Organization Rules in connection with this Agreement's application to transactions involving such other Cards.

35.10. Publicity. There may not use the logo, name, trademark, or service mark of Processor and Bank in any manner, including without limitation, in any advertisement, display, or press release, without the prior written consent of Processor and Bank.

36. Glossary

As used in this Agreement, the following terms mean as follows:

Acquirer: Bank or the issuer of MasterCard, Visa and American Express transactions in Process in the case of Discover Network transactions, that acquires Card sale transactions from merchants such as yourself.

Address Verification Service ("AVS"): A verification address through which a merchant verifies the Cardholder's address, in whole or in part. Primarily used by Mail Telephone Internet order merchant. Address verification is intended to detect fraudulent transactions, however, an AVS Match does not guarantee that a transaction is valid. An AVS request should generally be accompanied with an authorization request. The AVS response, if available, however, will not impact whether any associated authorization request is approved or denied. You may be charged an AVS fee for any AVS request you submit even if you are not able to provide a response to the request.

Affiliate: "Affiliate" of a Person means another Person that directly or indirectly, through or through such Person(s) is under common ownership or control with such Person.

Agreement: The Agreements among Client, Processor, and Bank, contained in the Application, the Program Guide and the Schedules hereto and documents incorporated therein, each as amended from time to time, which collectively constitute the Agreement among the parties.

Application: See Merchant Processing Application.

Authorization: Approval by, or on behalf of, the issuer to validate a transaction. An Authorization is issued only on the authority of the Cardholder's Credit Limit and funds at the time the Authorization is requested. An Authorization Fee (see Fee Schedule) can be charged for each Authorization, whether approved or declined.

Authorization Approval Code: A number issued to a participating merchant by the Authorization Center which confirms the Authorization for a sale or service.

Authorization and Capture: Refers to the communication of information from your device or other systems to our computer system, whether the communication is for authorization requests or any other capture of information. If your Service Fee Schedule reflects an authorization and capture fee, it may be applied to each communication you transmit to us.

Authorization Center: A department that electronically communicates a merchant's request for Authorization on Credit Card transactions to the Cardholder's bank and transmits such Authorization to the merchant via electronic assignment or by voice Authorization.

Bank: The bank identified in the Application signed by you.

Bankruptcy Code: Title 11 of the United States Code, as amended from time to time.

Batch: A single Submission in one of a group of transactions (sales and charges) for settlement. A Batch usually represents a day's worth of transactions.

Business Day: Monday through Friday, excluding Bank holidays.

Card: See either Credit Card or Debit Card.

Cardholder: Means the Person whose name is embossed on a Card and any authorized user of such Card, including the Person that has entered into an agreement establishing a Card account with an issuer.

Card Not Present Sale/Transaction: Any transaction where a Card is not present at the point-of-sale, including Internet, mail-order and telephone-order Card sales.

Card Organization: An entity formed to administer and promote Cards, including without limitation MasterCard Worldwide, MasterCard, Visa U.S.A. Inc., Visa, U.S. Bank Services LLC, Discover Network, American Express Company, Inc., American Express Travel Related Services Company, Inc., and any applicable debit networks.

Card Organization Rules: The rules, regulations, releases, interpretations and other requirements (whether contractual or otherwise) imposed or adopted by any Card Organization and related authorities, including without limitation, those of the PCI Security Standards Council, ITU, and the National Automated Clearing House Association (including with respect to EFTs), the Joint Operating Rules.

Card Validation Codes: A three-digit or a printed or a signature panel or a microchip and a four-digit value printed on the front of an American Express Card. Visa's Card Validation Code is known as CV2. MasterCard's Card Validation Code is known as CV2, the Card Validation Code for Discover Network and American Express are known as a Card Identification Number (CID). Card Validation Codes are used to detect fraudulent use of an account number in a non-face-to-face environment (e.g., mail orders, telephone orders and Internet orders).

Card Verification Value (CVV)/Card Validation Code (CVC)/Card Identification Data (CID): A unique value, encoded in the Magnetic Stripes of a Card used to validate Card information during the Authorization process.

Cardholder Verification Method (CVM): A method used to confirm the identity of a Cardholder and to verify Cardholder's participation in a transaction, such as signature, PIN, PIN and Online PIN.

Cash Benefits: An EFT account maintained by an issuer that represents pre-authorized plan of debit benefits or funds administered by one or more participating issuers, and for which the issuer has agreed to provide access under the EFT program. Multiple benefits may be combined in a single cash benefit account.

<p>Cash Over Transaction: Dispensing of cash by a merchant in connection with a Card sale, other than a PIN Debit Card transaction, for the purchase of goods or services.</p> <p>Charge or Charges: The total price, including all applicable taxes and gratuities, for the purchase of goods or services at a merchant for which a Cardholder has signed a Sales Draft or otherwise indicated intent to pay with a Card.</p> <p>Chargeback: A Card transaction (or disputed portion) that is returned to us by the Issuer. Client is responsible for payment to us for all Chargebacks.</p> <p>Chip: An integrated microchip embedded on a Card containing cardholder and account information.</p> <p>Chip Card: A Card with an embedded EMV-compliant chip containing memory and interactive capabilities used to identify and store additional data about a Cardholder, an Account, or both.</p> <p>Claim: Means any claim (including initial claims, counterclaims, cross-claims, and third party claims), dispute, or controversy between you and us arising from or relating to the Agreement or prior Card acceptance agreements, or the relationship resulting therefrom, whether based in contract, tort (including negligence, strict liability, fraud, or otherwise), statutes, regulations, or any other theory, including any question relating to the existence, validity, performance, construction, interpretation, enforcement, or termination of the Agreement or prior Card acceptance agreements or the relationship resulting therefrom.</p> <p>Client: The party identified as "Client" on the Application. The words "Subscriber," "you" and "your" refer to Client. Also, sometimes referred to as "Merchant."</p> <p>Contactless Payment: payment performed in a Card-Present Environment with a Contactless card or Payment Device (e.g., Mobile phone) at the Point-of-Transaction.</p> <p>Credit: A refund or price adjustment given for a previous purchase transaction.</p> <p>Credit Card: A device bearing a valid Organization Mark of Visa, MasterCard, Discover Network or American Express and authorizing the Cardholder to buy goods or services on credit and, to the extent the Schedules so provide, a valid device authorizing the Cardholder to buy goods or services on credit and issued by any other Card Organization specified on such Schedules.</p> <p>Credit Draft: A document evidencing the return of merchandise by a Cardholder to a Client, or other refund or price adjustment made by the Client to the Cardholder, whether electronic, paper or some other form, all of which must conform to Card Organization Rules and applicable law.</p> <p>Credit Limit: The credit line set by the Issuer for the Cardholder's Credit Card account.</p> <p>Customer Activated Terminal (CAT): A magnetic stripe terminal or chip-reading device (such as an automatic dispensing machine, Limited Amount Terminal, or Self-Service Terminal) that is not an ATM.</p> <p>Data Usage Charge: Charged to you for our processing of Sales Data sent to us.</p> <p>Debit Card: See either PIN Debit Card or Non-PIN Debit Card.</p> <p>Dial-Up Terminal: An Authorization device which, like a telephone, dials an Authorization Center for validation of transactions.</p> <p>Discount Rate: A percentage rate and/or amount charged to a merchant for processing its qualifying daily Credit Card and Non-PIN Debit Card transactions, as set forth in the Application. Transactions that fail to meet applicable interchange requirements will be charged additional amounts as set forth in Section 19.1.</p> <p>Discover International Service Fee: A fee assessed by Discover on the amount of Card Sales (excluding Cash Over) conducted at a Client location in the United States where the domicile of the Issuer of the Card used in the Card Sale is a country other than the United States. This fee is not applicable to Card Sales with JCB and China Union Pay cards.</p> <p>Electronic Benefit Transfer (EBT): An Electronic Benefits Transfer system used to deliver certain government delivered benefits, including without limitation Cash Benefits and FNS, SNAP and WIC Benefits, to EBT customers.</p> <p>Electronic Draft Capture (EDC): A process which allows a merchant's Dial-Up Terminal to receive Authorization and capture transactions, and electronically transmit them to the Processor. This eliminates the need to submit paper for processing.</p> <p>EMV: Developed by Europay, MasterCard, and Visa. It is the global standard for chip based payments.</p> <p>Entity: Means a corporation, partnership, sole proprietorship, trust, association, or any other legally recognized entity or organization.</p> <p>Factoring: The submission of authorization requests and/or Sales Drafts by a merchant for Card sales or cash advances transacted by another business. Factoring is prohibited.</p> <p>Fixed Acquirer Network Fee (FANF): Fee that applies to the acceptance of all Visa branded products and is based on both the size and the number of merchant locations. The fee will be assessed per merchant Taxpayer ID, based on the number of merchant locations, Merchant Category Code (MCC), and monthly Total Gross merchant Sales Volume associated with each Taxpayer ID.</p> <p>Fraud Full Recourse: One of American Express's Chargeback programs.</p> <p>General Terms: Section of the Program Guide, including any amendments or modifications.</p>	<p>Gross: When referred to in connection with transaction amounts or fees, refers to the total amount of Card sales, without set-off for any refunds or Credits.</p> <p>Imprinter: A manual or electric machine used to physically imprint the merchant's name and ID number as well as the Cardholder's name and Card number on Sales Drafts.</p> <p>Issuer: The financial institution or Card Organization (or other Entity authorized by a Card Organization) which has issued a Card to a Person.</p> <p>Limited Amount Terminal: A Customer Activated Terminal that has data capture only capability, and accepts payment for items such as parking garage fees, road tolls, motion picture theater entrance, or magnetic-stripe telephones.</p> <p>Magnetic Stripe: A stripe of magnetic information affixed to the back of a plastic Credit or Debit Card. The Magnetic Stripe contains essential Cardholder and account information.</p> <p>Marks: Names, logos, emblems, brands, service marks, trademarks, trade names, tag lines or other proprietary designations.</p> <p>MasterCard Account Status Inquiry Service Fee: Zero-dollar Account Status Inquiry Service requests (including AVS, CVC2 or both).</p> <p>MasterCard CVC2 Fee: A fee assessed for transactions acquired in the U.S. Region with the CVC2 (Three digit code on the back of the MasterCard issued card) included in the transaction for authorization and where the CVC2 response value equals 'M' (Match) or 'N' (Invalid/did not match). The fee will not be applied to Account Status Inquiry (ASI) requests.</p> <p>MasterCard Digital Enablement Fee: A fee assessed by MasterCard on select Card Not Present transactions.</p> <p>MasterCard Processing Integrity Fee: The MasterCard Processing Integrity Fee is assessed in the event MasterCard cannot match an approved authorization to a settled transaction (within 120 days from the date the authorization was granted) or a reversal request (within a specific time frame). The Processing Integrity Fee can be avoided by settling transactions only with an approved authorization. If an authorization approval is no longer needed, it must be electronically reversed within 24 hours for a card-present transaction or within 72 hours for card not present transaction.</p> <p>MC Cross Border Fee (USD): Assessed on any MasterCard settled sale processed in USD Currency in which the country code of the merchant differs from the country code of the Cardholder (i.e., U.S. Merchant, Non U.S. Issued Card).</p> <p>Media: The documentation of monetary transactions (i.e., Sales Drafts, Credit Drafts, computer printouts, etc.).</p> <p>Merchant Account Number: A number that numerically identifies each merchant location, outlet, or line of business to the Processor for accounting and billing purposes.</p> <p>Merchant Identification Card: A plastic embossed card supplied to each merchant to be used for imprinting information to be submitted with each Batch of paper Sales Drafts. Embossed data includes Merchant Account Number, name and sometimes merchant ID code and terminal number.</p> <p>Merchant Processing Application: The Merchant Processing Application and Agreement executed by Client, which is one of the documents comprising the Agreement.</p> <p>Merchant Provider: Any Person engaged by you to provide services to you involving or relating to (i) access to Cardholder data, transaction data or information related to either Cardholder data or transaction data or (iii) PIN encryption, including without limitation, Encryption Service Organizations (ESOs).</p> <p>Non-Bank Services: Products and/or Services for which Bank is not responsible or a party to including American Express, PIN Debit Card, and Electronic Benefits Transfer Transactions, TeleCheck Check Services, and Transactions Involving Cards from other Non-Bank Card Organizations, such as Voyager Fleet Systems, Inc., Wright Express Corporation and Wright Express Financial Services Corporation, Discover, Leasing, TransAmort, Wireless, Global Gateway e4 Services, and other items as may be indicated in this Program Guide.</p> <p>Non-PIN Debit Card: A device with a Visa, MasterCard or Discover Network Mark that is tied to a Cardholder's bank account or a prepaid account and which is processed without the use of a PIN.</p> <p>Non-Qualified Interchange Fee: The difference between the interchange fee associated with the Anticipated Interchange Level and the interchange fee associated with the more costly interchange level at which the transaction actually processed.</p> <p>Non-Qualified Surcharge: A surcharge applied to any transaction that fails to qualify for the Anticipated Interchange Level and is therefore downgraded to a more costly interchange level. The Non-Qualified Surcharge (the amount of which is set forth on the Service Fee Schedule) is in addition to the Non-Qualified Interchange Fee, which is also your responsibility (see above, Section 19.1).</p> <p>Operating Procedures: The information prepared by Processor, containing operational procedures, instructions and other directives relating to Card transactions. The current Operating Procedures are set forth in Part A of the Program Guide.</p> <p>PAN Truncation: A procedure by which a Cardholder's copy of a Sales Draft or Credit Draft, or as required by applicable law, the Sales Draft or Credit Draft you retain, will only reflect the last four digits of the Card account number.</p>
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*MasterCard Credit or Debit Card, Cirrus Card, or Maestro Card

<p>Person: A third party individual or Entity, other than the Client, Processor or Bank.</p> <p>PIN: A Personal Identification Number entered by the Cardholder to submit a PIN Debit Card transaction.</p> <p>PIN Debit Card: A device bearing the Marks of ATM networks (such as NYC or Star) used at a merchant location by means of a Cardholder-entered PIN in the merchant PIN Pad.</p> <p>PIN Debit Sponsor Bank: The PIN Debit Sponsor Bank(s) identified on the Application signed by you that is/are the sponsoring or acquiring bank(s) for certain PIN Debit networks.</p> <p>Point of Sale (POS) Terminal: A device placed in a merchant location which is connected to the Processor's system via telephone lines and is designed to authorize, record and transmit settlement data by electronic means for all sales transactions with Processor.</p> <p>Processor: The entity identified on the Application (other than the Bank) which provides certain services under the Agreement.</p> <p>Program Guide (also known as the Merchant Services Program Terms and Conditions): The booklet which contains Operating Procedures, General Terms, Third Party Agreements and Confirmation Page, which together with the Application and the Schedules thereto and documents incorporated therein, constitute your Agreement with Processor and Bank.</p> <p>Recurring Payment Indicator: A value used to identify transactions for which a Cardholder provides permission to a merchant to bill the Cardholder's Card account at either a predetermined interval or as agreed by the Cardholder for recurring goods or services.</p> <p>Referral: A message received from an Issuer when an attempt for Authorization requires a call to the Voice Authorization Center or Voice Response Unit (VRU).</p> <p>Reserve Account: An account established and funded at our request or on your behalf, pursuant to Section 25 of the Agreement.</p> <p>Resubmission: A transaction that the Client originally processed as a Store and Forward transaction but received a soft denial from the respective debit network or Card Organization. The resubmission transaction allows the merchant to attempt to obtain an approval for the soft denial, in which case Client assumes the risk that the transaction fails.</p> <p>Retrieval Request/Transaction Documentation Request: A request for documentation related to a Card transaction such as a copy of a Sales Draft or other transaction source documents.</p> <p>Sales/Credit Summary: The identifying form used by a paper Submission merchant to indicate a Batch of Sales Drafts and Credit Drafts (usually one day's work). Not a Batch header, which is used by electronic merchants.</p> <p>Sales Draft: Evidence of a purchase, rental or lease of goods or services by a Cardholder from, and other payments to, Client using a Card, including preauthorized orders and recurring transactions (unless the context requires otherwise), regardless of whether the form of such evidence is in paper or electronic form or otherwise, all of which must conform to Card Organization Rules and applicable law.</p> <p>Schedules: The attachments, addenda and other documents, including revisions thereto, which may be incorporated into and made part of this Agreement concurrently with or after the date of this Agreement.</p> <p>Self-Service Terminal: A Customer Activated Terminal that accepts payment of goods or services such as prepaid cards or video rental, has electronic capability, and does not accept PINs.</p> <p>Servicers: Bank and Processor collectively. The words "we," "us" and "our" refer to Servicers, unless otherwise indicated in this Program Guide.</p> <p>Services: The activities undertaken by Processor and/or Bank, as applicable, to authorize, process and settle all United States Dollar denominated Visa, MasterCard, Discover Network and American Express transactions undertaken by Cardholders at Client's location(s) in the United States, and all other activities necessary for Processor to perform the functions required by this Agreement for all other Cards covered by this Agreement.</p> <p>Settlement Account: An account or accounts at a financial institution designated by Client as the account to be debited and credited by Processor or Bank for Card transactions, fees, Chargebacks and other amounts due under the Agreement or in connection with the Agreement.</p> <p>Split Dial: A process which allows the Authorization terminal to dial directly to different Card processors (e.g., American Express) for Authorization. In this instance, the merchant cannot be both EDC and Split Dial. Split Dial is also utilized for Check Guarantee companies.</p> <p>Split Dial/Capture: Process which allows the Authorization terminal to dial directly to different Card processors (e.g., American Express) for Authorization and Electronic Draft Capture.</p> <p>Store and Forward: A transaction that has been authorized by a merchant when the merchant cannot obtain an Authorization while the customer is present, typically due to a communications failure. The merchant will store the transaction electronically in their host system and retransmit the transaction when communications have been restored.</p> <p>Submission: The process of sending Batch deposits to Processor for processing. This may be done electronically or by mail.</p> <p>Summary Adjustment: An adjustment to your Submission and/or Settlement Accounts in order to correct errors. (See Sections 10.3 and 10.4.)</p>	<p>Telecommunication Card Sales: Individual local or long-distance telephone calls, for which the telephone service provider is paid directly by use of a Card. These do not include, however, calls paid for with pre-paid telephone service cards. Telecommunication Card Sales are considered Card Not Present Sales.</p> <p>Transaction Fees: Service costs charged to a merchant on a per transaction basis.</p> <p>Transaction Integrity Fee: Fee assessed on Visa Debit Card and prepaid Card purchase transactions that either fail or do not request CPS qualification.</p> <p>Us, We and Our: See Servicers.</p> <p>Visa International Service Fee: Assessed on any Visa settled sale where the merchant is located in the U.S. and the Card is issued outside of the U.S. (i.e., U.S. Merchant, Non-U.S. Issued Card).</p> <p>Visa Misuse of Auth: Charged to Visa authorized transactions that are not followed by a matching Visa settled transaction (or in the case of a canceled transaction, not properly reversed). The fee can be avoided by settling your transactions within 10 days for Non Travel and Entertainment (T&E) Merchants Segments and 20 days for T&E merchants. If an authorization is not needed, the authorization must be electronically reversed within 24 hours for face to face authorizations and reversed within 72 hours for Card Absent authorizations.</p> <p>Visa Zero \$ Verification: Charged for Visa Card verification requests without an actual dollar authorization. This fee can be avoided by obtaining an authorization request for the amount of the sale. If the authorization is not needed, the authorization request must be electronically reversed within 24 hours for face to face authorizations and reversed within 72 hours for Card Absent authorizations (to avoid the Visa Misuse of Authorization System fee).</p> <p>Visa Zero Floor Limit: Charged when a Visa sale is settled without the required authorization (transaction ID is used to match the authorization to settled sale). All transactions above zero dollars require an authorization approval. This fee can be avoided by only settling transactions that have been approved. If an authorization is declined, the merchant must request another form of payment.</p> <p>You, Your: See Client.</p>
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PART III: ADDITIONAL IMPORTANT INFORMATION FOR CARDS

A.1. Electronic Funding Authorization

All payments to Client shall be through the Automated Clearing House ("ACH") and shall initially be electronically transmitted directly to the Settlement Account you have designated or any successor account designated to receive procedural funding of Client's Card sales pursuant to the Agreement. Client agrees that any Settlement Account designated pursuant to the preceding sentence will be an account primarily used for business purposes. Neither Wells Fargo Bank, N.A. nor Bankcard Associates, LLC, can guarantee the time frame in which payment may be credited by Client's financial institution where the Settlement Account is maintained.

Client hereby authorizes Wells Fargo Bank, N.A. and its authorized representatives, including Bankcard Associates, LLC, to access information from the Settlement Account and to initiate credit and/or debit entries by banking or ACH transfer and to authorize your financial institution to block or to initiate, if necessary, reversing entries and adjustments for any original entries made to the Settlement Account and to authorize your financial institution to provide such access and to credit and/or debit or to block the same to such account. This authorization is without respect to the source of any funds in the Settlement Account, is irrevocable and coupled with an interest. This authority extends to any equipment rental or purchase agreements which may exist with Client as well as to any fees, fines and assessments and Chargeback amounts of whatever kind or nature due to Bankcard Associates, LLC, or Wells Fargo Bank, N.A. under terms of this Agreement whether arising during or after termination of the Agreement. This authority is to remain in full force and effect at all times unless and until Bankcard Associates, LLC, and Wells Fargo Bank, N.A. have consented to its termination at such time and in such a manner as to afford them a reasonable opportunity to act on it. In addition, Client shall be charged thirty-five (\$35.00) for each ACH which cannot be processed, and all subsequent funding may be suspended until Client either (i) notifies Bankcard Associates, LLC, that ACHs can be processed or (ii) a new electronic funding agreement is signed by Client. Client's Settlement Account must be able to process or accept electronic transfer via ACH.

A.2. Funding Acknowledgment

Automated Clearing House (ACH). Your funds for MasterCard, Visa, Discover Network and American Express transactions will ordinarily be processed and transferred to your financial institution within two (2) Business Days from the time a batch is received by Processor or your financial institution is the Bank. If your financial institution is not the Bank, your MasterCard, Visa, Discover Network and American Express transactions will ordinarily be processed via the Federal Reserve within two (2) Business Days from the time a batch is received by Processor. The Federal Reserve will transfer such amounts to your financial institution.

A.3. Additional Fees and Early Termination

If Client's MasterCard, Visa and Discover Network transaction(s) fail to qualify for the discount level contemplated in the rates set forth in the Application, Client will be billed the fee indicated in the Mid-Qualified Discount field or Non-Qualified Discount field. If you are utilizing the Enhanced Recovery Reduced Discount option, the Client will be charged the Enhanced Recovery Reduced Rate on the volume of said transaction that failed to qualify, in addition to the difference between the MasterCard, Visa/Discover Network/American Express Qualified Rate agreed to on the Service Fee Schedule and the actual interchange rate assessed on the downgraded transaction.

- Any increases or decreases in the interchange and/or assessment portion of the fees;
- The appropriate interchange level fee is consistent with the qualifying criteria of each transaction submitted by Client;
- Increases in any applicable sales or telecommunication charges or taxes levied by any state, federal or local authority related to the delivery of the services provided by Bankcard Associates, LLC, when such costs are included in the Service or other fixed fees.

The discount fees shown on the Service Fee Schedule shall be calculated based on the gross sales volume of all Visa, MasterCard, Discover and American Express volume.

A Monthly Minimum Processing Fee will be assessed immediately after the date Client's Application is approved (Refer to Service Fee Schedule, if applicable).

In addition to the P/N Debit Card transaction fees set forth on the Application, Client shall be responsible for the amount of any fees imposed upon a transaction by the applicable debit network.

The parties further agree and acknowledge that, in addition to any remedies contained herein or otherwise available under applicable law, and, if (i) Client breaches this Agreement by improperly terminating it prior to the expiration of the initial term of the Agreement, or (ii) this Agreement is terminated prior to the expiration of the initial term of the Agreement due to an Event of Default, then Services will suffer a substantial injury that is difficult or impossible to accurately estimate. Accordingly, the parties have agreed that the amount described below is a reasonable pre-estimate of Services' probable loss.

In the event that Client terminates this Agreement within three (3) years from the date of approval by Bankcard Associates, LLC and Wells Fargo Bank, N.A. in this Agreement is terminated by Services within 3 years from the date of approval due to an Event of Default, Client will not be charged a fee for such early termination. Client is obligated to pay Processing Fees that are due at termination.

A.4. 6050W of the Internal Revenue Code

Pursuant to Section 6050W of the Internal Revenue Code, merchant acquiring entities and third party settlement organizations are required to file an information return for each calendar year reporting all payment card transactions and third party network transactions with payees occurring in that calendar year. Accordingly, you will receive a Form 1099-K reporting your gross transaction amounts for each calendar year. Your gross transaction amount refers to the gross dollar amount of the card transactions processed through your merchant account with us. In addition, amounts reportable under Section 6050W are subject to backup withholding requirements. Payees will be required to perform backup withholding by deducting and withholding income tax from reportable transactions if (i) the payee fails to provide the payee's taxpayer identification number (TIN) to the payor, or (ii) if the IRS notifies the payor that the TIN (when matched with the name) provided by the payee is incorrect. Accordingly, to avoid backup withholding, it is very important that you provide us with the correct name and TIN that you use when filing your tax return that includes the transactions for your business.

A.5. Addresses for Notices

PROCESSOR:

Bankcard Associates, LLC:

4610 Wake Forest Rd.
Suite 300
Raleigh, NC 27609

Important Phone Numbers:

(see also Sections 3.1 and 5.4)

Customer Service:
1-800-821-0544

BANK:

Wells Fargo Bank N.A.:

1200 Montego
Walnut Creek, CA 94598
Attn: Merchant Services
(925) 746-4141

ADDENDUM TO MERCHANT SERVICE AGREEMENT AND PROGRAM GUIDE

THIS ADDENDUM TO THAT CERTAIN MERCHANT SERVICES AGREEMENT AND PROGRAM GUIDE (collectively, the "Merchant Program Guide") is entered into effective as of _____, 2018 (the "Addendum"), by and between Bankcard Associates LLC d/b/a Bill Servicing ("BCA"), and _____ (the "Biller"), pursuant to which BCA shall provide credit card processing services described in the Merchant Program Guide (collectively, the "Services") to the Biller relating to, among other things, credit card processing of payments of real estate, property, and excise taxes, and permit and other fees paid by the Biller's own municipal government customers (collectively, the "Customers"). The parties acknowledge that the Biller has previously executed and delivered a copy of the Merchant Program Guide to BCA, dated _____, for the purpose of, among other things, establishing a merchant account and merchant identification number for the Biller, and agree that this Addendum, when executed and delivered by the Biller, shall constitute part of, and is hereby incorporated by this reference and made a part of the Merchant Program Guide for all purposes. All rights not expressly granted to the Biller under the Merchant Program Guide are reserved by BCA for all purposes.

1. Responsibilities of the Biller. The Biller shall (a) be responsible for all credit card transactions activity occurring under the Biller's merchant accounts and shall comply with all laws, rules, and regulations applicable to the utilization of the Services by the Biller and the Customers including, without limitation, those relating to data privacy, communications, the import, export, and transmission of technical, personal, and other data; (b) immediately notify BCA of any unauthorized use of passwords or accounts, or any other known or suspected breach of security relating to such data; (c) immediately notify BCA of, and immediately stop, any copying or distribution of data that is known or suspected to be unauthorized by the Biller or any Customer; (d) not impersonate any user of the Services or provide any false identity information in order to gain access to or use of, and shall not under any circumstances resell or seek to resell to any other person, the Services; (e) maintain a fair policy regarding refunds, returns, or cancellation of services and transactions (collectively, or in any individual case, the "Refund Policy") and disclose the details of the Refund Policy to BCA, the Customers, and any applicable payment processors. If the Biller allows or is required to provide a refund, return, price adjustment, or cancellation of services to any Customer (collectively, or in any individual case, the "Adjustment") in connection with a previously processed transaction, the Biller shall prepare and deliver to BCA, all transaction data reflecting such Adjustment within 2 days of resolution of the request resulting in such Adjustment; provided, however, that the Biller acknowledges and agrees that the amount of such Adjustment cannot exceed the amount shown as the total on the original transaction data. The Biller shall not accept cash or any other payment or consideration from a Customer in return for preparing a Adjustment to be deposited to the Customer's account, nor may the Biller give cash or check refunds to a Customer in connection with any transaction previously processed, unless required by any laws, rules, or regulations applicable to such transaction or Adjustment.

2. Responsibilities of BCA; Fees. On behalf of the Biller and as provided in in the Merchant Program Guide, BCA shall be responsible for processing credit card and ACH transactions of Customers by means of electronic data transmission according to BCA's formats and procedures for each electronic payment type in Merchant Program Guide fee schedule. The Biller shall not use the services of any bank, payment processor, entity, or person other than BCA for the presentment of Biller data by means of electronic data transmission or the authorization or processing of Customers' credit card transactions for each electronic payment type selected in such fee schedule, the parties intending that BCA shall be the sole provider of the Services to the Biller. BCA shall charge a fee in the amount of 3.50% for all transactions processed by BCA in its provision of the Services and, except for Chargebacks (as defined in Section 3 hereof), shall pay all fees due to the credit card associations relating thereto. BCA shall not be responsible for any postings made in error by the Biller due to delayed notifications from any authorization center, ACH Bank or other related services, or for other reasons. Fee is subject to change, due to any increases by the card associations or negative fee margins with 30 day notice to biller.

3. Chargeback, Reversals, and Other Debits.

(a) All charge-backs, reversal of charges, and other debit transactions (collectively, or in any individual case, the "Chargebacks") received by BCA shall be the sole responsibility and for the sole account of the Biller, as set forth in the Merchant Program Guide, and the Biller shall immediately reimburse BCA the entire amount of any and all such Chargebacks, and the Biller acknowledges and agrees that BCA shall have the right, exercisable at BCA's sole option, to immediately debit the Biller's account for the entire amount thereof. The most common reasons for Chargebacks include, but are not limited to, (i) failure to issue an Adjustment to a Customer as required, (ii) BCA not receiving the Biller's response to a retrieval request within 7 days or any shorter period required by credit card payment brand rules, or (iii) a Customer disputes a credit card payment transaction or claims that such transaction is subject to defense, set-off, or counterclaim.

(b) If BCA determines, in its sole discretion, that the amount of Chargebacks experienced by the Biller excessive, BCA shall have the right to (i) establish a new rate for processing Chargebacks, which may be higher than the rate set forth in Section 2 hereof, (ii) collect from the Biller an amount determined by BCA to be sufficient to cover anticipated Chargebacks and all related fees, penalties, expenses, and fines, or request the Biller to deposit a reserve in an amount to be determined by BCA, or (iii) terminate the Merchant Program Guide without any liability whatsoever to BCA in connection therewith; provided, however, that the Biller shall remain solely liable for the timely and full payment of any amounts owed to BCA under the Merchant Program Guide. In addition, the Biller hereby agrees that it shall be liable for, and shall pay, any and all penalties, fees, fines, and costs assessed against BCA relating to any breach or violation of the Merchant Program Guide or any other agreement relating to provision of the Services.

(c) The Biller shall be sole, full, and ultimate liable for any and all transactions for which BCA has provided credit or paid the Biller that become the subject of a Chargeback or ACH credit, reversals, or other refunds or credits. In the event BCA pays or is called upon to pay a Chargeback and the Biller does not provide immediate reimbursement as contemplated in this Section 3 or otherwise has insufficient funds for BCA to draw from under Subsection (a) above, then BCA shall have and may assert in any court of competent jurisdiction any and all of the legal and equitable rights and remedies accorded by applicable federal and state laws, rules, and regulations and assert any and all such claims in its own name and for and on behalf of any affected Customer, individually, or all Customers as a class. The Biller shall ensure that at all times hereunder the Biller's debit account will contain sufficient funds to cover any estimated liabilities, based upon reasonable criteria, for Chargebacks, ACH rejections or reversals, credits, returns, and any and all liabilities anticipated under the Merchant Program Guide (including, without limitation, fines, fees, penalties, and other costs associated with the Chargebacks).

4. Effect of Addendum. Except as modified by the provisions of this Addendum, all of the provisions of the Merchant Program Guide shall continue in full force and effect and shall be the valid and binding obligation of the Biller, duly enforceable against the Biller in accordance with the terms hereof and thereof.

IN WITNESS WHEREOF, the parties have executed and delivered this Addendum effective as of the date first written above.

Bankcard Associates LLC d/b/a Billing Services

Authorized Signer _____

Title _____

Signature _____

The Biller

DBA Name _____

Authorized Signer _____

Title _____

Signature _____

**ADDENDUM
ATTACHED TO AND MADE A PART OF**

MERCHANT SERVICE AGREEMENT AND PROGRAM GUIDE

(Identify Contract at Issue)

BETWEEN NORTHAMPTON COUNTY AND BANKCARD ASSOCIATES, LLC,

(Identify Party Contracting with County)

DATED _____ **(THE "AGREEMENT").**
(Identify Date of Contract)

1. One Instrument; Conflict. This Addendum and the Agreement to which this Addendum is attached shall be deemed one instrument. All capitalized terms used but not defined herein shall have the same meanings as are ascribed to such terms in the Agreement. If the terms of this Addendum conflict with the terms of the Agreement, the terms of this Addendum shall control.

2. Governing Law and Consent to Jurisdiction. The Agreement shall be construed and enforced with the laws of the State of North Carolina notwithstanding its conflict of law principles. The Undersigned agrees that any legal action or proceeding arising out of or relating to the Agreement shall be instituted in the Superior Court of Northampton County, North Carolina. The Undersigned consents to the jurisdiction of such court and waives any objection relating to the basis for personal or in rem jurisdiction or to venue.

3. E-Verify Certification. Employers and their subcontractors with twenty-five (25) or more employees in the State of North Carolina as defined in Article 2 of Chapter 64 of the North Carolina General Statutes must comply with E-Verify requirements in order to contract with governmental units. E-Verify is a program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees. The Undersigned certifies that it is aware of and in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes. In addition, the Undersigned certifies that to the best of its knowledge, any subcontractors employed by it as a part of this Agreement are in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes. The Undersigned acknowledges and agrees that local governments are prohibited from contracting with persons or entities that do not comply with E-Verify requirements and that Northampton County is relying on the certifications set forth herein in order to contract with the Undersigned.

4. Iran Divestment Act Certification. Article 6e of Chapter 147 of the North Carolina General Statutes (the "Iran Divestment Act") requires this certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required at the following times: (i) when a bid is submitted, (ii) when a contract is entered into, and (iii) when a contract is renewed or assigned. The Iran Divestment Act requires that contractors with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any contractor found on the State Treasurer's Final Divestment List. The State Treasurer's Final Divestment List can be found on the State Treasurer's website and the address www.nctreasurer.com/Iran and is updated every 180 days. The Undersigned certifies that it is not listed on the Final Divestment List and that it will not utilize any contractor listed on the Final Divestment List at any time during the term of the Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Undersigned and Northampton County have caused this Addendum to be executed by their duly authorized representatives.

UNDERSIGNED:

_____ (name of entity)

By: _____

Name: _____

Title: _____

Date: _____

NORTHAMPTON COUNTY:

By: _____

Name: _____

Title: _____

Date: _____

NORTHAMPTON COUNTY CONTRACT CONTROL SHEET		CONTRACT/VENDOR	
		Bankcard Associates, LLC	
		Address	3040 Wake Forest Rd, Suite 300 Raleigh, NC
		Contact	Todd Fortune
VENDOR #		1	Originals
			Copies
CONTRACT #	2019-4	Amount \$	
New Contract			
Renewal		Date originally approved by the Board of Commissioners	
Cost or Material Changes			
Original Contract sent to Contract Administrator		Date: 7/31/2018	
Originating Department/Individual:	PW Kirk Rogers	Item or Service:	3rd party billing IVR - Web
Department Involved:	Public Works/Water Division	Type of Contract:	Service
Line Item Budgeted:	No Fee	Period of Coverage:	3 years
GRANTS			
Board approval for Application	Approved	Set	Verified
Board approval for Acceptance	Approved	Set	Verified
COUNTY ATTORNEY	Date Received: 8/10/2018	Date Approved: 8/29/2018	
Approved as to Form: YES	Approved as to Legal Sufficiency: YES		
Revisions Necessary? YES	Board Action Necessary? YES		
Date Revisions were made? 8/29, BY ATTY.	J. T. Fortune		
FINANCE JHE	Date Received: 8/29/18	Date Audited	8/29/18
Non encumbered contract Yes <input type="checkbox"/> No <input type="checkbox"/>			
ASSISTANT COUNTY MANAGER NBP	Date Received 8/29/18	Date Approved: 8/29/18	
COUNTY MANAGER	Date Received	Date Approved:	
BOARD OF COMMISSIONERS		CLERK TO THE BOARD	
Date approved by Board		Date Received	Date Attested:
CONTRACT ADMINISTRATOR			
Attorney	Finance	Asst Cty Mgr	Cty Mgr Clerk
Outside Agency Signatures:	Date Sent :	Date received:	
Copies Delivered to Appropriate Departments:		ORIGINATING	FINANCE
Original to Outside Agency:	(Departments to deliver)	Date:	
File County Original / Add to Database:		Date:	
NOTES: For collection of customer payments via IVR phone and web pay systems.			
_____ copies sent to originating department with instruction to obtain signatures and return 1 executed original to Legal _____ copies sent to originating departments with note to forward to vendor			
PROBLEMS:			
Corrective Action:		Date:	
		Initial:	

Interlocal Governmental Agreement-Town of Seaboard:

Mr. Gary Brown, EDC Director, appeared before the Board to obtain approval of an Interlocal Agreement with the town of Seaboard as a part of the West Fraser Wastewater Extension Project.

A motion was made by Geneva Faulkner and seconded by Fannie Greene to approve the proposed Interlocal Agreement as presented. **Question Called:** *All present voting yes.* **Motion carried.**

**PLEASE SEE SCANNED DOCUMENTS WHICH ARE
HEREBY MADE A PART OF THESE MINUTES:**

Decision Paper

To: Northampton County Board of Commissioners

From: Gary Brown, Northampton County Economic Development Commission

Date: August 27, 2018

Subject: West Fraser Wastewater Infrastructure Extension Project, Interlocal Agreement Between the Town of Seaboard and Northampton County

PURPOSE:

To secure approval of the Northampton County Board of Commissioners for an Interlocal Agreement with the Town of Seaboard as a part of the West Fraser Wastewater Extension Project.

FACTS:

1. In 2016 Northampton County (the County), with the support of officials of the Town of Seaboard (the Town), received a grant award of \$568,769 from the North Carolina Department of Commerce to fund construction of wastewater infrastructure connecting the West Fraser manufacturing facility to the Town's wastewater treatment system.
2. The provision of public wastewater collection and treatment systems is in support of West Fraser's ongoing, phased expansion and modernization of its Seaboard production facilities.
3. The Town has applied to the NC Department of Environmental Quality for a Special Order of Consent which will allow the Town to accept additional wastewater flow. Construction of the West Fraser Wastewater Extension Project is pending that approval.
4. The attached Interlocal Agreement (the Agreement) formalizes the responsibilities of the County and the Town regarding administration, construction, operation and maintenance of the project wastewater infrastructure. The County is responsible for administration and construction of the project. Upon completion, the project will be conveyed to the Town for operation and maintenance.
5. The Agreement was approved in final form by Mr. Bryan Pridgen, attorney for the Town, and Mr. Scott McKellar, attorney for the County.
6. The Agreement was approved, in the form attached, by the Board of Commissioners of the Town of Seaboard at the meeting of August 14, 2018.

Decision Paper

**West Fraser Wastewater Infrastructure Extension Project
Interlocal Agreement Between the Town of Seaboard and Northampton County
August 27, 2018
Page 2**

RECOMMENDATION:

NCEDC staff recommends the Northampton County Board of Commissioners approve the proposed Interlocal Agreement as presented.

ROUTED FOR CONCURRENCE/COMMENT TO:

Ms. Kimberly Turner, Northampton County Manager

Concur: Kimberly Turner 8/28/18 Non-Concur: _____

Comment: _____

Ms. Leslie Edwards, Northampton County Finance Director

Concur: Leslie A. Edwards Non-Concur: _____

Comment: _____

Mr. Scott McKellar, Northampton County Attorney

Concur: _____ Non-Concur: _____

Comment: _____

STATE OF NORTH CAROLINA

INTERLOCAL AGREEMENT

NORTHAMPTON COUNTY

THIS INTERLOCAL AGREEMENT ("Agreement"), made and entered into this ____ day of _____, 2018, by and between the Town of Seaboard, a municipal corporation organized and existing pursuant to the laws of the State of North Carolina ("Town"), and Northampton County, a body politic and corporate organized and existing pursuant to the laws of the State of North Carolina ("County");

WITNESSETH:

WHEREAS, the Town and County (collectively, the "Parties"), pursuant to the authority granted by N.C.G.S §160A-461, desire to enter into an agreement relating to the construction and operation of a certain wastewater force main, pump station and appurtenances to be located in the Town in accordance with the terms set forth below.

NOW, THEREFORE, in consideration of the premises and the following mutual covenants, and for other good and valuable consideration, the receipt of which is hereby acknowledged by each party hereto, the Parties agree as follows:

1. The Parties shall use the services of the Economic Development Department of the County and those services of other departments of the County, as necessary, to construct a wastewater force main, pump station and appurtenances (collectively, the "Facility"), to connect with the Town's wastewater collection and treatment system with service provided to the West Fraser, Inc. manufacturing facility located 4400 NC Highway 186 East, Seaboard, NC 27876.

2. The County shall fund construction of the Facility solely with funding awarded to the County in a grant from the North Carolina Department of Commerce and

that said construction shall be consistent with plans, specifications and permits approved by the North Carolina Department of Environmental Quality.

3. The services of the County and the Northampton County Economic Department shall be performed at no cost to the Town. However, should any claims arise out of the services provided by the County or its employees pursuant to this Agreement, the Town shall indemnify and hold the County and its employees harmless from any and all claims for liability, loss, injury and/or damages to persons or property, including costs and attorney's fees resulting from any action brought against the County or its employees arising as a result of these services performed.

4. All fees and charges associated with administering construction of the Facility shall be collected by the County, shall be the sole property of the County subject to any existing agreements for grant administration between the County and any third-party such as the Upper Coastal Plain Council of Governments, and no part thereof shall be due or payable to the Town.

5. Upon completion of the Facility's construction, certification of compliance by the North Carolina Department of Environmental Quality and certification of completion of the grant requirements of the North Carolina Department of Commerce, ownership of the Facility shall be conveyed to the Town and shall become a part of the Town's wastewater collection system with the Town thereafter being solely responsible for the operation and maintenance of the Facility. All warranties provided by contractors or vendors of the County for installation of the Facility or any component thereof shall transfer to the Town.

6. Upon conveyance of ownership of the Facility to the Town, the County shall have no further rights or liability whatsoever for the operation, maintenance and/or performance of the Facility.

7. This Agreement shall continue until such time as either: a) the Facility is completed and ownership conveyed as specified in Paragraph 5; or b) funding for the Facility is withdrawn; or c) permitting for the Facility cannot be obtained.

8. This Agreement may only be modified in writing and executed by the Parties.

9. The effective date of this Agreement shall be _____,
2018.

IN WITNESS WHEREOF, the Town has caused this Agreement to be signed in its name by its Mayor, attested by its Clerk, and its Official Seal to be hereunto affixed, and the County has caused this Agreement to be signed in its name by the Chair of the Board of Commissioners and attested by the Clerk of its Board and its Official Seal to be hereunto affixed, the day and year first above written.

{SIGNATURES ON FOLLOWING PAGE}

TOWN OF SEABOARD

By: 
Geraldine J. Langford, Mayor

ATTEST:


Christine Bass, Clerk

COUNTY OF NORTHAMPTON

Robert V. Carter, Chairman
Northampton County Board of Commissioners

ATTEST:

Komita Hendricks, Northampton County Clerk

CDBG:

Mr. Gary Brown, EDC Director, appeared before the Board to provide information on CDBG grant application. Mr. Brown explained that due to time restraint the only project that could be submitted for possible funding is the Barrows Mill Road Project to construct a sewer main and pump station to serve up to 12 low to moderate-income households.

A motion was made by Geneva Faulkner and seconded by Chester Deloatch to change the purpose of the Public Hearing scheduled for September 17, 2018 to a CDBG-Infrastructure Public Hearing specific to the Barrows Mill Road Project. **Question Called:** *All present voting yes.* **Motion carried.**

**PLEASE SEE SCANNED DOCUMENTS WHICH ARE
HEREBY MADE A PART OF THESE MINUTES:**

Information Paper

To: Northampton County Board of Commissioners
From: Gary Brown, Northampton County Economic Development Commission
Date: September 4, 2018
Subject: Community Development Block Grant Program Options

PURPOSE:

The North Carolina Department of Environmental Quality (NCDEQ) and the North Carolina Department of Commerce (NCDOC) administer the State of North Carolina's Community Development Block Grant (CDBG) program to local governments in non-entitlement areas. Non-entitlement areas are cities with populations of less than 50,000 (except cities that are designated principal cities of Metropolitan Statistical Areas), and counties with populations of less than 200,000.

The state's CDBG program is administered in three (3) categories --- **Infrastructure** (CDBG-I) administered by the NC Department of Environmental Quality; and, **Economic Development** (CDBG-ED) and **Neighborhood Revitalization** (CDBG-NR) administered by the NC Department of Commerce.

FACTS:

1. Project applications in the **CDBG-Economic Development** category are accepted on an open basis for qualifying projects throughout the year.
 2. Participation in the **CDBG-Infrastructure (CDBG-I)** and **CDBG-Neighborhood Revitalization (CDBG-NR)** categories involve the submission of detailed project applications for qualifying projects which are rated/scored based on predetermined criteria established by the state departments managing the programs.
 3. Proposed **CDBG-I** and **CDBG-NR** projects submitted in each cycle then compete with the other projects submitted from other units of government statewide and funding is awarded to those projects with the highest rating/scoring.
 4. The number of projects receiving funding in each cycle depends upon the availability of funds in each cycle.
 5. Project applications in the **CDBG-I** category are accepted twice annually (Spring and Fall cycles).
 6. While the NCDOC has not announced plans for additional cycles in the new **CDBG Neighborhood Revitalization (CDBG-NR)** category, staff anticipates another cycle in the Spring of 2019.
 7. At the August 20, 2018 meeting, members of the Board of Commissioners expressed the desire for staff to identify options for participation in the CDBG program, with a particular focus on water projects, extending the county's water system into areas presently unserved.
-

Information Paper
Community Development Block Grant Program Options
September 4, 2018
Page 2

8. As described in the attached email from Mark Garner, Vice President, Rivers and Associates (Engineers) Inc., the extension of public water service, particularly those involving potential external funding sources, is a regulated process which requires substantial analysis and planning prior to submission for funding and/or permits.
 9. As Mr. Garner's email, timelines for such project planning can range from 13 to 17 months for self-funded (county funded) projects to 33 to 55 months for projects involving state or federal loans or grants.
 10. Noted at the August 20, 2018 meeting was/is that the **CDBG – Infrastructure** (CDBG-I) program includes the following potentially eligible activities:
 - a. Resolving failed infrastructure: failed private septic systems; public dry or contaminated wells.
 - b. Replacing, repairing, or rehabilitating: Public drinking water or wastewater infrastructure; public sewer lines greater than 40 years old; public pumps, pump stations, or wastewater treatment equipment greater than 20 years old.
 - c. Extending or rehabilitating water and/or sewer lines to newly constructed low-moderate income (LMI) housing.
 - d. Connecting service lines to LMI residences to connect to existing public water and/or sewer lines.
 11. Staff recommends the potential for applying for **CDBG-Infrastructure** funding for extending the County's public water system be assessed within the context of a comprehensive assessment of public water system opportunities including: system design/hydraulics, beneficiaries, cost, sources of funds and feasibility.
 12. Staff does not believe sufficient time exists for conducting the community and beneficiary surveys, title searches, properties work write-ups and environmental documents necessary for submitting a competitive **CDBG-Neighborhood Revitalization** project by the September 28, 2018 deadline. Rather, staff recommends the consideration of the Board for submitting a CDBG-NR application in the anticipated Spring 2019 cycle.
 13. For the application cycle ending September 28, 2018, staff recommends the County submit an application for a grant of approximately \$1,500,000 in **CDBG-Infrastructure** funds for the Barrows Mill Road Project. The proposed project will provide benefits to up to 12 households, 90% of whom are low and moderate-income individuals based on individual household surveys performed by Northampton County. No individuals will be displaced, nor will any require temporary relocation assistance as a result of the proposed project.
 14. The Barrow's Mill Road **CDBG-I** project, first proposed and submitted to NCDEQ in 2015, will construct a sewer main and pump station to serve up to 12 low to moderate-income households on Barrows Mill Road (State Road 1126). The system would tie into the wastewater treatment system of the Town of Jackson.
-

Information Paper
Community Development Block Grant Program Options
September 4, 2018
Page 2

15. While competitive when originally submitted, the Barrows Mill Road project did not ultimately score enough points to be awarded funding in the state-wide competitive cycle.
16. Barrows Mill Road Project engineer Chris Windley (CJS Conveyance, PLC) and project administrator Mike Scott (Progressive Resources) have agreed to update costs, household surveys and other application documents in support of the project.
17. **Board action at the September 5, 2018 meeting supporting a CDBG-Infrastructure application for the Barrows Mill Road Project includes repurposing the CDBG-NR Public Hearing scheduled for September 17, 2018 to a CDBG-Infrastructure Public Hearing specific to the Barrows Mill Road Project.**

Thank you for your consideration.

#####

Water System Extension Considerations

Mark Garner <mgarner@riversandassociates.com>

Thu 11/30/2018 7:47 PM

To: Kirk Rogers <kirk.rogers@nhcnc.net>; Gary Brown <g.brown@nhcnc.net>; Nathan Pearce <nathan.pearce@nhcnc.net>;

From: Fred Stowe <fstowe@riversandassociates.com>

Gentlemen:

I enjoyed my meeting with you today to discuss aspects of water system expansion opportunities.

I shared with Kirk a preliminary cost analysis associated with development of water distribution extensions on 16 potential road segments identified by the County. Only a few of the identified roads are directly accessible to an existing water line for extension onto the desired roads. The others require extension of water lines on other roads (some that were eliminated from the prior phase 5 project) in order to serve the desired roads identified by the County. The next step would be to ascertain the aggregate cost associated with those roads which require extension of other water lines on other roads in order to serve the desired roads.

As we discussed, the extension of water lines includes not only the design, permitting and construction of the physical water main extension, but consideration of system hydraulics and water supply in order to confirm that each extension can be completed with the desired capacity to serve and operating pressure. Public Water Supply permitting requirements include preparation and submission of a hydraulic analysis to confirm operating pressure for the proposed extension meets not only regulatory requirements, but also customer aesthetic expectations.

Permitting also includes NCDOT encroachments, Erosion and Sedimentation Control, stormwater permitting, and potentially other permits based upon the environmental conditions encountered for each extension corridor.

It may also be prudent to initiate a customer sign-up program to assure that potential users will become customers if the extensions are made.

If extensions are implemented using local Enterprise Fund retained earnings or capital funds, the project can move along fairly quickly dependent upon the size of the project. Projects up to approximately one mile in length can likely happen in an estimated time-frame similar to:

- Hydraulic Modeling - 1 month
- Survey and Preliminary Design - 2-3 months
- Final Design and Submit for Permitting - 2 months
- Permit Acquisition - 2 months
- Formal Bid Period & Construction Contract Award - 2-3 months
- Construction Period - 4-6 months

Total: 13-17 months

Projects that require external funding resources (i.e. state/federal loans/grants) should be a collection of proposed improvements versus individual small projects like the individual 16 roads on the County's identified list. For example, those 16 roads should be collectively submitted as one larger project due to the initial efforts that are required to secure external funding. In this case, it is highly recommended to utilize a sign-up campaign during project planning to ensure that the customer base will be there to assist with new debt retirement (as applicable). An estimated time-frame for this example would potentially be similar to:

Concept Planning & Hydraulic Modeling - 2 months
Preliminary Engineering Report (PER) Preparation & Approval (if USDA funding) - 4-6 months
Environmental Report (ER) Preparation & Approval (if USDA funding) - simultaneous with PER
Funding Application Preparation and Submission - 1-2 months
Funding Offer by USDA - indeterminable, typically within 4-12 months and is largely dependent upon the time the application is received by USDA within the Federal fiscal year
Survey and Preliminary Design - 6-8 months *
Final Design and Submit for Permitting - 3-6 months *
Permit Acquisition - 2-3 months
Formal Bid Period & Construction Contract Award - 3-4 months
Construction Period - 8-12 months *
Total: 33-55 months

* Dependent upon the total footage of water mains to be designed and constructed.

I hope this gives you a "quick" idea of the protocol and procedural steps that are recommended for implementing rural water extensions.

Kirk requested that we look at a few other cost options associated with two of the roads on the County list. We hope to have that for him next week.

Let us know if there are any questions associated with the above information.

Regards,
Mark Garner

Marvin E. (Mark) Garner, Jr., AICP, Aff. ASLA
Vice President
Rivers and Associates, Inc.
[PO Box 929 \(zip: 27835\)](#)
[107 E. Second Street](#)

[Greenville, North Carolina 27835](#)
Phone: (252) 752-4135
Fax: (252) 752-3974

Resolutions for Deerfield Road and Doe Lane:

Ms. Kimberly Turner, County Manager, appeared before the Board to obtain approval of resolutions for Deerfield Road and Doe Lane to be added to the state maintained secondary road system.

A motion was made by Chester Deloatch and seconded by Fannie Greene to approve the resolutions for Deerfield Road and Doe Lane. **Question Called:** *All present voting yes.* **Motion carried.**

**PLEASE SEE SCANNED DOCUMENTS WHICH ARE
HEREBY MADE A PART OF THESE MINUTES:**

JAECO Properties, Inc.
497 Hwy. 48
Roanoke Rapids, N. C. 27870
PH. 252-537-3223 FAX 252-537-4645

August 16, 2018

Northampton County Manager
Ms. Kimberly Turner
108 W. Jefferson Street
Jackson, NC 27845

Ref: Deerfield Subdivision

Dear Ms. Turner,

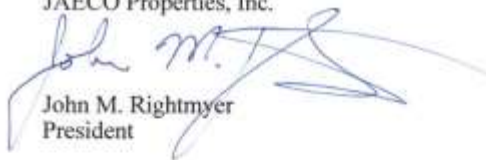
We request the County Commissioners to pass a resolution requesting that these roads be added to the NC DOT state road system.

See enclosed petition for road addition for Deerfield Road and Doe Lane.

Please contact me should you have questions or need additional information.

Thank you.

Respectfully,
JAECO Properties, Inc.



John M. Rightmyer
President

cc: NC DOT
Mr. Michael R. Hill, PE
Resident Engineer
230 NC 42 West
Ahoskie, NC 27910

enclosure

Northampton County

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BOARD OF COMMISSIONERS

P. O. BOX 808

JACKSON, N. C. 27845

PHONE (252) 534-2501 • FAX (252) 534-1166

NORTH CAROLINA STATE DEPARTMENT OF TRANSPORTATION AND HIGHWAY SAFETY REQUEST FOR ADDITION TO STATE MAINTAINED SECONDARY ROAD SYSTEM

North Carolina

County of Northampton

Road description: Deerfield Road located west of the Intersection of Route 1239 and
Route 301

WHEREAS, the attached petition has been filed with the Board of Commissioners of the County of Northampton requesting that the above described road, the location of which has been indicated on the attached map, be added to the Secondary Road System; and

WHEREAS, the Board of County Commissioners is of the opinion that the above described road should be added to the Secondary Road System, if the road meets minimum standards and criteria established by the Division of Highways of the Department of Transportation and Highway Safety for the addition of roads to the System.

NOW, THEREFORE be it resolved by the Board of Commissioners of the County of Northampton that the Division of Highways is hereby requested to review the above described road, and to take over the road for maintenance if it meets established standards and criteria.

CERTIFICATE

The foregoing resolution was duly adopted by the Board of Commissioners of the County of Northampton at a meeting on the _____ day of _____, 20____ and appears in the minutes of the said Commission.

WITNESS my hand and official seal this the _____ day of _____, _____.

Komita Hendricks, Clerk to the Board
Northampton County Board Commissioners

**North Carolina Department of Transportation
Division of Highways
Petition for Road Addition**

ROADWAY INFORMATION: (Please Print/Type)

County: Northampton Road Name: Deerfield Road
(Please list additional street names and lengths on the back of this form.)

Subdivision Name: Deerfield Subdivision Length (miles): 0.39

Number of occupied homes having street frontage: 9 Located (miles): 0.1

miles N ☐ S ☐ E ☐ W ☒ of the intersection of Route 1239 and Route US301
(Check one) (SR, NC, US) (SR, NC, US)

We, the undersigned, being property owners and/or developers of Deerfield Subdivision in
Northampton County, do hereby request the Division of Highways to add the above described road.

CONTACT PERSON: Name and Address of First Petitioner. (Please Print/Type)

Name: John M. Rightmyer Phone Number: 252-537-3223

Street Address: 497 NC 48

Mailing Address: Roanoke Rapids, NC 27870

PROPERTY OWNERS

<u>Name</u>	<u>Mailing Address</u>	<u>Telephone</u>
<u>JAECO Properties, Inc.</u>	<u>497 NC 48, Roanoke Rapids, NC 27870</u>	<u>252-537-3223</u>

☐ Rural Road ☐ Subdivision platted prior to October 1, 1975 ☐ Subdivision platted after September 30, 1975

If this road meets the requirements necessary for addition, we agree to grant the Department of Transportation a right-of-way of the necessary width to construct the road to the minimum construction standards of the NCDOT. The right-of-way will extend the entire length of the road that is requested to be added to the state maintained system and will include the necessary areas outside of the right-of-way for cut and fill slopes and drainage. Also, we agree to dedicate additional right-of-way at intersections for sight distance and design purposes and execute said right-of-way agreement forms that will be submitted to us by representatives of the NCDOT. The right-of-way shall be cleared at no expense to the NCDOT, which includes the removal of utilities, fences, other obstructions, etc.

[illegible]

Northampton County
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BOARD OF COMMISSIONERS
P. O. BOX 808
JACKSON, N. C. 27845
PHONE (252) 534-2501 • FAX (252) 534-1166

**NORTH CAROLINA STATE DEPARTMENT OF TRANSPORTATION AND
HIGHWAY SAFETY REQUEST FOR ADDITION TO STATE MAINTAINED
SECONDARY ROAD SYSTEM**

North Carolina

County of Northampton

Road description: Doe Lane located west of the Intersection of Route 1239 and Route 301

WHEREAS, the attached petition has been filed with the Board of Commissioners of the County of Northampton requesting that the above described road, the location of which has been indicated on the attached map, be added to the Secondary Road System; and

WHEREAS, the Board of County Commissioners is of the opinion that the above described road should be added to the Secondary Road System, if the road meets minimum standards and criteria established by the Division of Highways of the Department of Transportation and Highway Safety for the addition of roads to the System.

NOW, THEREFORE be it resolved by the Board of Commissioners of the County of Northampton that the Division of Highways is hereby requested to review the above described road, and to take over the road for maintenance if it meets established standards and criteria.

CERTIFICATE

The foregoing resolution was duly adopted by the Board of Commissioners of the County of Northampton at a meeting on the _____ day of _____, 20____ and appears in the minutes of the said Commission.

WITNESS my hand and official seal this the _____ day of _____, _____.

Komita Hendricks, Clerk to the Board
Northampton County Board Commissioners

**North Carolina Department of Transportation
Division of Highways
Petition for Road Addition**

ROADWAY INFORMATION: (Please Print/Type)

County: Northampton Road Name: Doe Lane
(Please list additional street names and lengths on the back of this form.)

Subdivision Name: Deerfield Subdivision Length (miles): 0.11

Number of occupied homes having street frontage: 8 Located (miles): 0.1

miles N ☐ S ☐ E ☐ W ☒ of the intersection of Route 1239 and Route US301
(Check one) (SR, NC, US) (SR, NC, US)

We, the undersigned, being property owners and/or developers of Deerfield Subdivision in Northampton County, do hereby request the Division of Highways to add the above described road.

CONTACT PERSON: Name and Address of First Petitioner. (Please Print/Type)

Name: John M. Rightmyer Phone Number: 252-537-3223

Street Address: 497 NC 48

Mailing Address: Roanoke Rapids, NC 27870

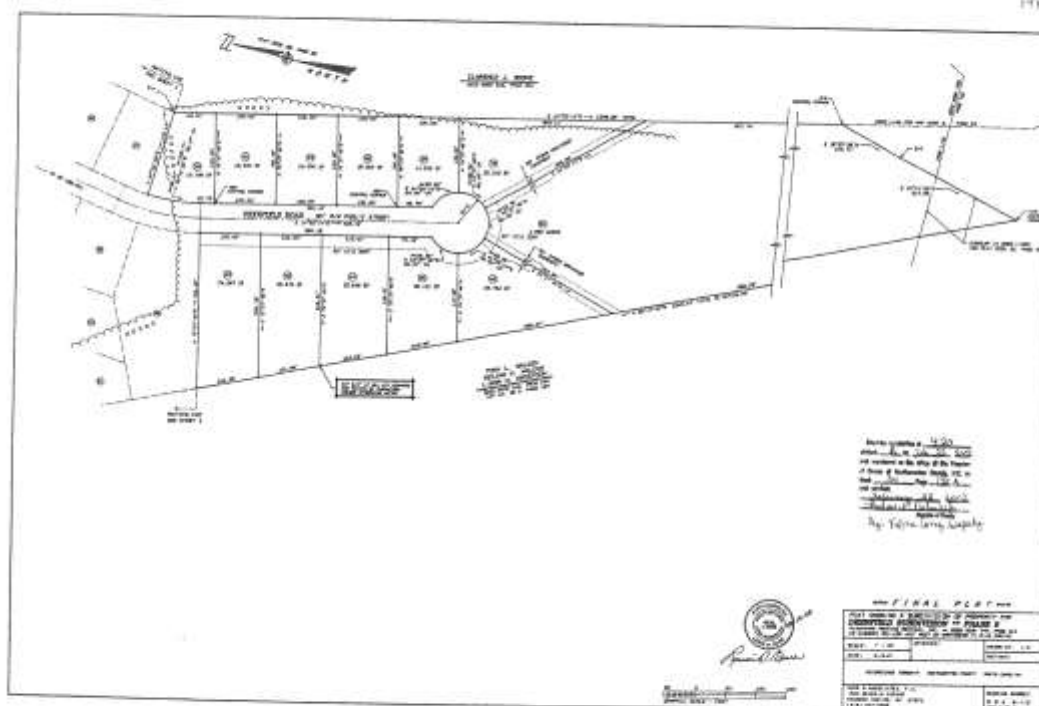
PROPERTY OWNERS

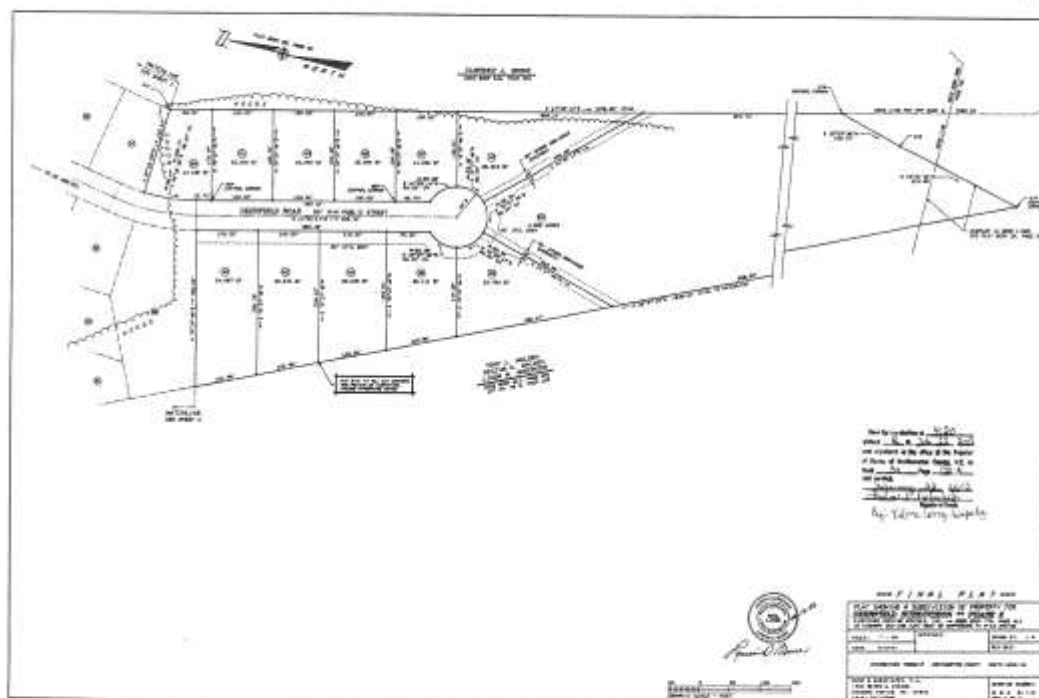
<u>Name</u>	<u>Mailing Address</u>	<u>Telephone</u>
<u>JAECO Properties, Inc.</u>	<u>497 NC 48, Roanoke Rapids, NC 27870</u>	<u>252-537-3223</u>

☐ Rural Road ☐ Subdivision platted prior to October 1, 1975 ☐ Subdivision platted after September 30, 1975

If this road meets the requirements necessary for addition, we agree to grant the Department of Transportation a right-of-way of the necessary width to construct the road to the minimum construction standards of the NCDOT. The right-of-way will extend the entire length of the road that is requested to be added to the state maintained system and will include the necessary areas outside of the right-of-way for cut and fill slopes and drainage. Also, we agree to dedicate additional right-of-way at intersections for sight distance and design purposes and execute said right-of-way agreement forms that will be submitted to us by representatives of the NCDOT. The right-of-way shall be cleared at no expense to the NCDOT, which includes the removal of utilities, fences, other obstructions, etc.

[illegible]





Resolutions for Appointing the Tax Assessor/Collector:

Ms. Kimberly Turner, County Manager, appeared before the Board to obtain approval of resolution appointing Mrs. Cathy Allen as the tax Assessor/Collector for another four years beginning July 1, 2018 until July, 2022.

A motion was made by Fannie Greene and seconded by Charles Tyner to approve the resolution for appointing Mrs. Cathy Allen as the tax Assessor/Collector for other four years beginning July 1, 2018 until July, 2022. **Question Called:** *All present voting yes.* **Motion carried.**

**PLEASE SEE SCANNED DOCUMENTS WHICH ARE
HEREBY MADE A PART OF THESE MINUTES:**

Northampton County

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BOARD OF COMMISSIONERS

P. O. BOX 808

JACKSON, N. C. 27845

PHONE (252) 534-2501 • FAX (252) 534-1156

RESOLUTION APPOINTING THE NORTHAMPTON COUNTY TAX ASSESSOR/COLLECTOR

WHEREAS, Cathy B. Allen has been certified for appointment as tax Assessor/Collector by the North Carolina Department of Revenue pursuant to the provisions of G.S. 105-294, 349 and is therefore deemed to be qualified to serve as county assessor and county tax collector;

WHEREAS, in addition to holding the certification of the Department of Revenue, Cathy B. Allen also meets all independent requirements and qualifications for service as county assessor as set forth in G.S. 105-294; and tax collector as set forth in G.S. 105-349;

WHEREAS, Mrs. Allen has during the last 24 month period, since her appointment as county assessor, attended and successfully completed at least 30 hours of instruction in the appraisal or assessment of property as provided in regulations of the North Carolina Department of Revenue which qualify her to retain the position of county assessor; she also has attended and successfully completed at least 10 hours of continuing education credits which qualify her to retain the position of county collector.

NOW THEREFORE BE IT RESOLVED, that pursuant to the authority provide by G.S. 105-294,349 the Northampton County Board of Commissioners hereby appoints Cathy B. Allen as Northampton County Tax Assessor/Collector for a period of four (4) years, beginning 1 July, 2018 and expiring the first regular meeting of July, 2022.

BE IT FURTHER RESOLVED, that the Northampton County Board of Commissioners hereby determines the combined compensation of Cathy B. Allen as Northampton County Tax Assessor/Collector.

BE IT STILL FURTHER RESOLVED, that the Northampton County Board of Commissioners hereby determines that any salary (compensation) adjustments for the Tax Assessor/Collector during this four year appointment period shall include the cost of living increases awarded to all county employees, and annual merit increases and reclassification funding, if applicable, approved by the County Manager after consultation with the Board of Commissioners consistent with the County's Position Classification and Pay Plan.

Adopted the _____ day of _____ 2018.

Robert V. Carter, Chairman
Northampton County
Board of Commissioners

ATTEST:

Komita Hendricks, Clerk
Northampton County
Board of Commissioners

Management Matters:

Ms. Kimberly Turner, County Manager, also appeared the Board to obtain approval of the Rules of procedure for Public Hearing on Legislative Rezoning.

A motion was made by Chester Deloatch and seconded by Fannie Greene to approve the rules of Procedure for Public Hearing on Legislative Rezoning. **Question Called:** *All present voting yes.*
Motion carried.

PLEASE SEE SCANNED DOCUMENTS WHICH ARE
HEREBY MADE A PART OF THESE MINUTES:

Rules of Procedure for Public Hearings on Legislative Rezoning

Pursuant to N.C. Gen. Stat. § 153A-52, the Northampton County Board of Commissioners adopts the following rules of procedure governing the conduct of public hearings on legislative rezoning matters to ensure an orderly and fair public hearing:

1. The Chair of the Board of Commissioners shall have the discretion to establish such reasonable time limits on the proponents and opponents of any proposed rezoning, including the discretion to limit duplicative presentations.
 2. The Chair may, in his or her discretion, designate spokespersons for groups of persons supporting or opposing the same position on the matter before Board.
 3. All individuals, or individuals representing groups, must register with the Clerk or place their name on a sign-up sheet prior to commencement of the public hearing, and must indicate on the form provided by the Clerk or the sign-up sheet whether they desire to speak in support of or opposition to the proposed rezoning. When called upon to speak by the Chair, each individual shall state their name and address for the record.
 4. Individuals called upon to speak will be allowed to provide comments on the proposed rezoning, but should not direct questions at one another or to the Board or planning staff. All comments made by speakers should be directed to the Board.
 5. Based on the number of individuals registered to speak at any given hearing, the Chair, in his or her discretion, may place additional limits on individual speakers as deemed necessary to ensure an orderly and efficient public hearing.
 6. The Chair, in his or her discretion, may take any action reasonably necessary to preserve order at any public hearing, including excluding individuals from the meeting or further limiting any individual's speaking time.
 7. With these general rules in place, and pursuant to N.C. Gen. Stat. § 153A-52, the Board adopts the following public hearing procedure for legislative rezonings, subject to the Chair's discretion:
 - a. The County's planning staff and/or planning consultants will have **5-10 minutes** to provide a summary of the staff report and items the Board should evaluate in considering the rezoning request. The Board shall then have the opportunity to ask any questions of planning staff or its consultants.
 - b. The Applicant will have up to **30 minutes** to present any speakers it has in support of the proposed rezoning, followed by the opportunity for the Board to ask questions of the Applicant.
 - c. Those opposed to the proposed rezoning will then have up to **30 minutes** to present any speakers in opposition to the proposed rezoning, followed by
-

the opportunity for the Board to ask any questions of those opposed to the rezoning.

- d. The Applicant and those speaking in opposition to the proposed rezoning shall have the discretion to allot the above time limits as they see fit. In the event those speaking in support of or in opposition to the proposed rezoning do not agree on an allocation of time, each individual speaker will be allotted three (3) minutes to speak, subject to the discretion of the Chair.
 - e. Following the conclusion of the comment period, the Board may, in its discretion, deliberate on the proposed rezoning, vote on the proposed rezoning, or defer any Board action to a later meeting.
-

Citizens/Board Comments:

Chairman Carter called for Citizens Comments.

Mr. Connie Vann, citizen, appeared before the Board to explain the services that the Brotherhood, Conway Baptist Church, does for the citizens at no cost which is to build handicap ramps. He stated that they recently built a ramp for an elderly citizen and in return they received a fine. He is asking the Board to waive the fine and fee for the inspection of the ramp.

Mrs. Wanda Flythe, citizen, appeared before the Board and made comments in reference to Coal Ash.

Chairman Carter called for Board Comments.

Commissioner Faulkner thanked everyone for showing up today. She also encouraged the citizens to continue to communicate with staff and commissioners to address their concerns.

Commissioner Deloatch also thanked everyone for coming.

Vice-Chairperson Greene made comments in reference to the State Conference held in Catawba County in August.

Commissioner Tyner also thanked everyone for coming and sharing. He also made comments in reference to the best interest of Northampton County, being fair, and reminded everyone that the citizens come first. He also asked the citizens to contact the County Manager with concerns before coming to the Commissioners to allow her time to do research.

Chairman Carter thanked the Board and citizens for their comments. He also echoed Commissioner Tyner's comment about contacting the County Manager because she does have an open door policy and has the knowledge to take care of any issue. He also stated that we the Commissioners are your servants.

A motion was made by Chester Deloatch and seconded by Fannie Greene to reconvene into Closed Session for G.S. 143-318.11 (a)(6). **Question Called: All present voting yes. Motion carried.**

Charles Tyner exited the meeting.

A motion was made by Chester Deloatch and seconded by Geneva Faulkner to adjourn. **Question Called: All present voting yes. Motion carried.**