



## Visa Credit Card Agreement

This Visa Credit Card Agreement (“**Agreement**”) is between Mercantile Bank (“**Bank**”) and the customer identified on the Signature Page to this Agreement (“**Customer**”), and is dated the Agreement Date set forth on the Signature Page.

### 1. AGREEMENT.

1.1 Governing Documents. This Agreement governs the Service and includes the Interest and Fee Schedule and any supplemental credit terms, guaranty, agreements or forms provided to Customer or executed during the implementation process. Customer is deemed to have accepted this Agreement upon the earlier of execution of this Agreement or first use of a Card or the Card Account. Customer confirms that Customer has requested that Bank provide the Service and the Card Account, and that Customer will be requesting Cards for use by its employees and representatives for use in connection with Customer’s business.

1.2 Glossary of Defined Terms. Capitalized terms used but not defined in the body of this Agreement have the meanings given to them in Schedule A to this Agreement.

1.3 Card Programs. Bank offers two Card programs under the VISA® brand: a Commercial Card and a Business Card the different features of which are described in the User Guide. This Agreement governs both programs with the differences including credit limits noted in this Agreement. Visa is a registered trademark of Visa Inc.

1.4 Master Treasury Services Agreement. Prior to use of the Card Account, Customer is required to execute and deliver to Bank the Bank’s MTSA.

1.5 Customer Use. This Service is offered and provided for the sole and exclusive benefit of Customer and Approved Related Entities. This Service may only be used for business purposes and shall not be used (a) for or on behalf of any other person or entity or (b) for personal, household or consumer purposes.

1.6 Format. This Agreement may be provided to Customer in paper form or, in whole or part electronically. All or any part of this Agreement sent or executed electronically shall be considered in writing and shall constitute an original to the full extent permitted by Applicable Law.

1.7 Customer Identification Program. **To help the government fight the funding of terrorism and money laundering activities, Federal Law requires all financial institutions to obtain, verify and record certain business account information.**

### 2. CARD SERVICE.

2.1 Establishing the Card Account. Bank agrees to provide Customer with the Service and Card Account on the terms and subject to the conditions of this Agreement. If Customer participates in the Commercial Card Program and the Business Card Program, there will be a separate Card Account and related Credit Limit for each Program. The Service includes additional features for the Card Account including spending controls and card management that may be available upon request and subject to Bank’s approval. If approved for any of those additional features, Customer may be required to sign additional agreements, forms, or documents, which shall govern any such additional features and shall be incorporated into this Agreement. If Approved Related Entities are added to this Agreement, there will be a single Card Account for the Initial Customer and all Approved Related Entities, unless Bank otherwise specifically agrees in writing.

2.2 Lawful Use of Card Account. Customer agrees that the Card Account and each Card shall be used only in accordance with Applicable Law including Visa Rules, and shall not be used for any illegal transaction or purpose including, but not limited to, any transaction that is prohibited by Federal Reserve Regulation GG – Unlawful Internet Gambling Enforcement Act of 2006.

2.3 Cash Advance Option. Customer may request that cash advances be available to Cardholders. If approved by Bank, Bank, in its sole discretion, shall set a limit on the total amount of cash advances that may be outstanding against the Credit Limit or under any Card.

2.4 Transactions. Cards and the Card Account may be used to effect the purchase or reservation of goods or services and permitted cash advances by all generally recognized means including swipe, optional virtual card numbers (single or multiple use), signed seller drafts, telephone and internet entry, and use of the Card Account number. Subject to the limitations set forth in this Agreement,

Customer is responsible for all uses of a Card and Card number regardless of the means by which the transaction is effected and regardless of whether it is authorized by Customer or violates any of Customer's internal policies or restrictions.

### 3. IMPLEMENTATION.

3.1 Customer Information. Customer agrees to: (a) execute or complete, in form and content satisfactory to Bank, any and all documents, applications and information forms required by Bank; and (b) provide Bank with all information and documents Bank may request with respect to Customer, including financial, management and company information, beneficial ownership information, and other business information and documents. Customer represents and warrants that all information and documents provided to Bank are true and correct, and that all individuals or entities designated by Customer as authorized are in fact authorized to act for Customer. Customer authorizes Bank to obtain information about Customer from credit bureaus and other similar sources of information. Customer acknowledges that Bank will rely on the accuracy, completeness and timeliness of the information provided by or about Customer in establishing and providing the Service.

3.2 Authorized Persons. Customer agrees to furnish Bank with documentation in form required by Bank identifying and appointing Authorized Persons. The Authorized Persons shall have such authority as is delegated to them in such documentation, and may have such other authority as is mutually agreed upon by Bank and Customer. Changes in the Authorized Persons and their authority must be communicated to Bank promptly in the manner and pursuant to documentation provided or approved in advance by Bank. If Customer chooses to communicate changes in Authorized Persons to Bank by some other means, Bank is entitled (but not obligated) to rely upon such changes as having been authorized by Customer. Bank is entitled to rely on the indicated authority of any person previously designated as an Authorized Person until Bank receives written notice of a change and has had a reasonable opportunity to act on it. Further, Bank may, in its sole discretion, rely on the actual or apparent authority of Customer personnel.

3.3 Customer System Administrator. The Service including the Online Portal is administered and managed by the CSA appointed pursuant to the MTSA or other Authorized Person. The CSA has broad authority to act for Customer as an Authorized Person under this Agreement including to:

- (a) Access and use a Card and the Card Account;
- (b) View all Card Account activity and information and generate reports relating to such information; designate and manage individuals (including the CSA) as Authorized Users who will have authority to access and use the Service and Card Account;
- (c) Appoint additional CSA's with equal authority, and revoke such authority;
- (d) Exchange communications with Bank, and take all other actions on behalf of Customer in connection with the Service and Card Account; and,
- (e) Designate Cardholders and manage their use of the Card Account and Cards as provided in this Agreement.

3.4 Reliance. Bank is authorized to recognize the authority of the CSA designated by Customer in this Agreement and his or her successors until written notice of the removal of such CSA has been delivered to and received by Bank, and Bank has a reasonable opportunity to comply with the notice.

3.5 Authorized Users. Authorized Users are established and managed by the CSA or an Authorized Person, and shall have such authority as is established for them until changed by Customer through the CSA or an Authorized Person. In the case of change in Authorized Users or their authority not made by the CSA online, it is understood that Bank shall have a reasonable period of time to act on such change.

3.6 Cardholders. Bank will issue one or more Cards and account numbers associated with the Card Account to each individual Cardholder, as designated by the CSA or otherwise by an Authorized Person provided that Bank reserves the right at anytime, in its sole and absolute discretion, to refuse to issue any requested Card. Customer is fully and unconditionally liable to Bank for the use of the Cards by each Cardholder or any person who uses a Card. Customer agrees to notify Bank immediately if Customer cancels any Cardholder's privileges; Customer is responsible for preventing further use of such Cardholder's Card by either destroying it or returning it to Bank. Subject to the terms and conditions of this Agreement, the Card and Card Account may be used to purchase goods or services and obtain cash advances (if permitted under this Agreement) wherever the Card is honored.

3.7 Cards. All Cards are and shall remain Bank's property. Customer agrees to review, and require each Cardholder to review, the Cards upon receipt to confirm that all information contained on such Card is correct. If such information is not correct, Customer must

immediately notify Bank. Customer agrees, and shall ensure that each Cardholder agrees to return any or all Cards to Bank immediately upon request.

#### 4. CREDIT LIMIT.

4.1 Establishment. Each Card Account is subject to a Credit Limit. The initial Credit Limit is the amount set forth on the Signature Page to this Agreement. Customer is responsible for specifying an individual limit for each Card through the CSA or another Authorized Person.

4.2 Over-limit Transactions. Customer agrees not to make or conduct any transactions, or allow the Cardholder or others to do so, that would cause the Card Account balance to exceed the Credit Limit or any individual Card limit. Customer will remain liable for all transactions, even for those that exceed the Credit Limit or Card limit. Bank may refuse to authorize any transaction against the Card Account that would bring the total amount outstanding against the Card or against the Card Account as a whole to a level that would exceed the Credit Limit or Card limit. If Bank, in its sole discretion, authorizes or accepts a transaction on the Card Account or a Card that would exceed the Credit Limit for the Card Account or the individual limit for a Card: (a) Bank shall not be liable for doing so, and (b) Customer shall, at Bank's request immediately pay in full the entire amount of the excess, together with any applicable over-limit charges and related fees.

4.3 Changes. Subject to Applicable Law, Bank at any time may increase or decrease the Credit Limit (including any portion of the Credit Limit which may be available for cash advances) to be effective immediately, whether in response to Customer's request for such change or otherwise. Bank will notify Customer of any such changes through Customer's monthly Account Statement or by sending Customer a separate notice, which may be after the change occurs.

#### 5. PAYMENT.

5.1 Promise to Pay. Customer promises to pay all Indebtedness when due. Customer is required to pay Bank whether or not the use of the Card Account, Card, or other means by which indebtedness was incurred was authorized by Customer or a Cardholder. The Online Portal includes a feature to enable the CSA and Authorized Users to make payments on the Card Account.

5.2 Card Account Statements. At the end of each Billing Cycle, if there was activity in the Card Account, Bank will provide Customer with an Account Statement showing the total amount owed as of the end of such Billing Cycle. The Account Statement will be mailed or, if Customer elects, transmitted electronically, and is also available to Customer online through the Online Portal. Customer agrees to promptly review and reconcile any and all Account Statements. If Customer believes that an Account Statement is incorrect or requires additional information about any transactions shown on an Account Statement, Customer agrees to notify Bank at the address or phone number provided in Section 7.4 within thirty (30) days (sixty (60) days in the case of an unauthorized transaction). If Customer does not so notify Bank within such period, Customer waives any and all rights with respect to the disputed charge or error to the fullest extent permitted by Applicable Law and the Account Statement shall be deemed correct and accepted by Customer subject only to the Visa Zero Liability Policy and Applicable Law.

#### 5.3 Payment Due Date.

(a) For Business Cards approved for revolving credit, Customer must pay at least the minimum payment shown on the Account Statement by the Payment Due Date. The minimum payment for each Billing Cycle in which there is a balance owed shall be the greater of \$50 or 5% of the outstanding balance.

(b) For all other Business Cards and all Commercial Cards, payment of the entire outstanding balance on the Card Account is due on the Payment Due Date.

All payments must be made in US Dollars. An interest charge is imposed in accordance with the Interest and Fee Schedule. Bank may assess a late fee to the Card Account if the required payment is not paid when due. Bank may accept partial payments or payments marked "Payment in Full" or with words of similar effect without losing any of Bank's rights to collect the full balance of the Card Account. Payments are considered made when received by Bank.

5.4 Automatic Payment. If Customer has enrolled in the Automatic Payments program, Customer authorizes Bank to make Automatic Payments to be effective on the Payment Due Date or next business day following Payment Due Date. Customer agrees that this authorization will remain in effect until revoked or changed by Customer by giving written notice to Bank of the revocation or change at least ten (10) business days before the next Payment Due Date. Customer understands that if an Automatic Payment does not occur for any reason whatsoever, Customer is still required to make the required monthly payment and Customer will be responsible for any late fees, charges, or other consequences of late or non-payment. If Customer does not enroll in the Automatic Payment

program or if the authorization is otherwise revoked or terminated, Customer is solely responsible for timely making all payments required under this Agreement in some other permitted manner.

5.5 Application of Payments. Subject to Applicable Law, payments may be applied to Indebtedness in any manner Bank may choose in its discretion.

5.6 Interest and Fee Schedule. Customer agrees to pay any and all fees, interest, and charges associated with the Card Account including those set forth in the attached Interest and Fee Schedule.

5.7 Foreign Transactions. If a Card or the Card Account is used to effect a transaction in a foreign currency, the transaction amount will be converted to U.S. dollars by Visa. Visa converts currency to U.S. dollars using either the government mandated exchange rate or the wholesale exchange rate in effect one day before the date of the conversion, as applicable. The date of conversion by Visa may differ from the purchase date and the posting date identified in the Account Statement.

## 6. **ONLINE ACCESS.**

6.1 Portals. The Online Portal includes administrative features that can only be accessed by the CSA and other Authorized Users and individual features that can be accessed by Cardholders in connection with the management of their Card. Customer's or a Cardholder's use of the Online Portal may also be subject to the terms of use posted for that website. Bank is not responsible for monitoring Customer's use of the Online Portal or other Service or if any CSA or Authorized Users exceeds the limits of their authority.

6.2 Tools. Bank offers a number of features and tools for the management and administration of the Service that are accessed through the Online Portal including spending and merchant category controls. These features are optional and described in the User Guide.

6.3 Card Management. The CSA and Authorized Persons have authority to: (a) designate persons who will be issued Cards and become Cardholders and establish their individual Card credit limit and spending controls; (b) cancel a Card and change the credit limit associated with a Card; (c) issue replacement Cards for damaged or lost Cards; and, (d) obtain information and reports about, and monitor the Card Account and Card use.

6.4 Security Procedures. Access to the Online Portal is subject to Security Procedures. Access to the Online Portal using such Security Procedures will be considered by Bank for all purposes and without further investigation to be authorized by Customer and Cardholders, as the case may be. Bank may accept, act and rely upon all instructions or data transmitted and actions taken using the Security Procedures.

6.5 Cardholder Portal. The CSA can authorize Cardholders to have access to a web-based platform that enables them to manage Card information and transactions, and to make payment of their individual Card balances. A Cardholder will be required to register through the platform, accept and be subject to terms of use and establish a user profile. Payments are effected through ACH transactions authorized by the Cardholder. The Cardholder is responsible for the accuracy, timeliness and completeness of the data they input into the platform and for the availability of funds in the payment account they use for making payments.

6.6 Unavailability of Access. Customer understands that the Online Portal may be unavailable due to maintenance, upgrades, technical issues, general periods of outage or interruption and other events beyond Bank's control. Bank does not warrant that the Online Portal will be uninterrupted or error free. If the Online Portal is unavailable during normal business hours for an extended period, Bank will work with Customer and all similarly situated customers to establish an alternative method to access the Service. In any event, Bank will have no liability to Customer based on the unavailability of the Online Portal or any other communications system or website, or any failure to remedy the problem in a timely manner.

6.7 Notifications. Authorized Users and Cardholders may be required or may choose to accept Notifications. Customer consents to the sending of Notifications to Authorized Users and Cardholders. Notifications are intended as a convenience and for informational purposes only. Notifications do not constitute a Bank record and the sending or absence of a Notification cannot be relied upon. There is a risk that delivery of a Notification may be delayed or prevented due to factors beyond Bank's control. Notifications are not encrypted or coded. Replies to a Notification are not permitted and will not be read or acted upon. Customer or the Cardholder is responsible for managing the contact information for the Notifications.

6.8 Proprietary Rights. Customer acknowledges and agrees that Bank or the applicable Bank Provider, as the case may be, shall own and retain any and all intellectual property rights associated with the Service and all software, functionality, processes, procedures, systems, know-how, databases, inventions, User Guides and other documentation and materials provided to Customer by Bank or the Bank Provider in connection with the Service, all information generated or created through the Service (excluding

Customer's proprietary information) and any and all improvements, enhancements, derivative works, modifications or developments made, conceived or developed by Bank or the applicable Bank Provider. Copying of such software, User Guides, and documentation is strictly prohibited without Bank's written consent. Except for the right to use and access the Card Account and Service as expressly provided in this Agreement, Customer shall not acquire any intellectual property or other interest or rights in any Bank or Bank Provider property as a result of using the Service.

6.9 Equipment and Communication Capabilities. Customer is responsible for (a) having a technology infrastructure and systems that are compatible with the Bank's systems and for the security of its technology infrastructure and systems and (b) any malfunction, security breach, non-function, inaccuracy or other failure of any its technology infrastructure and systems.

## 7. MONITORING AND LIABILITY.

7.1 Use of Cards. Customer agrees to provide Cards only to persons authorized by Customer to be Cardholders. Customer understands that Bank is authorized to charge the Card Account for all transactions resulting from the use of a Card and Card Account at any time, whether or not Customer has authorized its use or the Cardholder exceeds his or her authority or limits, and Customer assumes all responsibility and liability for all such Card use except as otherwise provided in this Agreement.

7.2 Card and Account Controls. Customer is responsible for monitoring the Cards and Card Account for any unauthorized or improper use, misuse and fraud. Customer is responsible for cancelling (a) any lost, misused, or stolen Cards or if Customer suspects the Card or Card Account may have been the subject of unauthorized or improper use, misuse, or fraud, and (b) and retrieving the Card of any Cardholder (as well as any associated authorization) no longer authorized by Customer to use a Card or the Card Account.

7.3 Visa's Zero Liability Policy. Depending on how a transaction is effected, Visa's Zero Liability policy may apply. Visa's Zero Liability Policy does not apply to certain commercial cards and anonymous prepaid card transactions or transactions not processed by Visa. Additional details and other conditions relating to Visa Zero Liability Policy may be found in the Visa Rules. If a transaction is unauthorized and meets the requirements of Visa's Zero Liability Policy, and Customer properly follows the requirements of the Visa Zero Liability Policy and this Agreement, Customer will not be liable for the unauthorized transaction. Pursuant to the terms of the Zero Liability Policy, use of the Card Account or a Card is not considered "unauthorized" if effected by a Cardholder who has actual, implied or apparent authority for such use, or Customer or Cardholder receives a benefit from the transaction.

7.4 Prompt Notice. If Customer believes there is an unauthorized transaction on the Card Account, Customer must notify Bank immediately, but not later than sixty (60) days from the date of the Account Statement (as shown on the face of such Account Statement) on which such transaction appears, in writing at CUSTOMER SERVICE, PO Box 31535, Tampa, FL 33631-3535 or by telephone at (866)839-3485. If a Card has been lost or stolen, Customer must notify Bank immediately. The notice must, at a minimum, include the following information: (a) the Customer's name; (b) the Card Account number; (c) the dollar amount of any disputed transaction or suspected error; and (d) a brief description of the disputed or unauthorized transaction or suspected error.

7.5 Cooperation and Assistance. Customer agrees to reasonably cooperate with Bank in any investigation into each transaction in question, which may include Customer providing Bank with any reasonably requested information and documentation. Visa's Zero Liability policy does not apply if Bank determines, based on substantial evidence that Customer or any Cardholder was negligent or fraudulent in the handling or use of the Card Account or the Card. Customer agrees that Bank may deem Customer to have been negligent if Customer does not notify Bank of an unauthorized transaction within the required time period. If Visa's Zero Liability policy does not apply: (a) and if ten (10) or more Cards have been issued on the Card Account, Customer shall be liable for all charges on the Card Account, including any charges that result from unauthorized use; (b) if nine (9) or fewer Cards are issued on the Card Account, Customer's liability resulting from the unauthorized use of any one Card shall not exceed the lesser of \$50.00 or the amount of the unauthorized transaction before Bank is notified of such use and Customer shall not be liable for unauthorized use of a Card that occurs after Customer notifies Bank of the loss, theft, or unauthorized use of such Card, either orally or in writing, at the address or phone number provided above all in accordance with Applicable Law.

7.6 Replacement Funds. Where applicable, Visa's Zero Liability policy requires Bank to provisionally credit the Card Account for a transaction resulting from the unauthorized use of a Card or the Card Account. Replacement funds are provided on a provisional basis and may be withheld, delayed, limited, or rescinded by Bank based on Customer's gross negligence or fraud, a delay in reporting unauthorized use, an investigation and verification of a claim, and account standing and history, or if it is otherwise determined that Visa's Zero Liability policy is not applicable to the disputed transaction.

7.7 Updates. Visa's Zero Liability Policy is subject to the terms and conditions established by Visa as updated from time to time.

7.8 Bank Internal Programs. Customer acknowledges that Bank may apply software and other programs and processes to screen certain transactions for further review and verification by Customer. Customer acknowledges that the benefit of additional verification

outweighs the potential delays associated with these programs and processes until Bank obtains such verification. These programs should not be relied upon by Customer as a substitute for careful monitoring and control over its transactions.

7.9 Declined Transactions. Customer acknowledges that Bank reserves the right, at any time and without prior notice, to decline to authorize any requested transaction for security reasons, suspected fraud, illegal or unauthorized activity, protection of Customer or Bank and other reason permitted under the Visa Rules. Bank will not have any liability for refusing to authorize any transaction, even if a Credit Limit was not reached.

## 8. DEFAULT.

8.1 Events. The occurrence of any of the following will constitute an event of default:

- (a) Customer fails to make any payment when due under this Agreement;
- (b) The filing of a petition or commencement of any proceeding by or against Customer under any provisions of the Bankruptcy Code;
- (c) The appointment of a receiver for Customer or any of Customer's property or an assignment for the benefit of creditors;
- (d) The commencement of any proceeding to dissolve or liquidate Customer;
- (e) If Customer is an individual, their death;
- (f) Any financial statement or other information provided to Bank in connection with the Card Account is false or misleading;
- (g) Customer fails to comply with or to perform any other term, obligation, covenant, or condition in this Agreement or to comply with any term, obligation, covenant, or condition contained in any other agreement between Bank and Customer;
- (h) Any sale or transfer of all or a substantial or material part of Customer's assets, other than in the ordinary course of business;
- (i) any violation of, breach of or default under any letter agreement, guaranty, security agreement, deed of trust or any other contract or instrument executed in connection with, or securing, this Agreement;
- (j) Any material adverse change in Customer's financial condition;
- (k) There occurs any default by Customer (i) in connection with any loan, advance, or other extension of credit made to Customer by Bank or any of its affiliates, (ii) under any guaranty of the Indebtedness or (iii) in any other material obligation owed to Bank or any of its affiliates, whether now existing or hereafter arising; or
- (l) Bank, in good faith, concludes the prospect of payment or performance of this Agreement by Customer is materially impaired.

8.2 Remedies. If any event of default occurs Bank may, with or without prior notice: (a) declare a default in which case the entire outstanding balance of Indebtedness is immediately due and payable; (b) suspend or terminate further use of and advances on the Card Account; (c) terminate or cancel this Agreement and the Card Account and revoke the Cards; (d) declare the entire unpaid balance of all other loans and indebtedness owing from Customer to Bank immediately due and payable; and (e) exercise the right of set off, all in addition to any other rights and remedies available to Bank under Applicable Law, this Agreement, or any other agreements between Customer and Bank.

## 9. SECURITY INTEREST AND SETOFF.

9.1 Security. Customer grants Bank a security interest in funds on deposit with Bank in all accounts (including deposit accounts) other than any such account clearly labeled for the benefit of an unrelated third party and securities on deposit with or held by Bank.

9.2 Setoff. To the fullest extent permitted by Applicable Law, Customer agrees that Bank shall have the right to set off any unpaid Indebtedness or other obligation of Customer to Bank under this Agreement against funds in any deposit account with Bank (other than any deposit account clearly labeled for the benefit of an unrelated third party) without notice except as required by Applicable Law.

9.3 Cross-Collateralization. Collateral securing any and all loans Customer maintains with Bank now and in the future, will also secure repayment of the Indebtedness, unless Bank waives this right in writing.

## 10. TERM AND TERMINATION.

10.1 Term. This Agreement shall have a term beginning on the Agreement Date set forth below and shall remain in full force and effect until terminated by either party as provided in this Agreement.

10.2 Customer. Customer may cancel or close the Card Account by providing Bank with written notice of termination; provided, however, that the cancellation or closing of the Card Account shall not affect Customer's obligation to pay the Indebtedness. Cancellation or closing of the Card Account shall be binding on each and every Cardholder.

10.3 Bank. Bank may, by giving written notice to Customer at any time, without liability to Customer or any Cardholder and without affecting Customer's liability for any Indebtedness, terminate this Agreement or terminate, suspend or limit Customer's and any Cardholder's right to use the Card or Cards and the Card Account subject to Applicable Law. Unless sooner terminated, the privilege to use the Cards and the Card Account shall expire on the date shown on each respective Card.

10.4 Effects. Termination of this Agreement, the Card Account, or any Card will not release Customer or Bank from any of their respective obligations that arose or became effective prior to any such termination. Customer remains obligated to repay any and all Indebtedness owed under this Agreement, arising from the use of the Cards or the Card Account, or otherwise.

## 11. LIMITATIONS OF LIABILITY.

11.1 Standard of Care. Bank agrees to use reasonable care in providing the Service.

11.2 Actual Damages. Customer agrees that Bank's liability to Customer, if any, relating to the Service or this Agreement shall be limited (to the maximum extent permitted by Applicable Law) exclusively to actual, provable damages directly resulting from Bank's gross negligence or willful misconduct. Bank will be responsible only for performing the Service as set forth in this Agreement.

11.3 Excluded Responsibility. Under no circumstances shall Bank or any Bank Provider be responsible for any Losses and Damages that arise, directly or indirectly, in whole or in part, from:

- (a) Any act or omission of Customer, its agents, employees or officers or any other person or entity not within Bank's control (other than Bank Providers acting within the scope of their duties to Bank), including, but not limited to, Visa, other third party networks or operators, any governmental entity, financial institution or other party to a transaction;
- (b) Any breach by Customer of this Agreement;
- (c) The application of any government or funds transfer system rule, guideline, policy, or regulation; or
- (d) Bank's inability to confirm to Bank's satisfaction the authority of any person to act on Customer's behalf.

11.4 Limitation of Damages. Except for Losses and Damages caused solely by Bank's gross negligence or willful misconduct, Bank's liability for any Losses and Damages arising under or in connection with this Agreement or the Service shall not exceed, in the aggregate for the life of this Agreement an amount equal to three percent (3%) of the average daily balance (computed as provided in the Interest and Fee Schedule) on the Card Account for the three (3) Billing Cycles prior to the date of the loss or event causing the Loss and Damage. Customer agrees that, except where otherwise required by Applicable Law, Bank shall not be liable for any consequential, special, punitive, speculative or indirect loss or damage which Customer or any other person or entity may incur or suffer in connection with this Agreement or the Service regardless of whether Bank had knowledge or should have had knowledge that such loss might be incurred, and Bank assumes no liability for Customer's attorney fees.

11.5 Notice and Making of Claims. **Customer agrees to promptly notify Bank of any fact or circumstances which could reasonably be expected to give rise to a claim against Bank by Customer or any third party in connection with the Service, and in any case to make such claim promptly. In no event shall any claim, action, suit or proceeding against Bank for damages arising under or in connection with this Agreement or the Service be made or brought more than one (1) year from the date of Bank's alleged act or omission.**

11.6 Reliance. Customer understands and agrees that the interest rate and fees set forth in the Interest and Fee Schedule have been established in contemplation of the limitations on liability set forth in this Agreement.

12. **INDEMNIFICATION**. Customer agrees to indemnify, defend and hold Bank and the Indemnitees harmless individually and collectively from and against all Losses and Damages that result or arise, directly or indirectly, in whole or in part from: (a) the use of the Service, Card Account or Cards by Customer or any Cardholder; (b) any material breach in a material representation, warranty, covenant or obligation of Customer contained in this Agreement; (c) any violation by Customer of any Applicable Law in connection with the use of the Service; (d)

any misconduct or wrongful, illegal, fraudulent or negligent act or omission of Customer or of any of its officers, directors, employees, agents or other representatives or Customer Vendor in connection with this Service or the use of the Cards and Card Account; and, (e) any claim by any third party (including Customer Vendor) or governmental entity against Bank relating to the Service including any dispute with any third party. Customer is not obligated to indemnify any Indemnitee for Losses and Damages incurred by an Indemnitee arising directly from the gross negligence or willful misconduct of the Indemnitee. The obligation to defend by Customer shall include the right of Bank to proceed with counsel of its own choosing.

**13. GOVERNING LAW; VENUE; JURY TRIAL WAIVER.** This Agreement shall be governed by the laws of the state of Michigan. Any litigation arising out of this Agreement shall be brought in the Circuit Court of the County of Kent, Michigan, or the U.S. District Court for the Western District of Michigan, located in Kent County, Michigan. EACH PARTY, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS AGREEMENT OR THE SERVICE.

**14. DISCLAIMER OF INFORMATION AND WARRANTIES.** Unless otherwise stated in this Agreement, Bank makes no representations or warranties, expressed or implied, in law or in fact including, but not limited to, the implied warranties of fitness for a particular purpose and of merchantability, either to Customer or to any other party, person or entity with respect to the Service.

**15. REPRESENTATIONS BY CUSTOMER.** Customer represents and warrants to Bank that:

- (a) It is a corporation or other entity duly incorporated or organized, validly existing, and in good standing under the laws of the state of its incorporation or organization, or a sole proprietorship;
- (b) The execution, delivery and performance by Customer of this Agreement are within Customer's powers, have been duly authorized by all necessary action and do not contravene Customer's bylaws, charter or other governing documents or any law or contractual restriction;
- (c) No authorization, approval or other action by, and no notice to or filing with any governmental authority or regulatory body is required for the execution, delivery and performance by Customer of this Agreement;
- (d) This Agreement constitutes the legal, valid and binding obligation of Customer, enforceable against Customer in accordance with the terms of this Agreement;
- (e) The financial statements provided by Customer to Bank were when delivered, and remain true, accurate and complete; and,
- (f) No information furnished by Customer to Bank in connection with this Agreement or the implementation of the Service is inaccurate in any respect, contains any material misstatement of fact, or omits any fact necessary to make such statements not misleading.

Customer agrees to promptly notify Bank if any of the representations or warranties were, when made, or become untrue or if Customer experiences any material adverse change in its business, financial condition, results or operations or prospects.

**16. RELATED ENTITIES.**

**16.1 Joinder.** If the Initial Customer intends that any entity have access to the Card Account and Service, such entity must become a party to this Agreement as an Approved Related Entity pursuant to a form of joinder addendum required by Bank. In that case, Initial Customer, each Approved Related Entity that executes such joinder, and Bank agree that such Approved Related Entity shall be a Customer for all purposes under this Agreement with all related rights and obligations. Each Approved Related Entity will be deemed to make to Bank all representations and warranties of, and will be subject to and undertake all obligations as "Customer" under this Agreement including to pay all Indebtedness.

**16.2 CSA.** Initial Customer and each Approved Related Entity that becomes a party to this Agreement acknowledge and agree that the CSA may act for each of them, and exercise all rights as a CSA on their behalf with respect to the Service, the Card Account, Online Portal and Security Procedures for each of them, and that all such use and access are authorized and approved.

**16.3 Guarantee.** Initial Customer unconditionally guarantees to Bank the full and prompt payment and performance of this Agreement by each Approved Related Entity.



## 17. GENERAL PROVISIONS.

17.1 Confidentiality. Customer agrees that all information concerning Bank which comes into Customer's possession in connection with the Service including, but not limited to, software licensed to Customer, User Guides, and pricing and product information shall be maintained as confidential and will not be used or divulged to any other person or entity except as required by Applicable Law or judicial proceedings, or to employees, officers, directors, and service providers as necessary for them to provide their services to Customer.

17.2 Additional Limitations. Bank is not responsible or liable in any way for: (a) the refusal or delay of any other financial institution, merchant, terminal, or any person to honor or accept any Card or the Card Account for any reason; (b) any goods or services purchased or obtained with a Card or charged to the Card Account; (c) any dispute Customer may have with any other financial institution, merchant, or any person over goods or services purchased using the Card or the Card Account; or (d) any failure of a merchant to seek authorization before honoring a Card. Customer is in all events responsible for the purchases and transactions made with the Card or Card Account.

17.3 Enforcement Costs. Customer shall pay to Bank all fees, costs, expenses and other losses Bank incurs in collecting or enforcing any obligation owed by Customer under this Agreement including all reasonable attorneys' fees, court costs and related costs and expenses.

17.4 Amendment. This Agreement may not be amended or modified unless agreed to in writing by Bank and Customer. Bank may, however, amend this Agreement from time to time including the Interest and Fee Schedule by giving notice to Customer in any manner permitted by this Agreement or by sending a copy of the amended documents to Customer's address contained in Bank's records. Bank may, when it determines it is practical to do so, give Customer thirty (30) days prior notice of the effective date of the amendment, unless a different notice or effective date is required by Applicable Law. Use of the Card Account in any way following the effective date of the amendment shall be deemed Customer's acceptance of and agreement to the amendment. If Customer does not agree to the changes as set forth in an amendment, Customer may choose to terminate the Service prior to the effective date of the amendment by giving written notice of termination to Bank, discontinuing further use of the Service and returning to Bank all Cards issued to Customer.

17.5 Validity. To the extent possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under Applicable Law, but if any provision shall be held to be invalid, illegal or unenforceable, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without rendering invalid, illegal or unenforceable the remainder of any such provision or the remaining provisions of this Agreement.

17.6 Integration; Waiver. This Agreement, the Interest and Fee Schedule and the other agreements and documents expressly referenced in this Agreement contain the complete and exclusive understanding of the parties with respect to the Service and supersede any prior or contemporaneous agreements between the parties with respect to the Service. No party's failure or delay in exercising any right or remedy under this Agreement will operate as a waiver of such right or remedy, nor shall any waiver by either party of any breach of its obligations under this Agreement operate as a waiver of any prior, current or subsequent breach. No waiver, alteration or modification of any of the provisions of this Agreement will be binding unless in writing and signed by a duly authorized representative of the party to be bound except as provided in Section 17.4. Neither any course of conduct between the parties nor trade usage will act to modify or alter the provisions of this Agreement. A waiver by Bank or Customer of any term or provision in this Agreement shall not be construed as a waiver of such term or provision at any other time or in any other document.

17.7 Notices. Unless otherwise stated in this Agreement including Section 7.4, all notices shall be in writing. Notices to Bank shall be delivered by hand or recognized courier service, or mailed to Bank at: Mercantile Bank, Attention: Treasury Department, 310 Leonard St NW, Grand Rapids, MI 49504, and shall be effective no earlier than the end of the Business Day following the Business Day after it is received. Notices to Customer shall be delivered by recognized courier service or mailed to Customer's address in Bank's records, and shall be deemed received on the earlier of receipt or three (3) days after mailing. Bank may, at its option, send to Customer any record, notice, disclosure, account statements and other information via electronic means including information that Bank is required by Applicable Law to provide to Customer in writing. Electronic means include all methods Bank employs that deliver visual text or images to be displayed on a computer or mobile device screen (such as e-mail, SMS or other mobile phone text, and posting through a Bank's internet website or the Online Portal). Customer consents to receive account statements and other notices from Bank electronically.

17.8 Force Majeure. Bank is not responsible, and shall not incur any liability to Customer, for any failure, error, malfunction or any delay in carrying out any of its obligations under this Agreement resulting from causes beyond Bank's reasonable control, including fire, casualty, failure of the internet or communications systems lockout, strike, unavoidable accident, act of God, pandemic, act of terrorism, riot, war or the enactment, issuance or operation of any adverse law, ruling, regulation, order or decree, or requirement of any regulatory authority, or an emergency that prevents Bank from operating normally.

17.9 Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Customer may not assign or transfer its rights or obligations under this Agreement without Bank's prior written consent. Bank may assign its rights and obligations under this Agreement in whole or in part without Customer's consent. Except for bank Providers, no other person or entity shall be deemed to be a third party beneficiary of this Agreement.

17.10 Relationship. Bank and Customer acknowledge and agree that this Agreement creates a debtor creditor relationship and nothing in this Agreement creates any fiduciary or other duty on the part of Bank, except as expressly required of Bank under Applicable Law.

17.11 Headings. The section headings in this Agreement are intended to be for reference purposes only, and shall in no way modify or restrict any of the terms or provisions hereof.

17.12 Electronic Execution. The parties agree that this Agreement and any agreement or document referenced in this Agreement may be executed and delivered by facsimile, electronic mail in PDF or similar format or other electronic method (including any electronic signature complying with Applicable Law such as DocuSign) employed by Bank and that the copies or counterpart signatures in such form shall have the same force and effect as delivery of an original with a manual signature. Bank may, however, require that Customer deliver an original of this Agreement with a manual original signature.

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**Interest & Fee Schedule**

INTEREST RATES AND CHARGES		FEES	
<b>Annual Percentage Rate (APR) for Purchases</b>	<b>19.50%</b> This APR will vary with the market based on the Prime Rate.	<b>Annual Fee</b>	<b>None</b>
<b>APR for Cash Advances</b>	<b>19.50%</b> This APR will vary with the market based on the Prime Rate.	<b>Transaction Fees</b>	
		<b>Balance Transfer</b>	<b>None</b>
<b>How to Avoid Paying Interest on Purchases</b>	The Payment Due Date is reflected on the Account Statement. Interest will not be charged on purchases if the entire balance is paid by the Payment Due Date.	<b>Cash Advance</b>	<b>\$25.00</b>
<b>Minimum Interest Charge</b>	If you are charged periodic interest, the charge will be no less than \$0.	<b>Foreign Fees Business Card Only</b>	<b>1.00% of each transaction in U.S. Dollars</b>
		<b>Penalty Fees</b>	
		<b>Late Payment</b>	<b>Up to \$50.00</b>
		<b>Returned Payment</b>	<b>\$10.00</b>
<p><b>Balance Calculation Method (Average Daily Balance Method).</b> The interest charge for a Billing Cycle is computed by applying the monthly Periodic Rate to the “average daily balance” of the Card Account. To get the “daily balance”, we take the beginning balance of your Card Account each day, add any new purchases or cash advances, and subtract any payments, credits, non-accruing fees, and unpaid interest charges. To get the “average daily balance” for a particular Billing Cycle, we add up all of the daily balances for that Billing Cycle and divide the total by the number of days in the Billing Cycle.</p> <p><b>Billing Rights:</b> Information on Customer’s rights to dispute transactions and how to exercise Customer’s rights is provided in the Agreement.</p> <p><b>Interest.</b> The Annual Percentage Rate (“APR”) means the annual rate of interest charged on Card Account balances. The APR is determined each Billing Cycle by adding the applicable margins listed in the Interest and Fee Schedule to the Index Rate. The “<b>Index Rate</b>” is the highest prime rate published in the Money Rates section of <i>The Wall Street Journal</i>. The monthly period rate is calculated by dividing the APR by 12 (the “<b>Periodic Rate</b>”). The APR and the Periodic Rate vary monthly and shall be adjusted on the first day of each month (“<b>Change Date</b>”). However, the Change Date is not the date that the new rate is effective. The effective date of any change to the Index Rate is the 1<sup>st</sup> day of the month after the Change Date (“<b>Effective Date</b>”). Beginning as of the first day of the Billing Cycle during which the Effective Date falls, the monthly Periodic Rate then in effect will be applied to the balance owing on the Card Account to determine the interest charges for such Billing Cycle. An adjustment in the monthly Periodic Rate and corresponding APR will apply both to any existing balances outstanding on the Card Account in the Billing Cycle during which the Effective Date falls and to new cash advances (including any balance transfers from other credit card accounts), credit purchases, and other charges. An increase or decrease in the Index Rate will cause an increase or decrease in the monthly Periodic Rate and corresponding APR and may increase the amount and number of minimum payments. If the Index Rate ceases to be available, we may substitute a substantially similar index.</p> <p><b>Cash Advances.</b> Interest will be charged on cash advances from the date made or from the first day of the Billing Cycle in which the cash advance is posted to the Card Account, whichever is later, and will continue to accrue until the entire balance on the Card Account is paid.</p> <p><b>Prime Rate:</b> Variable APRs are based upon the current Prime Rate as of September 1, 2023.</p> <p><b>Purchase APR:</b> For Purchase transactions, we add a Margin of 11% to the Prime Rate of <b>8.50%</b>. The Purchase APR may increase or decrease each month if the Prime Rate changes.</p> <p><b>Cash APR:</b> For Cash Advance transactions, we add a Margin of 11% to the Prime Rate of <b>8.50%</b>. The Cash APR may increase or decrease each month if the Prime Rate changes.</p>			

INTEREST RATES AND CHARGES & FEE SCHEDULE

**ADDITIONAL CARD SERVICES FEE SCHEDULE**

<b>Online Card Management Portal (eZBusiness)</b>	<b>\$0.00 per month</b>
<b>Expense Management Module (eZBusiness)</b>	<b>\$50.00 per month</b>
<b>Custom Card Graphics</b>	<b>\$750.00 one-time setup fee (\$250.00 per additional image)</b>
<b>Third Party VCF File</b>	<b>\$50.00 per month</b>

## Schedule A: Defined Terms

As used in this Agreement, the following capitalized terms have the indicated meaning:

**“Account Statement”** – the statement or other form of information provided by Bank for each Billing Cycle showing transactions with the Card or through the Card Account, including purchases and cash advances, and interest charges, fees, total Credit Limit, available Credit Limit, and adjustments to the Card Account, the minimum or total payment due, the Payment Due Date and other important information relating to the Card Account.

**“Applicable Law”** – all applicable state, local and federal (and where applicable, foreign) statutes, laws, rules, regulations and common law including the UCC, and Visa Rules and the regulations of any money transfer system.

**“Approved Related Entity”** - any legal entity: (a) the Initial Customer controls, is controlled by or is under common control with; (b) that has been approved for a Card Account and the Service by Bank in writing; and, (c) that has become a party to this Agreement. For this purpose, “control” and the correlative “controlled by” or “under common control” means the possession of beneficial ownership, directly or indirectly, of more than fifty percent (50%) of voting equity of the entity or Initial Customer, as the case may be.

**“Authorized Persons”** – Customer’s officers, employees, agents and other representatives who are authorized to act on behalf of Customer to execute this Agreement and other documents referenced in this Agreement, engage with Bank, use and manage the Service and to designate others with such authority.

**“Authorized Users”** – individuals designated by Customer through the CSA or Authorized Person as having authority to use some or all of the administrative features of this Service.

**“Automatic Payments”** - payments on the Card Account that Customer authorizes Bank to make via Automated Clearinghouse Debit automatically against a demand deposit or savings account at Bank or another financial institution designated by Customer for an amount designated by Customer but not less than the minimum amount due.

**“Bank Provider”** – processors or service providers engaged directly by Bank in connection with the Service.

**“Billing Cycle”** – a period, generally of thirty days, between Account Statement dates during which transactions in the Card Account are recorded and accounted for including fees and interest.

**“Business Day”** – any day on which a majority of Bank’s offices are open to the public for conducting substantially all business functions. Saturdays, Sundays and federal holidays are not Business Days even if a majority of Bank’s offices are open.

**“Card”** – any means by which the right to use the Card Account or pay for or authorize a transaction is evidenced including traditional plastic embossed cards, use of the numbers on the Card electronically or orally, the authorization of virtual card numbers or any other device or process recognized in the Visa Rules.

**“Card Account”** or **“Card Accounts”** – the account or account that Bank established for Customer pursuant to this Agreement through which all transactions with the Card and Service will be accounted for and recorded, including interest charges, fees and adjustments.

**“Cardholder”** – the person to whom a Card is issued or authorized for use by Customer.

**“Credit Limit”** – the maximum amount (including purchases, cash advances, and interest charges) that may be outstanding on the Card Account at any time.

**“CSA”** – the Customer System Administrator.

**“including”** – is intended to mean including, without limitation.

**“Indebtedness”** – Customer’s obligations under this Agreement including: (a) the aggregate outstanding principal amount of any and all advances made on or in connection with the Card Account for all purchases and cash advances (if authorized) resulting from the use of a Card or the Account (including account numbers and virtual cards); (b) interest charges and all other fees and charges owed under this Agreement; and, (c) all other fees, costs, charges, expenses, reimbursements

and other similar obligations from time to time owing to Bank under this Agreement for the indemnification of Bank under this Agreement.

**“Indemnitees”** – the Bank and its directors, officers, employees, and agents, successors and assigns, parent company and affiliates.

**“Initial Customer”** – the Customer first executing this Agreement or otherwise mutually agreed upon by Bank and Customer and designated as Initial Customer, with the authority and obligations established in this Agreement and any related joinder addendum.

**“Interest and Fee Schedule”** – the Interest and Fee Schedule attached to this Agreement as updated from time to time by Bank.

**“Losses and Damages”** – liabilities, damages, claims, obligations, demands, charges, costs or expenses of any kind including reasonable attorneys’ fees and expenses, and court costs.

**“MTSA”** – the Master Treasury Services Agreement executed by Customer and Bank.

**“Notifications”** – certain electronic notifications regarding the Card Account and Service transmitted to Customer by Bank.

**“Online Portal”** – the web portal or application.

**“Payment Due Date”** – the date payment of the Account is due as specified on the Account Statement and as required by the terms of this Agreement.

**“Security Procedures”** – the user credentials, protocols and other systems or procedures provided by Bank for authenticating access to the Online Portal and various features of the Card Account.

**“User Guide”** – the user manual or guide provided by Bank in print or online that provides instructions, directions and other information for the implementation and use of a Service including specifications.

**“Visa Rules”** – the Visa Rules and Policy as published and updated by Visa Inc.