

CITY OF TUCSON PURCHASING CARD SERVICES LINKING AUTHORIZATION

Municipalities, school districts and government agencies of the State of Arizona (each a "Local Public Body") are authorized under the City of Tucson Purchasing Card Services Agreement to utilize the procurement card program of the City of Tucson, which was awarded pursuant to competitive bid, ("Procurement Card Program") as the basis for establishing a procurement card program with Bank of America, N.A.

This Linking Authorization is entered into by Town of Fountain Hills ("Company") and Bank of America, N.A. ("Bank of America") as of October 2, 2017 (the "Effective Date"). By signing this Linking Authorization, Company requests and Bank of America agrees to provide to Company the procurement card services as set forth in the City of Tucson Contract #151574 – Purchasing Card Program and Virtual Payment Solutions between City of Tucson and Bank of America dated as of Jan 31, 2017 (the "Card Agreement").

#171574

Capitalized terms used in this Linking Authorization, not otherwise defined, have the meanings given to them in the Card Agreement.

Company acknowledges and agrees that it has received and reviewed a copy of the Card Agreement and agrees to adhere to the terms and conditions of the Card Agreement, as amended from time to time.

Company represents and warrants to Bank of America that:

1. it is a Local Public Body;
2. its contracting for procurement card services with Bank of America, and its performance of its obligations under this Linking Authorization and the Card Agreement will not violate any law, regulation, judgment, decree, order, ordinance, charter or procurement rules and regulations applicable to Company; and
3. it desires to utilize the Procurement Card Program of the City of Tucson as the basis for establishing a procurement card program.

Company acknowledges and agrees that, notwithstanding anything to the contrary in the Card Agreement, Bank of America may disclose the following information about Company and its procurement card program to the City of Tucson and to each other Local Public Body that utilizes the Procurement Card Program of the City of Tucson as the basis for establishing a procurement card program with Bank of America: (i) Company's name and the fact that Company has entered into this Linking Authorization; (ii) name, address, phone and email address of Company's procurement card administrator, and (iii) aggregate information about Company's annual Transaction Volume. Company acknowledges and agrees that its Transaction and spend volume will be aggregated with that of the City of Tucson and each Local Public Body that utilizes the Procurement Card Program of the City of Tucson for the purposes of calculating Transaction Volume to calculate a rebate, if any. Company will receive its pro rata share of a rebate, if any, based on its Transaction Volume.

This Linking Authorization and the Card Agreement constitute and represent the entire agreement between Company and Bank of America regarding the procurement card services Bank of America provides to Company anywhere in the world and supersedes and extinguishes all prior agreements, understandings,

representations, warranties and arrangements of any nature (including requests for proposals and other sales material), whether oral or written, between Company and Bank of America relating to such procurement card services.

IN WITNESS WHEREOF, the parties hereby execute this Linking Authorization as of the Effective Date.

Town of Fountain Hills

COMPANY

Signature:

Grady E. Miller

Name:

Grady E. Miller

Title:

Town Manager

BANK OF AMERICA, N.A.

Signature:

Jeffrey B. Moore

Name:

Jeffrey B. Moore

Title:

Client Manager, Director

Bank of America Corporate Card Service Agreement

This Bank of America Corporate Card Service Agreement (the "Agreement") is made by and between Bank of America, N.A., a Bank of America company, ("Bank of America"), and City of Tucson ("Company") and shall be effective upon the signature of the Offer & Acceptance Page (RFP #151574) by the City of Tucson. ("Effective Date").

171574

The terms "we", "us" and "our" refer to Bank of America. The terms "you" and "your" refer to Company.

With our Corporate Card Services you are allowed to open Card Accounts for your business purposes. You may select one or more of the following card programs: purchasing card program, travel and entertainment card program, accounts payable card program or fleet card program, and the ancillary services set out in Section 18 of this Agreement (each a "Service", collectively, the "Services"). You may begin using a Service once we have approved such use and we have received all required and properly executed forms and you have successfully completed any testing or training requirements. Whenever you use a Service, you agree to be bound by this Agreement, as amended from time to time, and to follow the procedures in the applicable Materials.

1. DEFINITIONS

AML/Sanctions Laws. All applicable laws relating to client identification, the prevention of money-laundering, terrorism, the use of proceeds of crime, economic or political sanctions, including Sanctions, and any other similar matter.

Applications. Proprietary Software and/or Materials accessed through our digital platforms or through any of our third party vendor sites; and any related services used to provide the Services, including (i) the Global Reporting Management System ("GRAM") hosted by MasterCard, (ii) a pin platform run by us, (iii) a payment center for US cardholders run by Total Systems, (iv) the Works System, and (v) any other third party vendor we may use from time to time.

Billing Statement. The official invoice provided to you, Participant and/or Cardholder which identifies each Transaction posted during the billing cycle, the date of each Transaction and the applicable fees and charges, payment amount due and Payment Due Date.

Business Day. Each day on which we are open for business related to the Services.

Card. Each plastic charge card which we issue for your Card Account using a Service.

Card Account. Each MasterCard® or Visa® account which we issue to you or to a Cardholder with respect to a Service, including a Cardless Account.

Card Administrator. One or more individuals designated by you in writing, as our primary contact for the Card Accounts, who is authorized to take actions necessary or appropriate to maintain the Card Accounts, including without limitation designating persons to receive Card Accounts, receiving communications from us related to the Card Accounts, requesting the closure of Card Accounts and otherwise communicating with us with respect to the Card Accounts.

Cardholder. Your employee or any other person who you designate in writing and who we approve to receive a Card. If you or a Cardholder makes a Card Account number, Convenience Check, or a number associated with a Cardless Account available to another party, that person will also be considered a Cardholder.

Cardless Account. An Account for which we assign only an account number, but no Card is issued.

Cash Advance. Use of a Card Account to obtain cash from a participating financial institution, merchant or Automated Teller Machine, to write a Convenience Check or to obtain items readily convertible into cash, such as money orders, travelers checks, foreign currency, lottery tickets, casino chips and race-track wagers.

Confidential Information. All information concerning or relating to a party or any of its affiliates, employees, agents or representatives, including:

- i. a party's business practices and strategies or information concerning business practices or strategies, including any documents prepared by a party or any of its employees, agents or representatives (including lawyers, accountants and financial advisors); and
- ii. any other information which is manifestly confidential by virtue of its nature or description or which a party expressly designates as being confidential.

Convenience Check. A check which we may provide to you, upon your request, to draw on a Card Account.

Data Protection Laws. Collectively, all U.S. national and state laws or regulations, the EC Data Protection Directive (Directive 95/46/EC), the United Kingdom Data Protection Act 1998, and all other applicable laws regarding the collection, use, storage, transfer and processing of data relating to Individuals (or, where applicable, legal persons). The term Data Protection Laws includes any laws, regulations or decrees promulgated by a financial regulator governing the use and/or disclosure of customer data, including bank secrecy obligations.

Data Protection Authority. The competent authority for regulating the processing of Personal Data in a relevant jurisdiction.

De-identification or De-identified. Removing, obscuring, masking, or obfuscating enough Personal Data from a record to ensure that the remaining information does not directly or indirectly identify an individual.

E-Commerce Laws. All applicable laws for or on the regulation of commerce and business via electronic means.

Extended Workforce. Any of our subcontractors or vendors with access to Personal Data.

Financial Services Industry Best Practices. The standards, policies and practices generally used in the commercial card issuing business by banks of comparable size and scope to us, including appropriate mitigating controls.

Grace Days. The number of days after the Billing Statement closing date within which payment is due.

Guarantor. A person or entity, other than you or a Participant, that agrees to assume responsibility for the obligations of this Agreement, including payment of any amounts owed.

Information Processing System(s). The individual and collective electronic, mechanical, and software components of our and our Extended Workforce's operations that store, access, process or protect data related to the Services.

Information Security Event. Any situation where there is an actual or strong likelihood of the unauthorized acquisition or unauthorized use or disclosure of Personal Data such that (i) there is a reasonable likelihood of material harm to a Cardholder or (ii) there is a reasonable likelihood of identity theft or fraud against an individual as determined by us, using Financial Services Industry Best Practices assessment criteria.

Information Security Policy. Our information security policy, which may be amended from time to time by us in our discretion.

License. A non-transferable, nonexclusive, worldwide, revocable, limited license to access and use the Applications and any related services, in a manner intended for authorized use, and to the extent authorized by us.

Materials. The Software, user identification codes, passwords, codes, keys, test keys, security devices, embedded algorithms, digital signatures and certificates, other similar devices and information, User Documentation and related documentation we provide to you in connection with the Services.

Participant. A subsidiary, affiliate or division of yours which you designate in writing on a Participant Account Form and which we approve, for us to issue a Card Account with its own account number. A Participant Account Form, upon completion by you and approval by us, will be made a part of this Agreement.

Payment Due Date. The payment due date shown on the Billing Statement which date shall be the last day of the Grace Days.

PCI-DSS. The Payment Card Industry - Data Security Standard as amended from time to time and any successor standard adopted by the payment card industry establishing security standards for payment cards.

Personal Data. Means (i) any "non-public personal information" as such term is defined under Title V of the U.S. Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq. and the rules and regulations issued thereunder; (ii) any "personal data" as defined in EU Directive 95/46/EC or any equivalent or similar concept of personal data or personal information under any applicable law; or (iii) any other information that can specifically identify an individual, such as name, address and social security number ("SSN"), together, in each case, with any other information that relates to an individual who has been so identified.

Program Data. Any Software, Materials, data, technical assistance, training and related technical data, and any media in which any of the foregoing is contained.

Sanctions. Any sanctions administered or enforced by the United States Government (including the U.S. Department of the Treasury's Office of Foreign Assets Control), the United Nations Security Council ("UNSC"), the European Union ("EU"), Her Majesty's Treasury ("HMT"), or any other relevant sanctions authority.

Software. Web-based applications accessed via a Website and/or the programs and data files provided by us for use on a computer in connection with the Services.

Subsidiary. Any entity in which more than 50% of the ownership interest is owned, directly or indirectly, by you. The term "Subsidiary" does not include affiliates or other entities in which 50% or less of the ownership interest is owned, directly or indirectly, by you.

Transaction. The purchase or reservation of goods or services or a Cash Advance made or facilitated by use of a Convenience Check or Card account.

Unauthorized Use. Use of a Card Account, Card or Convenience Check by a person (i) who is not your Cardholder, employee or agent, (ii) who does not have actual, implied or apparent authority to use the Card Account, Convenience Check or Card and (iii) whose use does not benefit you directly or indirectly. Any use of a Card Account, Convenience Check or Card after the Agreement has been terminated for any reason shall also be considered Unauthorized Use.

User Documentation. Any written information we provide you, including information in electronic format, as amended from time to time, which contains detailed instructions regarding the use of a Service. Current User Documentation is available upon your request.

Website. Any internet website and/or online access channel for use in accessing the Services.

Workforce. Our employees with access to Personal Data.

2. OUR OBLIGATIONS

2.1 Card Accounts. We will open Card Accounts upon your request which Cardholders may use to conduct Transactions for your business. All Transactions made on a Card Account are considered authorized by you unless we receive and have had a reasonable period of time to act upon written notice from you that the Cardholder is no longer authorized to use the Card, Convenience Checks or the Card Account.

Upon your request, we may also provide Convenience Checks with respect to your Card Accounts. At your request, we may also establish a Cardless Account. If you so request, we will provide to the Cardholder, at the address you or the Cardholder specifies, a Billing Statement reflecting the Cardholder's use of the relevant Card Account. We may deny authorization of any Transaction if we suspect fraudulent activity or Unauthorized Use or for any other reason. Notwithstanding anything to the contrary in the "Limitations of Liability" section of this Agreement, we will not be liable for any failure to authorize a Transaction.

2.2 Qualifications. We are responsible only for performing the Services expressly provided for in this Agreement. We may contract with an outside vendor in performing the Services, however we will remain responsible for their performance under the Agreement.

2.3 Compliance with law. We will provide the Services in a manner which is materially compliant with all laws to which we may be subject (including all AML/Sanctions Laws). We represent and warrant to you on and as of each day on which we provide a Service to you that our performance of our obligations will not materially violate any law applicable to us or facilitate illegal Transactions in the United States.

2.4 OFAC. We will implement systemic protocols to decline attempted Transactions that would violate Sanctions, or that would result in a violation by any person (including any person participating in the Transaction, whether as advisor, investor or otherwise) of Sanctions. We will monitor activity on you and your Participant's Card Accounts for activity that may be expected to lend, contribute, or otherwise fund any activities of a business or person in countries subject to Sanctions and may review such activity with you as may be necessary.

2.5 External Fraud. We will assume the financial liability for all external fraud if you, a Participant or Cardholder has not authorized or participated in the specific Transaction. If there is internal fraud or collusion we offer misuse insurance to help you with recovery from card networks.

3. YOUR OBLIGATIONS

3.1 Use of accounts. You shall use each Card Account solely for your business purposes in accordance with the terms of the relevant Service.

3.2 Obligation to pay. You shall pay for each Transaction, regardless of its purpose or whether you signed a sales draft or received a receipt. In addition, you shall pay our fees and charges as set forth in the schedule of charges currently in effect for you.

3.3 Status of Cardholders. You represent and warrant to us that each Cardholder is a current employee or agent of your company. If a Cardholder ceases to be your employee or agent, you must immediately inform us and destroy or return to us as soon as practicable the Card allocated to that Cardholder.

3.4 Your ability to perform your obligations. Company financial information is available at <https://www.tucsonaz.gov/finance> for the purpose of reviewing Company ability to perform its obligations. You represent and warrant to us that, on the date of the Agreement and on each day that you use the Services or provide any information, all such information about your employees, agents and your company is true, accurate and complete.

3.5 Verification of details. You and each Cardholder will check to ensure that the information embossed on each new Card or printed on each Convenience Check is correct, and you will contact us immediately if there is an error.

3.6 Change in Card Administrator. You must give us prompt written notice of any addition, change or elimination of a Card Administrator.

3.7 Security of your data. You are responsible for protecting and maintaining the security and confidentiality of your data and the data of your Cardholders (including any and all user IDs, passwords and card personal identification numbers (PINs) issued in connection with a Service), for ensuring that it is adequately backed-up and that no person makes such data available to any other person or for any unauthorized purpose. We are not responsible for your loss of your data or the data of your Cardholders that is not maintained on our or our vendors' systems.

3.8 Compliance with law. You must comply, and you must ensure that your Cardholders and all Transactions comply, with all laws to which you, that Cardholder or that Transaction may be subject, including all AML/Sanctions Laws. You must do all things and provide all information which we may request from you to allow us to comply with our obligations under any AML/Sanctions Laws, including (if necessary) providing us with any information required to establish and verify the identity and background of any Cardholder. You represent and warrant to us on and as of each day on which we provide a Service to you that your performance of your obligations will not violate any law or facilitate illegal transactions, including those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq.

3.9 OFAC Covenant. You covenant that you will not use or permit any Cardholder to use, any Card, Cardless Account, Cash Advance or Convenience Check to transact, lend, contribute, or otherwise make available funds to any Subsidiary, joint venture partner or other individual or entity ("Person"), to fund any activities of or business with any Person, in Cuba, Iran, North Korea, Sudan, Syria, or in any country or territory, that, at the time of such funding, is the subject of any Sanctions, or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as advisor, investor or otherwise) of Sanctions.

3.10 Binding on Participants. If you are a Participant, you agree and acknowledge that the Company has executed the Agreement for and on behalf of you, and that by using the Services, you agree to be bound by all provisions of the Agreement, including this Agreement and authorize the Company to take any and all actions on your behalf in respect of the Agreement.

4. CREDIT LIMITS

4.1 Credit limit. For each Service, we will establish one total credit limit for all your Card Accounts issued to the Company and all Participants. The Company shall determine an individual credit limit for each Cardholder Account which is part of any of your Card Accounts issued to the Company and all Participants. The individual credit limits for each Cardholder Account, when aggregated, may exceed the total credit limit for all Card Accounts issued to the Company and all Participants. However, this will not increase the total credit limit. Upon your request and if approved by us, we may increase the total credit limit or any individual limit. We may decrease the total credit limit or any individual limit in our reasonable discretion.

4.2 Transactions exceeding the credit limit. You agree not to incur obligations which would cause the total credit limit for all your Card Accounts to be exceeded. We will make available online tools and standard reporting for you to monitor cardholder activity. If you do exceed the total credit limit for all of your Card Accounts, we may refuse any Transactions on all of your Card Accounts. We also may require the entire balance owing on your most recent Billing Statement to be immediately due and payable before we allow for further use of your Card Accounts. If an individual Card limit is exceeded and that individual Cardholder Account is individually billed, we may (i) refuse any Transactions as applicable on that Cardholder Account until a payment is made to reduce the balance below the individual Cardholder's credit limit or until you increase that Cardholder's credit limit; and/or (ii) charge you a fee as set out in the schedule of charges currently in effect for you.

5. TRANSACTIONS IN OTHER CURRENCIES

5.1 Currency conversion. If you make a Transaction in currency other than U.S. dollars, Visa or MasterCard will convert the charge or credit into a U.S. dollar amount. The conversion rate on the processing date may differ from the rate on the date of your Transaction. The exchange rate used by Visa will either be (i) a rate selected by Visa from a range of rates available in wholesale currency markets for the applicable central processing date, which rate may differ from the rate Visa receives, or (ii) the government-mandated rate in effect for the central processing date. MasterCard will use an exchange rate of either (i) a wholesale market rate or (ii) a government-mandated rate.

5.2 International Transaction Fee We may add a fee to the U.S. dollar amount of any Transaction that is made in a foreign currency (the "International Transaction Fee"). The International Transaction Fee is set forth in the schedule of charges currently in effect for you.

6. DISPUTES WITH MERCHANTS AND SUPPLIERS

6.1 Disputes with merchants and suppliers. We will have no liability for goods or services purchased with, or for a merchant's or supplier's failure to honor purchases made with, or for a merchant's or supplier's failure to deliver goods or services purchased using, a Card Account, Convenience Check or Card. If you have any questions, problems or disputes concerning the quality of any goods or services purchased using a Card Account, Convenience Check or Card, a purchase price discrepancy, warranty or other performance issues or any other purchase matter, you must contact

the merchant or supplier directly. You may not rely on any claim or dispute concerning the purchase of goods or services using a Card Account, Convenience Check or Card as a reason to avoid your payment obligations under the Agreement.

Notwithstanding the foregoing, where we process any request for a Transaction refund through a card network on your behalf, which for the avoidance of doubt shall be processed in accordance with the operating rules and regulations of such card network, you agree that in a dispute with a merchant or supplier, we will be subrogated to your rights and each Cardholder's rights against the merchant or supplier and you will assign (and cause the Cardholder to assign) to us the right to assert a billing error against the merchant or supplier. You will, and will cause the Cardholder to, do whatever is necessary to enable us to exercise those rights. We may reverse from any Card Account any Transactions relating to the dispute.

6.2 Authorization for Transactions. A merchant or supplier may seek prior authorization from us before completing a Transaction. If you advise us in writing that you desire to restrict Transactions to merchants falling within certain categories we designate in our User Documentation, we will take reasonable steps to prevent authorization of Transactions from other types of merchants. We, however, will not be liable to you if merchants or suppliers nonetheless accept a Card, Convenience Check or Card Account for other types of Transactions, or if authorization for a Transaction is not given. We may also refrain from authorizing a Transaction for any reason whatsoever in our reasonable discretion.

6.3 Forms of Consent. If a transaction is made using a Card or an account number, you need to consent to the transaction (whether by a Cardholder giving consent or otherwise) so that we can make sure that it is genuine. A transaction can be consented to by:

- i. using a Card with the relevant card PIN or a signature;
- ii. using the account number and other details requested;
- iii. presenting a Card to the supplier's terminal if the transaction is made using contactless technology; or
- iv. such other means as you and we may from time to time agree.

We may deem Transactions which have not been consented to in one of the above manners to be unauthorized and we may decline to process such Transactions. This is in addition to any other rights we have to decline Transactions.

7. CONVENIENCE CHECKS

If we provide Convenience Checks with regard to a Card Account, they may not be used to make payment on the Card Account. We may pay a Convenience Check and post its amount to the Card Account regardless of any restriction on payment, including a Convenience Check that is post-dated, that states it is void after a certain date or that states a maximum or minimum amount for which it may be written. Once paid, Convenience Checks will not be returned to you or the Cardholder.

If you wish to stop payment on a Convenience Check, you must call us at the customer service number shown on your Billing Statement and provide such information as we request or is required under the relevant User Documentation. We will stop payment if we receive your request on or before the Business Day before the Business Day on which we would otherwise pay the Convenience Check. The date on which we would pay a Convenience Check may be prior to the date it would post to your Card Account. A stop payment order will remain in effect for up to six months.

8. CARDLESS ACCOUNTS; ACCOUNTS NOT IN NAME OF INDIVIDUAL

We may, at your request, establish a Cardless Account or establish a Card Account with a designation which is not an actual individual, including, without limitation, designation of a vehicle identification number, license number, department name or "Authorized Representative" on the Card Account. You may provide the number associated with the Cardless Account to your Cardholders. You agree to be solely responsible for the use of any such Cardless Account or Card Account, including, without limitation, any Unauthorized Use.

9. STATEMENTS

9.1 Issue of statements. We will provide to the Card Administrator, or other person you designate in writing to us, a Billing Statement which will identify each Transaction posted during the billing cycle and the date of the Transaction. The Billing Statement will also list any applicable fees and charges for a Service. If you have requested a Card Account for travel and entertainment Transactions, we will provide, upon your request, an additional copy of the Billing Statement covering such use of the relevant Card Account to the appropriate Cardholder at the address which you or the Cardholder provides to us. You agree that we may provide Billing Statements or make Billing Statements available by electronic means, including by way of electronic mail or a Website.

9.2 Review of statements. Once you receive a Billing Statement, you must review it and notify us by telephone (using the appropriate telephone number set out in the Billing Statement), electronic mail, or other method that may be agreed upon by you and us, of any Transaction appearing on that statement which you consider may have resulted from any Unauthorized Use. You must give us this notice as soon as practicable but in any event not later than 60 days after you receive the Billing Statement. If you opt to have individual statements sent to individual Cardholders, you must ensure that each relevant Cardholder complies with the provisions of this Section 9.2. Subject to the requirements of any applicable laws, if you do not (or if a relevant Cardholder does not) give us notice in accordance with this Section 9.2, we may not be liable to refund any amounts relating to that Transaction.

10. PAYMENT OF CARD ACCOUNTS; SET-OFF

10.1 Payment of statement amount. You will pay, or ensure that the relevant Cardholder pays on your behalf, to us the total amount shown as due on each Billing Statement on or before the Payment Due Date shown on the statement. If we do not receive payment in full by the specified due date, in addition to our other rights, we may assess a late fee and finance charge as set forth in the schedule of charges currently in effect for you. You have no right to defer any payment due on any Card Account. For the avoidance of doubt, if individual billing applies, we will collect from you for any amount due which is not paid by a Cardholder.

10.2 Service fees. You will pay us for a Service according to the schedule of charges currently in effect for you, except as we agree otherwise (in writing) from time to time.

10.3 Electronic management information fees and charges. You will pay us for Software support in excess of that contemplated in the Section 16 (Application License) of this Agreement. The charges for such extra support will be as specified by us before such charges are incurred or as otherwise agreed by you and us from time to time in writing.

10.4 Account Identification. If you or any Cardholder makes any payment to us in connection with a Card Account, you must, or ensure that they must, at the same time provide us with either the account number or the Card number. We shall not be liable for any delay in crediting any such payment or recording any Transaction, or for failing to do so, where this information is not provided to us in accordance with this Section 10.4.

10.5 Payment method. Unless otherwise agreed by us, payments must be made using an Automated Clearing House (ACH) service. As specified by you, we may initiate ACH debits to any deposit account at any financial institution. If you arrange for direct payment by Cardholders, such an arrangement will not change your responsibilities under the Agreement, including your obligation for payment.

10.6 Set-off. You grant to us a security interest and contractual right of setoff in and to all deposits now or subsequently maintained with us or any of our affiliates or subsidiaries. In connection with that grant, you authorize us to enter into an agreement with our affiliates authorizing, upon the occurrence and continuance of non-payment, the disposition of any such deposits to satisfy all liabilities incurred in connection with a Service, without your further consent. The grant of this security interest shall survive termination of a Service.

10.7 Transactions outside normal processing hours. If we receive any payment from you or a Cardholder in respect of any statement amount outside our normal processing hours to which that payment relates, that payment shall be deemed to have been received by us on the next Business Day. We will provide you with a list of our normal processing hours upon your request.

10.8 Credit balances not permitted on a Card Account. You are not permitted to have a credit balance on any Card Account. If any such credit balance arises (for example, by a refund), then in addition to our rights of set-off, we may retain the credit balance in or towards prepayment of any amount you owe us in the future under the Agreement, or if the amount of the credit balance is material we may, at our option, pay it to you using any method mutually agreed upon between you and us. You also may request that we refund such credit balances to you. We will not use the credit balance in any way which is not set out in Section 10.6 above and this Section 10.8.

11. LOST OR STOLEN CARDS; UNAUTHORIZED USE

11.1 Unauthorized Use. We may refrain from authorizing any Transaction:

- i. If we suspect that the Transaction is or might be fraudulent or unlawful or for the purpose of any fraudulent or unlawful activity;
- ii. If we suspect that the Transaction constitutes or might constitute Unauthorized Use; or
- iii. If to authorize that Transaction would cause us to breach any law (including any AML/Sanctions Laws by which we must abide).

11.2 Failure to authorize. Subject to applicable law, we will not be liable to you if we or any other party fails to authorize or declines any Transaction for any reason. If a Transaction is not authorized or declined, you may seek, and we will provide, reasonable assistance in investigating and resolving the declined or unauthorized Transaction.

11.3 Reporting a loss, theft or unauthorized use; assisting with investigations. In the event of a possible loss or theft of a Card, Convenience Check or Card Account or possible Unauthorized Use, you will give us notice by telephone to the numbers set forth in the User Documentation. You agree to give us this notice as soon as practicable but in any event no later than the Business Day after discovery of the known or suspected loss or theft or Unauthorized Use. If notice as provided in this paragraph is given and you assist us in investigating facts and circumstances relating to the loss, theft or possible Unauthorized Use, including without limitation obtaining an affidavit or similar written, signed statement from the Cardholder, then you will not be liable for Transactions resulting from Unauthorized Use. If we have issued fewer than ten Card Accounts to you, your liability for Transactions by a person who does not have actual, implied or apparent authority to use the Card, Convenience Check, or Card Account and whose use does not result in a direct or indirect benefit to you will not exceed \$50 on each Card.

12. LICENSE TO USE YOUR MARKS

Upon your request, we may place your trademark, tradename, service mark and/or designs ("Company's Marks") on the Cards and collateral materials. You will provide the graphics to us in sufficient time to allow for review and approval by us and, if necessary, the respective card

association. You grant to us a non-exclusive license to use, during the term of the Service, Company's Marks on the Cards and on other materials related to the Card Accounts. If, as you request, we place your Company Marks on the cards or collateral materials, you must pay us in advance any agreed fees, and you agree that the Indemnity under the "Protection from Third Parties" section of this Agreement covers any claim that the use of any Company Marks infringes the Intellectual property right of any third party.

13. EXTENSION OF CORPORATE CARD SERVICE TO AFFILIATES

Upon your request and submission of a Participant Account form, we may approve one or more affiliates of which you are majority owner for participation in a Service. Each participating affiliate will have the same rights and obligations as you except that no separate charge limit will be assigned. Your charge limit will apply to Transactions on all Card Accounts, including those of your participating affiliates.

You may terminate an affiliate's participation by giving us written notice and a reasonable time to act on such notice. If an approved Participant is, or will no longer be, majority-owned by you, you agree to notify us immediately, and we may immediately terminate the Card Accounts of such Participant.

14. GOVERNING LAW

The Services are governed by the laws respecting national banking associations and, to the extent not covered by those laws, by the laws of the State of Arizona, without reference to that state's principles of conflicts of law, regardless of where you reside or where a Cardholder uses a Card Account.

15. TERMINATION

15.1 Termination upon notice. You or we may terminate the Agreement or a Service upon 60 calendar days prior written notice to the other party.

15.2 Termination upon specific events. Notwithstanding the previous sentence, we may terminate the Agreement or a Service effective immediately, and we will send you notice of the termination if any of the following occurs with respect to you, a Participant or a Guarantor:

- You fail to pay as and when due (whether upon demand, at maturity or by acceleration) or you breach any of the terms and conditions in this Agreement or any other agreement with us or any of our affiliates or subsidiaries;
- You enter or are placed into liquidation, insolvency, administration, receivership, administrative receivership, bankruptcy, reorganization or any other similar procedure (other than in the context of a solvent re-structuring), or any step is taken to do so, or you cease to carry on all or a substantial part of your business or dispose of all or a substantial part of your assets;
- You experience a material adverse change in your financial condition or your ability to perform your obligations under the terms and conditions in this Agreement;
- Any guaranty of your obligations to us terminates, is revoked or its validity is contested by the Guarantor, or any of the events set forth in the above five bullet points attributable to you occur to the Guarantor unless we have agreed to the cancellation of such guaranty;
- You merge or consolidate with or into another entity, and you are not the surviving entity;
- We determine that any representation or warranty made to any of our affiliates or subsidiaries in any agreement is or was, when it was made, untrue or materially misleading;
- You fail to comply with any material law or regulation controlling your operation, including any AML/Sanctions Law;

15.3 Consequences of termination. Upon any termination of a Service or the Agreement as a whole for any reason set forth in section 15.2: (i) the entire balance outstanding on all Card Accounts with respect to that Service or the Agreement shall, at our option, become immediately due and payable; otherwise your payment will be due in accordance with the agreed upon payment cycle including any grace period; and (ii) you will immediately destroy, and will instruct all Cardholders to immediately destroy, all Cards and Convenience Checks. You will continue to be responsible for paying all Transactions on all of your Card Accounts. After termination, you and all Cardholders will make no new Transactions on any Card Account. If, however, such Transactions are made, you will be liable for each of them.

15.4 Return/deletion of materials and software. If a Service you are using is terminated for any reason, you will do the following:

- Immediately stop using any Materials relating to the terminated Service;
- If applicable, erase or delete any Software we have provided relating to the terminated Service to the extent it is stored in your computers; and
- At our option, either return to us or destroy all Materials relating to the terminated Service and certify to us that you have done so.

These obligations will continue after a Service you are using has been terminated.

16. APPLICATIONS LICENSE

16.1 Application of this section. The terms of this Section govern the provision and use of the Applications. Your use of the Applications and any related services means you have read, acknowledge and agree to the terms and the conditions of this Section. We are entitled to grant you licenses (including to your affiliates and Subsidiaries) to access and use the Applications.

16.2 License. The license granted under this Section is a non-transferable, nonexclusive, worldwide, revocable, limited license to access and use the Applications and any related services in accordance with the terms of this Section, in a manner intended for authorized use, and to the extent authorized by us (the "License"). Software provided by a third party may be subject to separate license terms, including "click-wrap" terms that you will be required to agree to in order to utilize such services. The License shall terminate upon the occurrence of any one of the following events: (i) the Agreement is terminated for any reason; or (ii) this License is terminated pursuant to Section 16.11 below. Additionally, unless such use is promptly stopped after we have notified you of it, we reserve the right to revoke the License granted hereunder if you use the Applications and any related services in an illegal or unauthorized manner, including in contravention of these terms. We reserve the right to suspend your access to, and use of, the Applications upon prior written notice of a violation of any of these terms. In addition, we may suspend your access to, and/or use of, the Applications immediately without notice where such action may be required to prevent interference with or disruption to services to our other customers, to protect the integrity of our systems, or as may be required by law or regulation.

16.3 Disclaimers. THE APPLICATIONS, RELATED SERVICES, AND INFORMATION PROVIDED PURSUANT TO THE APPLICATIONS ARE PROVIDED "AS IS" AND "AS AVAILABLE." WE AND OUR THIRD PARTY PROVIDERS HEREBY EXPRESSLY DISCLAIM ALL EXPRESS AND IMPLIED WARRANTIES.

16.4 Modifications. We may modify, withdraw or suspend the Applications or any part of it without notice at any time provided that such modifications are generally provided to all customers of such Services and do not significantly impair the use or operation of the Service.

16.5 Protection of Software. The Software and all copyright, patent, trademark, trade secret and other rights in them are and will remain the exclusive property of us or our licensors. All such intellectual property in the Software and the related services is protected by applicable copyright, patent, trademark or other intellectual property law. The entire content of the Software is subject to our and our third party providers' intellectual property rights, including copyright with all rights reserved. You acknowledge that the License does not convey or grant any intellectual property or other proprietary right to you, except for the limited license granted hereunder. You will follow our instructions concerning access to the Software through our third party vendor platforms. You will ensure that all Participants and Cardholders comply with instructions provided by us and are responsible for any and all acts and omissions of Participants and Cardholders. You further agree not to engage, and will ensure that your employees and agents do not engage, in unacceptable use of the Applications, including the following activities: (i) creating a false identity or otherwise attempting to mislead any person as to your identity or the origin of any communication transmitted through the Applications; (ii) using accounts, account numbers, or attempting to authorize transactions through accounts for which you do not have full authority to conduct such activities; (iii) disseminating or transmitting any materials or messages that do not pertain to the intended use of the Applications or that contain anything that is obscene, defamatory, harassing, offensive, or malicious; (iv) disseminating or transmitting files, graphics, software, or other material that actually or potentially infringes the intellectual property right of any person or entity; or (v) interfering with, disrupting, or attempting to gain unauthorized access to information or other accounts through the Applications hosted by us or our third party vendors and made accessible to you. We may rely on the instructions of any Authorized Users and we will have no liability following any such instruction. You are responsible for all actions taken by Authorized Users with regard to the Applications.

16.6 Accessibility - Your computer systems. Subject to the terms of this Section 16, we will make the Applications available over either the internet or through an intranet site to allow you to electronically and remotely access the Applications. You will provide at your own expense, all necessary telephone lines, internet connections, equipment, software (including a compatible web browser), and services for you to effectively access the Applications. Your access to the Applications will be controlled by a user name and password, as well as the authorization approved by your program administrator.

16.7 Infringement Protection. Notwithstanding Section 23 of this Agreement and except as otherwise provided in this Agreement, we will defend at our own expense or settle any action brought against you to the extent it is based on your use of the Applications and the Software including, our entitlement to allow your use of the Applications or your use of the Applications infringe any copyright, patent, trade secret or trademark of any third party in the countries where you are using the Applications, and we will pay all costs and damages finally awarded in any such action. Our obligations under this protection are subject to (i) prompt notice from you of any such claim or action; (ii) your not having made any admission of liability or agreed to any settlement or compromise; (iii) your providing to us, in a prompt and timely manner, the documents, information and assistance we reasonably request; (iv) our having sole control of defending such claim or action; (v) your having used the current version of the Applications, as provided to you by us, in compliance with this Agreement; (vi) your using the Applications only in the manner for which the Applications were designed; (vii) your not modifying the Applications; (viii) your not incorporating the Applications with products not approved by us; and (ix) the claim or action is not due to your negligence or willful misconduct. You acknowledge and agree that our obligations under this infringement protection are our only obligations to you with respect to any infringement claim in connection with your use of the Applications.

16.8 Software updates. We may provide upgrades or new releases of Software which we make generally available to our other customers to whom we license the same Software, which will be deemed part of the Applications once we have delivered or made it accessible through our third party vendors to you.

16.9 Training. At your request, we will use commercially reasonable efforts to train persons to use the Software as offered in response to RFP #171574, but we will not bear any responsibility for such training. You will be deemed to have accepted the Software upon its installation, once it is made available to you, or on your use of the Software.

16.10 Software problems. You will inform us of all errors, difficulties or other problems with the Software of which you become aware. We will make all reasonable efforts to promptly fix or promptly provide workarounds for any material errors reported to us. We may request your reasonable cooperation in resolving any such errors, difficulties or other problems by providing us an overview of input, output and all other data we may reasonably request in order to reproduce operating conditions similar to those present when such errors, difficulties or other problems were discovered.

16.11 Termination of license. Your license to use the Applications will terminate automatically if you breach a term of this Section 16. If, for whatever reason, we cease to be entitled or permitted to license any Applications to you, the License shall immediately terminate. Where possible we shall provide you with reasonable prior notice of this. In addition, if you breach any of your confidentiality obligations with respect to the Applications, we may seek any and all remedies provided by law or equity.

16.12 Limitations. You acknowledge that the Applications have not been produced to meet your specific requirements and have not been tested in every possible combination and operating environment. You agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to our provision to you or your use of any Software and/or Materials.

16.13 Export controls. You understand and acknowledge that any obligations that we may have to provide Program Data are subject in all respects to all applicable laws as may from time to time govern the export or diversion of certain products and technology to and from certain countries. You represent, warrant and agree that you will comply in all respects with the export and re-export restrictions applicable to Program Data shipped and/or provided to you and that you will comply with all applicable laws and regulations governing the export and diversion of Program Data.

17. CHANGES TO A SERVICE

17.1 Requests for changes. You may request us at any time to change the processing instructions for a Service. We are not obligated to implement any requested changes until we have had a reasonable opportunity to act upon them. In making changes, we are entitled to rely on requests purporting to be from you. For certain changes, we may require that your requests be in writing, in a form and manner acceptable to us, or be from an authorized person you designate. In addition, certain requests for changes may be subject to our approval.

17.2 Our right to make changes. If due to events outside of our control (examples include regulatory, legal, card network and interchange fees or market conditions), we may change, add or delete any of the terms of the Agreement (including the schedule of charges currently in effect for you) and/or any terms, conditions and/or pricing applicable to a Service by providing 60 days' notice to you in writing or by electronic means. All such changes will be effective as of the date set forth in such notice. Your continued use of or failure to terminate the Service after the effective date of the change will indicate your agreement to the change. Any other changes shall be mutually agreed upon in writing between the parties.

17.3 Right to terminate. If you disagree with our proposed changes, you may terminate the Agreement in accordance with its terms by providing us with 30 days' advance written notice as set out in Section 17.1 at no additional cost.

If you serve notice on us under this Section 17.3 at least 30 days before our proposed changes are due to come into effect, then unless required by law our proposed changes will not take effect and the Agreement will continue unamended until it terminates pursuant to your notice.

If you serve notice on us under this Section 17.3 less than 30 days before our proposed changes are due to come into effect, then we are entitled (in our absolute discretion) to choose that:

- i. our proposed changes will not apply to the Agreement and the Agreement will terminate on the date on which those changes would otherwise have come into effect (as long as that date is no later than 30 days after the date of your notice); or
- ii. our proposed changes will not apply to the Agreement and the Agreement will terminate 30 days after the date of your notice; or
- iii. our proposed changes will apply to the Agreement with effect from the date on which they are due to come into effect and the Agreement will terminate 30 days after the date of your notice, but, if as a result of the changes you incur any additional fee, charge, expense or other liability, we will promptly apply a corresponding credit to your account with us so as to put you in the same position in which you would have been had the proposed changes never taken effect.

18. ANCILLARY SERVICES

18.1 Adding services. Upon your request and our approval we may provide additional services to you and such participants as we may agree from time to time.

18.2 Receipts imaging service. You may elect to use our receipts imaging service whereby you send us copies of your transaction receipts, which we will electronically store for you (the "receipts imaging service"). It is your obligation to send us legible copies of your transaction receipts. You acknowledge and agree that we will not review the transaction receipts and that you are responsible for retaining the original receipts.

Notwithstanding the limitation of liability section of this agreement, we will not be liable for damages if the images are illegible or blank or for failure to provide copies by a given time or for failure to provide copies we are not reasonably able to provide. Images will be made available to you by website at such times as may be set forth in the applicable user documentation or as otherwise established by us. There is no charge for this service.

18.3 File feeds to third parties. You may request us to send certain program data to your third party servicers. We will do so on the basis that you have reviewed and accepted our standard file layout and you agree that any file transfer shall only be in such standard file layout. You agree to indemnify, defend and hold us, our successors and permitted assigns, our affiliates and their respective directors, officers, agents and employees harmless from and against every claim, demand, proceeding or suit, and from every liability, loss, damage, cost, charge, expense (including any actions or expenditures required by law or regulations, reasonable attorney, auditor and other fees, and costs) whether or not material, liquidated, contingent or prospective in nature, arising out of, resulting from or related to our compliance with your data transfer request.

18.4 Fees/Costs. You acknowledge and agree that any changes to the services which you request and use pursuant to this Agreement may increase the fees which you are required to pay to us in accordance with the Payment of Card Accounts section of this Agreement.

19. ADDITIONAL COSTS AND TAXES

19.1 Relevant taxes. You and we agree that the issuance of any Card Account to you or any Card to a Cardholder or any other person pursuant to the Agreement shall be deemed exclusive of any applicable value added tax, any tax or duty that applies or is levied on the issue of any Card, or any similar tax, levy, duty or impost (a "Relevant Tax") and that, where any Relevant Tax is levied on the issue of any Card or Card Account (or on any other Service or product provided by us under or pursuant to the Agreement), we may issue an appropriate invoice for the Relevant Tax addressed to you, and you must promptly pay to us the amount specified in that invoice.

19.2 Other duties and taxes. Where any tax, levy, duty or impost of any kind is applied or levied on the issue or import of any Card into any territory (an "Import Tax"), you must promptly indemnify, keep us indemnified and hold us harmless in full against and for the amount of the Import Tax applied or levied. Where any tax, levy, duty or impost of any kind is applied or levied on the execution, delivery or performance of the Agreement (a "Contract Tax"), you must promptly indemnify and keep us indemnified and hold us harmless in full against and for the amount of the Contract Tax applied or levied.

19.3 Withholding tax. You may be required to make withholding tax payments or other deductions on account of tax from any amounts which you are required to pay to us under the Agreement (a "Withholding Deduction"). Where any individual Cardholder or any individual who holds a Cardless Account makes any payment to us under the Agreement, that person may also be required to make a Withholding Deduction. You must ensure that you (or the relevant Cardholder or other relevant individual) make all Withholding Deductions where required to do so. You must also inform all individual Cardholders and all persons holding a Cardless Account who use or may use a Service of the circumstances in which they must make a Withholding Deduction. You must indemnify us, keep us indemnified and hold us harmless against all losses, costs, expenses and damages which we incur or are reasonably likely to incur as a result of you, any individual Cardholder and/or any other relevant individual failing to make any Withholding Deduction when required.

19.4 Gross-up. If any sum payable to us under the Agreement is subject to any tax, impost, duty, levy, deduction, set-off, counterclaim, contribution or withholding of any nature whatsoever (wherever in the world imposed), including any and all related penalties, charges and interest (in each case a "Tax Deduction"), the amount of the payment due shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

20. COMMUNICATIONS; NOTICES

20.1 Giving notices. Any written notice or other written communication to be given under the terms of this Agreement will be addressed to the applicable address specified on the signature page, except as you or we specify otherwise in writing. Notices are effective upon receipt, except as otherwise provided in this Agreement or any Materials. If you are a Participant, you agree and acknowledge that any notice we provide to the Company shall be deemed to be given to you.

20.2 Monitoring of phone calls. You agree that we may electronically monitor and/or record any telephone or other electronic communications (whether by telephone, short message service (SMS) message, multimedia messaging service (MMS) message or any other form of telephonic text message, electronic mail or otherwise) with you in those countries which permit that practice. If our records about any such communication are different from yours, our records are presumed to be correct, but such presumption may be rebutted by you..

20.3 E-mail Communications. If you choose to use unencrypted electronic mail to initiate payment requests or other instructions or otherwise communicate with us, your use of such electronic mail with respect to a Service will be subject to the terms and conditions of this Agreement and will comply with the applicable User Documentation. In addition, you agree to bear the risk that such electronic mail may be corrupted, modified, garbled or hacked or its confidentiality may be breached by a third party and the risk that we will rely on such mail, which appears to be from you but which is unauthorized, and that such reliance will result in a loss. In addition, you agree that we may rely on the integrity of facsimile transmissions that you send us, and you agree to bear the risk that the information we receive differs from that sent to us, and that such reliance may result in a loss. In the event that an electronic transmission or facsimile transmission is unclear or if we become aware that it is not an authorized communication from you, we will not act on such transmission and will contact you to clarify any intended content of such transmission.

21. CONFIDENTIALITY

21.1 General. We acknowledge that information we obtain from you in connection with a Service we provide to you under the terms of the Agreement may be Confidential Information. You acknowledge that the Agreement, our pricing information, and the Materials shall be considered to be our Confidential Information. You also acknowledge our claim to proprietary rights in the Materials and our Confidential Information and that the Materials and our Confidential Information constitutes our "trade secrets" or trade secrets of our licensors or vendors.

21.2 Restrictions

In respect of a party's Confidential Information, the other party will:

- i. Safeguard the Confidential Information at all times;
- ii. Establish and maintain procedures to assure the confidentiality of the Confidential Information and any password or code;
- iii. Use the Confidential Information only for the purposes for which we provide them; and
- iv. Notify the other promptly by telephone, confirmed in writing, if any Confidential Information is lost or its confidentiality is compromised.

Neither party will, nor will allow anyone else to, do any of the following without the other party's prior consent:

- i. Disclose any Confidential Information of the other party to any person or entity, except to its employees and agents with a need to know the Confidential Information.
- ii. Make any copies, in whole or in part, of Confidential Information of the other party in whatever form or medium (electronic, printed or otherwise) in which they may exist from time to time, except as provided in this Agreement.
- iii. Translate, reverse engineer, disassemble or decompile any Software or security devices of the other party.

21.3 Use of the Materials. You have sole responsibility for the custody, control and use of all Materials. You must ensure that no individual will be allowed to initiate a request or other instruction contemplated in the Agreement or to have access to any Materials without proper supervision and strict security controls to ensure that the Materials are only used in accordance with this Agreement. If the Service requires use of user identification codes or passwords, we will be entitled to rely on the correct user identification codes and passwords, as described in the relevant User Documentation and shall not be responsible for any loss resulting from our correct use of such data.

21.4 Exceptions. This section does not limit either your or our ability to disclose information (i) that the other party has approved by prior writing for disclosure; (ii) that is disclosed to its professional advisors or auditors; (iii) that becomes public other than through a breach of these confidentiality obligations; (iv) that was in its possession or available to it from a third party prior to its receipt of it in connection with a Service; (v) which is obtained by it from a third party who is not known by it to be bound by a confidentiality agreement with respect to that information; (vi) as required or requested by any securities exchange or regulatory body to which you or we are subject or submits, or (vii) as otherwise required to be disclosed by law or by legal or governmental process. If confidential information is requested through the Arizona public records law, Company shall provide Bank of America with written notice and a 10 day time frame to obtain an order from the Superior Court of Pima County to prevent the release of the confidential information. In addition, either party may disclose to its offices, affiliates, officers, employees and agents (and those offices, affiliates, officers, employees and agents may disclose) such information as permitted under this Section or to otherwise carry out its duties or exercise its rights under the Agreement. This section also does not limit our ability or that of our affiliates to access and use transaction data related to a Service provided to you in connection with the management of our or their business.

21.5 Damages insufficient remedy. You and we acknowledge that damages may not be an adequate remedy to protect the other party against breach of this Section 21 of the Agreement. You and we agree that the other party may seek injunctive or other equitable relief in respect of a breach of Section 21 of the Agreement.

21.6 Survival. The obligations enumerated in this Section 21 continue after the Service you are using and/or the Agreement is terminated.

22. INFORMATION SECURITY/DATA PROTECTION

22.1 Overall Data Security Regulations. As a financial institution, we are required to comply with the information security standards of, as applicable, the Gramm Leach Bliley Act and the regulations issued thereunder; the Fair and Accurate Credit Transactions Act and the regulations issued thereunder; the Federal Financial Institutions Examination Council (FFIEC) criteria; the Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice; the US Securities and Exchange Commission; FINRA; the NASD; and other federal statutory, national and international legal and regulatory requirements. We are evaluated regularly for compliance with these obligations by various US and international regulators, including, the US Office of the Comptroller of the Currency, as applicable.

22.2 Security and Confidentiality. We maintain an Information Security Policy that:

- i. contains appropriate administrative, technical and physical safeguards designed to protect against Information Security Events;
- ii. conforms as required to the requirements of applicable Data Protection Laws; and
- iii. sets forth policies and procedures that are designed to be consistent with, to the extent applicable to the Services, PCI-DSS standards; the card networks rules and regulations; and Financial Services Industry Best Practices.

22.3 Data Protection. You hereby represent and warrant to us now and on each day on which we provide a Service to you that you are in compliance with all Data Protection Laws and where required under such Data Protection Laws you will maintain at all times during the term of the Agreement a valid registration or authorization with any applicable Data Protection Authority and obtain all necessary and valid consents and

provide all necessary data protection notices in order for us to process the Personal Data for the purposes described in the Agreement, and to disclose the Personal Data to the types of recipients described in the Agreement, including if applicable where the recipients are located outside of the European Economic Area ("EEA").

We may process Personal Data for the following purposes:

- i. to provide and manage the Services;
- ii. to help monitor, assess and carry out statistical product and market analysis;
- iii. to perform system testing and training;
- iv. to manage our business;
- v. as part of any internal or external audit or compliance review that we or any of our affiliates may undertake;
- vi. for marketing purposes;
- vii. to help prevent crime, fraud and terrorism; and
- viii. to comply with card networks rules and all applicable laws and other legal and regulatory requirements.

We may disclose Personal Data to:

- i. our affiliates, agents, auditors and service providers;
- ii. card networks and credit reference and fraud prevention agencies;
- iii. to any other person if legally required, including to law enforcement agencies, authorities, regulators and courts; and
- iv. any other person to whom we may transfer or intend to transfer, assign or sell any of our rights or obligations under the Agreement.

Any disclosures of Personal Data that we make will be made in compliance with applicable Data Protection Laws.

Where we are deemed to be your data processor we agree to act on your instructions in relation to the processing of the Personal Data and shall during the term of the Agreement take appropriate technical and organizational measures to protect the Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access and against other unlawful forms of processing having regard to the state of technological developments and the cost of implementing those measures, so as to ensure a level of security appropriate to the harm that may result from breach of those measures and the nature of the Personal Data to be protected.

You acknowledge and agree that data processing related to a Service and your Card Accounts may take place in countries other than those where you and your accounts with us are located. You further understand that information concerning your relationship with us may be available on our electronic data system both for information management purposes and in order to enable you to benefit from our electronic banking services. You understand and agree that, as a result, your banking relationship information may be available to some of our officers outside the country or countries where you and your accounts are located. You authorize us to transmit your banking relationship information across national borders, notwithstanding the banking secrecy laws of any of the countries involved, as necessary or appropriate to provide a Service.

22.4 Security Policy. Our Information Security Policy has been approved by our management and is published and communicated to our Workforce. We have procedures designed to ensure that our Extended Workforce are subject to similar policies and processes. We conduct periodic risk assessments to identify and assess reasonably foreseeable internal and external risks to the security, confidentiality and integrity of electronic, paper and other records containing Personal Data. We require our Extended Workforce to have a similar risk assessment process. The remainder of this Section 22 sets out the key aspects of our Information Security Policy.

22.5 Organizational Security. All information is stored in the United States for programs in the United States and Canada. Such information may be accessed by our Workforce and any Extended Workforce from locations within or outside the United States. Our Information Security Policy applies to all such access. We include, as part of our agreements with any Extended Workforce that has access to Personal Data, provisions that are consistent with those set out in this Section 22.

22.6 Human Resources Security. We take reasonable steps to ensure that our Workforce is aware of our obligations in the provisions of the Services and Applicable Data Protection Laws, including that any unauthorized processing or disclosure of the Personal Data may lead to disciplinary action under their contract of employment or other contractual arrangements. Prior to receiving access to Personal Data, the Workforce and any Extended Workforce receive appropriate security awareness training and recurring security awareness training at appropriate intervals. The access rights of our Workforce with access to Information Processing System(s) or media containing Personal Data are removed upon termination of their employment, contract or agreement, or adjusted upon change of job function.

22.7 Physical and Environmental Security. We protect all areas that contain Information Processing System(s) or media containing Personal Data by the use of security controls deemed appropriate by us.

22.8 Communications and Operations Management. We use detection, prevention, and recovery controls which are consistent with Financial Services Industry Best Practices to protect against malicious software and attacks, and train our Workforce on the prevention and detection of malicious software and attacks. We dispose of any paper, electronic or other record containing Personal Data using all reasonable steps to destroy (based on our determination of the sensitivity of the information) the Personal Data. To protect the confidentiality and integrity of Personal Data in transit, we use encryption tools that are consistent with Financial Services Industry Best Practices, to encrypt records and files containing Personal Data that we: (i) transmit or send wirelessly across public networks; (ii) store on our laptops; (iii) where technically practicable, store on allowed

portable devices; and (iv) store on any device that we authorize to be transported outside of our physical or logical controls. We use appropriate measures to safeguard the security and confidentiality of all encryption keys associated with encrypted Personal Data.

22.9 Access Control. To protect Personal Data from the risks inherent in mobile computing and remote access, we perform a risk assessment which, at a minimum, is designed to identify and mitigate risks to Personal Data from mobile computing and remote access, maintain a policy and procedures for managing mobile computing and remote access, and use security controls that are consistent with Financial Services Industry Best Practices to manage authentication of mobile and remote users.

22.10 Information Systems Acquisition, Development and Maintenance. To protect Information Processing System(s) and system files containing Personal Data, we restrict access to source code to authorized users whom we have determined have a need to know such Personal Data in the performance of their duties.

To protect Information Processing System(s) and system files containing Personal Data, we:

- i. Use a change control process which is consistent with Financial Services Industry Best Practices to implement Information Processing System(s) changes; and
- ii. Use security controls which are consistent with Financial Services Industry Best Practices.

22.11 Information Security Event Management. We maintain an incident response plan that addresses handling of Information Security Events. In accordance with such incident response plan, we will:

- i. Provide you prompt, but in no event later than (2) Business Days of becoming aware thereof, notice of any Information Security Event documented and verified by us as part of our standard incident response process that involves, or which we reasonably believe involves, the unauthorized access, use or disclosure of your Personal Data.
- ii. Such notice shall, to the extent we are legally allowed, summarize in reasonable detail the Information Security Event and the corrective action taken or to be taken by us, if known at that time. We will promptly take all corrective action deemed necessary or appropriate by us at no additional charge to you.

22.12 Business Continuity Management. In order to protect the confidentiality and availability of Personal Data, we maintain a business continuity management program that is consistent with Financial Services Industry Best Practices which we update and test at planned intervals and as required.

22.13 Security Assessments. We permit your representatives to perform one on-site or written assessment of the security controls used at our data processing and business facilities. Such assessments will be performed during regular business hours, at a date and time agreed to by both parties, and will not require access to Information Processing System(s). Such assessments will be subject to our security policies, procedures, and restrictions, including restrictions on access to data centers, the ability to perform hands-on testing, and copying of certain materials.

We scan internal and external facing Information Processing System(s) with applicable industry standard security vulnerability scanning software (including network, server, application and database scanning tools) at a minimum once per month and perform mitigations that we deem appropriate to address issues identified.

We perform a comprehensive application penetration test and security evaluation of all websites used to store, access, or process Personal Data prior to use and at least annually thereafter.

22.14 De-identification of Personal Data Used in Non-Production Environments. We perform De-identification of all Personal Data prior to storing, accessing, or processing the information in environments other than in our production environments or those of our Extended Workforce, provided that we do not do so if:

- i. the security controls used in the environment are equivalent to the security controls used in the production environment.
- ii. De-identification would interfere with the resolution of a current production failure.
- iii. De-identification would interfere with an atypical, short-term, non-production activity (e.g., near-production final testing) where De-identification would distort the results of the activity.

23. LIMITATION OF LIABILITY

23.1 Indirect and other loss. We are liable to you only for actual damages incurred as a direct result of our failure to exercise reasonable care in providing a Service. In no event will we be liable for any indirect, consequential or punitive loss, damage, cost or expense of any nature or any economic loss or damage, expense and loss of business, profits or revenue, goodwill and anticipated savings, loss of or corruption to your data that is in your possession or residing in your systems, loss of operation time or loss of contracts, even if advised of the possibility of such loss, damage, cost or expense.

23.2 Failure to authorize. You acknowledge that we shall have no obligation or liability to you or any Cardholder where:

- i. any third party fails to honor any payment or transaction requested in connection with a Card, Card Account or Convenience Check (if applicable); or
- ii. we refuse or fail to authorize the use of any Card, Card Account or Convenience Check (if applicable).

23.3 Acts and omissions. Neither party will be responsible for the acts or omissions of the other's officers, employees or agents (including but not limited to the amount, accuracy, timeliness or authorization of any instructions or information received). We will not be responsible for the acts or omissions of any other person or entity, including any clearing house association, card network or processor, any U.S. Federal Reserve Bank or any other country's central bank, any other financial institution or any supplier (except for our suppliers providing the Services under this Agreement), and no such person or entity will be deemed our agent.

23.4 Subsidiaries and other persons. If you permit any Subsidiary or other person to access one of our Service Installations on your premises through use of a remote access software package, we will not be responsible or liable for such Subsidiary or person's use or misuse of our Service or access to accounts owned by you and for which you did not authorize that Subsidiary or person to have access via your Installation. We may and will treat all Instructions and Information received by us through this arrangement as provided by and for the benefit of you and subject to all our rights under this Agreement with respect to a Service.

23.5 Force majeure. Neither you nor we will be liable for and will be excused from any failure or delay in performing our respective obligations for a Service if such failure or delay is caused by circumstances beyond the control of the other party, including any natural disaster (such as earthquakes or floods), emergency conditions (such as war, riot, fire, theft or labor dispute), legal constraint or governmental action or inaction, or the act, omission, negligence or fault of the other.

23.6 Compliance with law. Neither party will be liable for any failure to act on its part if such party reasonably believed that its action would have violated any law, rule or regulation.

24. SEVERABILITY

If any provision of the Agreement or the application of any such provision to any person or set of circumstances is determined to be invalid, unlawful, void or unenforceable to any extent, the remainder of the Agreement, and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful, void or unenforceable, shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

25. WAIVER

No delay or failure to exercise any right or remedy under the Agreement shall be deemed a waiver of such right or remedy. No waiver of a single breach or default under the Agreement shall be a waiver of any other breach or default. Any waiver under the Agreement must be in writing.

26. YOUR REPRESENTATIONS AND WARRANTIES

You represent and warrant to us on and as of each day on which we provide a Service to you that:

- (i) you are a body corporate acting within the scope of your ordinary course of business and you are not a "consumer" for the purposes of any consumer credit legislation, or regulatory guidance or codes of conduct applicable to customers (and, if you believe that you have or may become a "consumer" for any of those purposes, you will notify us immediately of that fact). Further, you acknowledge that you will not be treated as a consumer for purposes of the Agreement, and laws and regulations relating to consumer protection shall not apply;
- (ii) the Agreement constitutes your duly authorized, legal, valid, binding and enforceable obligation;
- (iii) your performance of your obligations will not violate any law, regulation, judgment, decree or order applicable to you or facilitate illegal transactions, for example those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq;
- (iv) you are in compliance with all AML/Sanctions Laws and are not aware of any breach by you or your Cardholders of any such laws; ;
- (v) the debiting of any account as provided in the Agreement is not inconsistent with any restriction on the use of that account;
- (vi) all approvals and authorizations required to permit the execution, delivery, performance and consummation by you of the Agreement and the transactions contemplated under the Agreement have been obtained, including but not limited to due authorization from each applicable third party to allow you to transfer funds and access information from such party's account; and
- (vii) there is no bona fide lawsuit, tax claim or other dispute pending or threatened against you which, if lost, would materially impair your financial condition or ability to pay us under the terms of this Agreement; and
- (viii) if you are a Participant, you have authorized the Company to take any and all actions on your behalf related to the Agreement and any Services you receive, including binding you to the terms of this Agreement.

27. ASSIGNMENT

Neither party (You or We) may assign the Agreement, or transfer any right or delegate any duty or performance under the Agreement, without prior written consent of the other party, which shall not be unreasonably withheld, provided, however, that the Bank may assign to a Bank of America affiliate without consent.

28. AGREEMENT

28.1 Entire agreement. The Agreement and the schedule of charges in effect for you, as amended from time to time, are hereby incorporated into the City of Tucson Contract #151574 - Purchasing Card Program and Virtual Payment Solutions which constitutes and represents the entire agreement between you and us regarding a Service we provide to you anywhere in the world. In the event of conflict between the City's and Bank

of America's terms and conditions, the following order of precedence shall prevail: (i) agreed to negotiated items, (ii) the City of Tucson's Request for Proposal #151574 – Purchasing Card Programs and Virtual Payment Solutions and (iii) the Bank of America Corporate Card Service Agreement.

28.2 Successors and assigns. The Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. The Agreement is not for the benefit of any other person, and no other person shall have any right under the Agreement against you or us. Nothing contained in the Agreement shall create any agency, fiduciary, joint venture or partnership relationship between you and us.

28.3 Third parties. Except for any person or entity to whom this Agreement provides any express indemnity or covenant, you and we do not intend that the Agreement shall confer any right or benefit on any person or entity who is not a party to the Agreement (including any right or requirement to consent to any variation, amendment or termination of the Agreement), and any and all laws or regulations conferring such rights or benefits are hereby excluded (to the maximum extent permissible). Nothing contained in the Agreement shall create any agency, fiduciary, joint venture or partnership between you and us.