



CITY of NOVI CITY COUNCIL

Agenda Item D
January 23, 2012

SUBJECT: Approval of Commercial Card Service Agreement, Commercial Card Rebate Amendment, and Resolution for Authorization Certificate for Purchase Card with Fifth Third Bank.

SUBMITTING DEPARTMENT: City Managers/Finance/Purchasing

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION:

The City of Novi finance and purchasing staff have been researching purchasing card programs. Purchasing cards, also known as p-cards, procurement cards, multi-cards, are credit cards with added functionality and services. Typically they include rebate or award programs for cardholders.

In August 2011 the City of Rochester Hills sought proposals as the lead community for Michigan Inter-Governmental Trade Network (MITN) cooperative purchasing group, for a purchasing card solution. Based on review and evaluation an award was made by Rochester Hills to Fifth Third Bank. Farmington Hills and several other communities have awarded contracts to Fifth Third.

The program provides cost savings and efficiencies to transaction processing for the City. The Fifth Third program utilizes Mastercard's multi-card (purchasing, travel and fleet) services. The program includes web-based programs allowing real-time online maintenance, authorization control, transaction data within 24-48 hours, liability protection, 3-years of historical data, custom reporting and data integration with the City's financial system. The Fifth Third Program provides a strong customer service component with local support, a crucial element for us to administer a responsible card program.

The **Program Structure and Pricing** are as follows:

- MITN members can participate in the Rebate offering at a level of \$250,000 minimum spend.
- The Rebate is based on the aggregate spend of participating MITN members for a calendar year, and is paid in the first quarter following the end of the calendar year.
- No annual card fees
- No implementation fees
- No transaction fees (certain vendors charge fees, and this information will be obtained prior to using the program with those vendors)
- No training fees
- No fees for online reporting
- No fees for online account maintenance - Commercial Card Management
- No minimum annual spend level requirement

The following **Rebate Offering** schedule will be applied to the combined annual spend of all MITN members participating in the commercial card program:

Annual Volume	Rebate %
\$250,000-\$3,999,999	0.75%
\$4,000,000-\$10,000,000	1.00%
> \$10,000,000	1.15%

The following are additional program elements:

- ✓ Monthly billing cycle
- ✓ 25-day payment date after 30-day billing cycle
- ✓ Fifth Third will provide MITN with administrative reporting
- ✓ Individual members will have online access to their specific card usage for reporting, reconciliation and account maintenance
- ✓ Once \$250,000 minimum spend is achieved, the rebate is calculated back to the first dollar of spend.

The Finance/Purchasing staff recommends the City obtain one card initially with a \$150,000 threshold limit to be used for the following five vendors: AT&T, Verizon, DTE, Consumers Energy and Sprint. These vendors will represent large purchases resulting in the most significant annual rebates. The payment arrangements can be made on-line with each vendor. The card number will be coded in the Fifth Third system for these specific services and will not be used for other purchases. The City will avoid penalty and late fees when payment cycles do not fall within warrant processing cycles for these vendors.

The following attachments are included with this agenda item:

- Resolution for Authorization Certificate for Commercial Card Service Agreement
- Fifth Third Rebate Schedule/Table
- Fifth Third Commercial Card Fee Schedule
- Fifth Third Commercial Card Authorization Certificate
- Fifth Third Commercial Card Rebate Amendment Agreement
- Fifth Third Commercial Card Service Agreement Bid tabulation from Rochester Hills (MITN lead)

Consistent with the City's existing credit card policy, the City Manager is the person authorized to designate who will have access to a card and the card limits. The implementation will be subject to attorney review of the final documents noted above that the City is required to sign.

RECOMMENDED ACTION: Approval of Commercial Card Service Agreement, Commercial Card Rebate Amendment, and Resolution for Authorization Certificate for Purchase Card with Fifth Third Bank.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Wrobel				

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

**RESOLUTION FOR AUTHORIZATION CERTIFICATE FOR COMMERCIAL CARD SERVICE
AGREEMENT**

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall of said City on _____, _____, at ____ o'clock P.M. Prevailing Eastern Time.

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following preamble and Resolution were offered by Councilmember _____ and supported by Councilmember _____.

WHEREAS IT IS RESOLVED, the City of Novi (the "City") is authorized to obtain from Fifth Third Bank (the "Service") the right to use credit or purchasing cards and accounts on the credit of the City and thereby incur indebtedness and pay fees and finance charges on behalf of the City, and to enter into such agreement or agreements for the Service as are required by Fifth Third Bank from time to time, including a Commercial Card Services Agreement or similar agreement, and related agreements ("Card Agreements") each of which, when accepted or signed by an "Authorized Person" described below is authorized, approved and adopted by this City;

RESOLVED FURTHER, that the City Manager is authorized on behalf of the City and in its name to do any of the following:

- execute and deliver any and all of the Card Agreements and any amendments to the Card Agreements;
- designate those employees, agents, and other representatives, groups or divisions and other persons who will be authorized to receive and use cards and other rights to incur indebtedness in connection with the Service;
- designate, and advise Fifth Third Bank of the identity of a person or persons who will serve as administrator with respect to the Service and have authority to, among other powers specified in the Card Agreements: manage the service on behalf of the City; select and administer security and operating procedures; designate persons as authorized users of a

service; and, enable and administer user identification codes, passwords and other identification data.

RESOLVED FURTHER, Fifth Third Bank is authorized to rely on the full and unrestricted authority as provided in these resolutions of any one Authorized Person unless otherwise certified to Fifth Third Bank by the City Clerk;

RESOLVED FURTHER, that the City Clerk is authorized to deliver a certified copy of this Resolution to Fifth Third Bank and certify to Fifth Third Bank the name, title and specimen signature of each Authorized Person.

NOW THEREFORE, IT IS THEREFORE RESOLVED that the City of Novi is authorized to enter into a Commercial Card Service Agreement with Fifth Third Bank.

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

Maryanne Cornelius, City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this _____ day of _____, 2012, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

Maryanne Cornelius, City Clerk
City of Novi



**MULTI CARD REBATE
SCHEDULE/TABLE EXHIBIT A**

**Michigan Inter-governmental Trade Network (MITN)
Purchasing Card Consortium**

City of Novi

Annual Volume	Rebate %	Large Ticket
\$250,000 - \$3,999,999	.75%	.50%
\$4,000,000 - \$9,999,999	1.00%	.50%
\$10,000,000 and Above	1.15%	.50%

Rebate schedule/table will be applied to the combined calendar year spend of all MITN members participating in the commercial card program.

Individual MITN members must reach a minimum calendar year spend of \$250,000 to participate in the rebate offering.

All terms and conditions are subject to the Commercial Card Rebate Agreement



**Michigan Inter-governmental Trade Network (MITN)
Purchasing Card Consortium**

**City of Novi
Commercial Card Fee Schedule**

Card Fees:

- No Annual Fee per card
- New Card Delivery – U.S. Mail = No Charge
- New Card Delivery – Overnight Mail = \$25.00 / (No Charge for initial card order)
- Emergency Replacement Card Delivery (Overnight) – \$25.00 per card

Online Reporting:

- Smartdata.gen2: No Charge

Online Card Maintenance:

- No Charge for Commercial Card Management (CCM)

Transaction Fees:

- smartdata.gen2: No Charge
- Cash Advance Finance Charge = 19.8% (if allowed in your program)
- Cash Advance Charge = 3% of total dollar amount advanced (minimum \$3.00) – if allowed in your program
- Foreign Currency Conversion Fee = 2% of transaction amount

Program Implementation/Set-up and Training:

- No Charge for implementation/setup and training (Train the Trainer)

Fraud Protection (including fraud screening and insurance):

- No Charge for fraud protection – MasterCard MasterCoverage
 - o Applies only to cards issued in the names of specific individuals; does not apply to generic cards (i.e., cards that can be used by multiple individuals)

Account Fees:

- Annual Program Fee – Currently \$150.00
(Waived if >\$250,000 spend in calendar year)
- Finance Charge = 19.8% (for late payments)
- Late Charge = \$29.00 per month per delinquent account
- Returned Payments = \$35.00 per occurrence
- Excess Credit Line Charge = \$35.00 per occurrence

All terms and conditions are subject to the Commercial Card Service Agreement

Authorization Certificate for Commercial Card Service Agreement

To Fifth Third Bank:

I HEREBY CERTIFY that:

I am a duly authorized by the company, entity or public body identified below (the “*Company*”) in my official capacity with the Company (“*Certifying Person*”) to certify to the matters set forth below for purposes of establishing the authority of the Company and certain persons as described in this Certificate; and

The following resolutions (“*Account Resolutions*”) were duly and properly adopted by the board of directors, trustees or managers, or the members, partners, shareholders or other governing body (“*Governing Body*”) of the Company, have not been rescinded or modified and remain in full force and effect:

WHEREAS IT IS RESOLVED, the City of Novi (the “*City*”) is authorized to obtain from Fifth Third Bank (the “*Service*”) the right to use credit or purchasing cards and accounts on the credit of the City and thereby incur indebtedness and pay fees and finance charges on behalf of the City, and to enter into such agreement or agreements for the Service as are required by Fifth Third Bank from time to time, including a Commercial Card Services Agreement or similar agreement, and related agreements (“*Card Agreements*”) each of which, when accepted or signed by an “*Authorized Person*” described below is authorized, approved and adopted by this City;

RESOLVED FURTHER, that the City Manager is authorized on behalf of the City and in its name to do any of the following:

- execute and deliver any and all of the Card Agreements and any amendments to the Card Agreements;
- designate those employees, agents, and other representatives, groups or divisions and other persons who will be authorized to receive and use cards and other rights to incur indebtedness in connection with the Service;
- designate, and advise Fifth Third Bank of the identity of a person or persons who will serve as administrator with respect to the Service and have authority to, among other powers specified in the Card Agreements: manage the service on behalf of the City; select and administer security and operating procedures; designate persons as authorized users of a service; and, enable and administer user identification codes, passwords and other identification data.

RESOLVED FURTHER, Fifth Third Bank is authorized to rely on the full and unrestricted authority as provided in these resolutions of any one Authorized Person unless otherwise certified to Fifth Third Bank by the City Clerk;

RESOLVED FURTHER, that the City Clerk is authorized to deliver a certified copy of this Resolution to Fifth Third Bank and certify to Fifth Third Bank the name, title and specimen signature of each Authorized Person.

NOW THEREFORE, IT IS THEREFORE RESOLVED that the City of Novi is authorized to enter into a Commercial Card Service Agreement with Fifth Third Bank.

I further certify that:

- these resolutions do not conflict with or contravene the certificate or articles of incorporation or organization, the bylaws, operating agreement, empowering law or similar governing documents or law of, or any agreement, law or regulation applicable to the Company; and
- each of the following persons has been designated by the Governing Body as an Authorized Person with the authority specified in the foregoing resolutions, and the signatures indicated below are genuine signatures of the indicated persons:

AUTHORIZED PERSONS

<u>Name of Authorized Person</u>	<u>Title of Authorized Person</u>	<u>Specimen Signature of Authorized Person</u>
1. Clay J. Pearson	City Manager	
4.		
5.		

IN WITNESS WHEREOF, I have subscribed my name to this Certificate on behalf of the following Company:

Exact Name of Company: _____

Duly organized under the laws of the State of _____

Taxpayer Identification Number: _____

Signature: _____

Print Name: _____

Title: _____

Dated: _____



COMMERCIAL CARD REBATE AMENDMENT

This Commercial Card Rebate Amendment (“*Amendment*”) amends the Commercial Card Service Agreement (as amended from time to time, the “*Card Agreement*”) currently in effect between the “Customer” identified on the Signature Page (“*you*”) and Fifth Third Bank (“*we*” or “*us*”). Capitalized Terms used but not defined in this document have the meaning assigned to them in the Card Agreement.

1. **Definitions.** As used in this Amendment, the following terms have the indicated meanings:

“**Calendar Year**” means the period from January 1 of a year through December 31 of the same year; if the Effective Date is other than January 1, the first Calendar Year will be deemed to commence on the date this Agreement is signed and end on December 31 of the same year as the Effective Date, and the last Calendar Year shall be deemed to end on the date of the expiration or termination of the Rebate Term (as defined below) and to begin on the immediately preceding January 1 of the same year in which the expiration or termination occurred.

“**Card Losses**” means, for any Calendar Year or other period for which a rebate is calculated, the amount of charge-offs and other losses we incur in connection with your Account as a result of your failure to pay any amount owing on the Account as principal, interest or fees or other charges, but not including amounts not chargeable to you under the Card Agreement as a result of the Fifth Third Use Liability Policy.

“**Effective Date**” means if this Agreement is signed by us on the first day of a calendar month, the date of this Rebate Amendment; otherwise, the first day of the first full calendar month after this Rebate Amendment is signed by us.

“**Large Ticket Transactions**” means, as defined by MasterCard, transactions that provide certain line item detail and have a minimum transaction threshold each as established by MasterCard.

“**Qualified Volume**” means the US dollar amount of transactions for the purchase of goods and services attributable to a MasterCard Card issued under the Card Agreement during the period of calculation excluding: (a) the principal amount of any balance transfer, cash advances or checks, credits and returns, account fees, finance charges, transaction fees, delinquency fees, over-the-limit fees, and any other fees imposed by us, MasterCard or another entity; (b) Card Losses; and (c) any other amounts not chargeable to you under the terms of the Card Agreement including by virtue of the Fifth Third Use Liability Policy or similar protection plan provided by the Card Association or otherwise. “Qualified Volume” may also be referred to as “Spend” or “Rebate Spend.”

2. Rebate.

Determination. In consideration of your use of the Card and Account in accordance with the Card Agreement and your full and timely performance of your obligations under the Card Agreement and this Amendment, and subject to the fulfillment of the Rebate Conditions (as defined below), we will pay to you for each Calendar Year during the Rebate Term a rebate (“*Rebate*”) equal to the sum of: (a) product of the amount of Qualified Volume for such Calendar Year (excluding Large Ticket Transactions) multiplied by the Rebate Percentage in the row corresponding to your total Qualified Volume (including Large Ticket Transactions) for such Calendar Year and in the column under your payment terms, all as set forth in the rebate table attached as Exhibit A; plus (b) the product of the rebate percentage for Large Ticket Transactions set forth on Exhibit A multiplied by the Qualified Volume of Large Ticket Transactions in such Calendar Year. For any Calendar Year that is less than twelve months, your actual Qualified Volume for such period will be annualized to determine the applicable rebate tier and the actual Qualified Volume for such period will be multiplied by the rebate percentage in the applicable tier. If you do not meet the minimum Qualified Volume level for a Calendar Year, no Rebate will be payable for that Calendar Year. ***This Amendment is not valid unless Exhibit A including a Rebate Table is attached or deemed attached to this Amendment at the time of signing this Amendment.***

Calculation. There will be deducted from each Rebate otherwise payable to you the amount of all Card Losses attributable to the Calendar Year in which the rebate was earned or any subsequent period. We will calculate the Qualified Volume and applicable Rebate in good faith and our determination will be final in the absence of manifest error. All Rebates will be paid in cash within the first quarter following the Calendar Year in which the Rebate was earned.

Rebate Conditions. To be eligible for the Rebate for a Calendar Year, you must: (a) maintain the Account in good standing throughout such Calendar Year by timely paying all amounts due on the Account each month in accordance with the Card Agreement and otherwise being in compliance with, and not in default under the Card Agreement; (b) continue to actively use the Account during the entire Calendar Year; and (c) following the end of the Calendar Year (other than following expiration or termination of this Amendment), continuing to use the Account at a spending rate generally consistent with the preceding Calendar Year (the “*Rebate Conditions*”). In addition, if this Amendment or the Card Agreement is terminated by you for any reason or is terminated by us as a result of a Rebate Default (as defined in Section 3), you will be deemed to have failed to meet the Rebate Conditions for the Calendar Year in which such termination occurs. If the Rebate Conditions are not satisfied in or with respect to any Calendar Year, you are not entitled to a Rebate for that Calendar Year.

Adjustment Events. Your rebate terms have been established based in part on certain assumptions relating to a number of external conditions including interest rate and market conditions, your financial condition, and current regulatory requirements (including interchange fee requirements and price restrictions). Should a significant change in such conditions or requirements occur, we reserve the right to adjust your rebate terms to reflect the effect of such change on us as determined by us in good faith. We will give you not less than ninety (90) days notice of the implementation of any such adjustments.

3. **Rebate Term.** Unless terminated sooner as provided in this Amendment, the term of this Amendment (“*Rebate Term*”) shall commence on the date this Agreement is executed and shall expire on the day immediately preceding the third anniversary of the Effective Date; provided however, that unless either party gives to the other party written notice of non-renewal of the Rebate Term not later than sixty (60) days prior to the expiration of the stated Rebate Term, the Rebate Term shall automatically be extended on a month-to-month basis until such time as this Amendment is terminated by either party upon sixty (60) days written notice. This Amendment and the Rebate Term terminate automatically upon the termination of the Card Agreement. We may terminate this Rebate Amendment in our discretion at any time by giving you written notice (a) upon the occurrence of any default under the Card Agreement or (b) upon any default by you in connection with any loan or advance we or any of our affiliates have made to you, or under any other indebtedness, obligation or liability you owe to us or any of our affiliates, whether now existing or arising in the future (any such event in clause (a) or (b), a “*Rebate Default*”).

4. **Effect.** This Amendment amends the Card Agreement solely for purposes of establishing a rebate and performance bonus opportunity for you during the Rebate Term. All provisions of the Card Agreement not inconsistent with this Amendment shall remain unchanged and in full force and effect, and are ratified and confirmed. In the case of any irreconcilable conflict between the various provisions in the Card Agreement and this Amendment, the provisions of this Amendment shall prevail.

5. **Miscellaneous.** We represent and warrant to each other that this Amendment has been authorized by all necessary corporate or other entity action, and that the person signing this Amendment on our behalf is duly authorized to do so. The captions in this Amendment are included for convenience only and shall not affect the meaning or interpretation of this Amendment. This Amendment evidences the entire agreement and understanding between us respect to the subject matter of this Amendment and supersedes all prior agreements and discussions between us with respect to that subject matter.

**** Signature Page Follows****

Signature Page to Commercial Card Rebate Amendment

EXECUTED THIS _____.

FIFTH THIRD BANK

CUSTOMER:

By: _____

Print name: _____

By: _____

Print title: _____

Print name: _____

Print title: _____

**PAYMENT TERMS: [CUSTOMER INITIAL
PAYMENT TERM SELECTED]**

30/15 _____

30/25 _____

OTHER (SPECIFY, SUBJECT TO OUR APPROVAL)

**IF NOT INITIALED, REBATE WILL BE BASED ON
30/25**

Fifth Third and *Fifth Third Bank* are registered service marks of Fifth Third Bancorp.

Member FDIC.

EXHIBIT A
(Attached)

This Amendment is NOT valid unless the Rebate Table is attached. If, however a Rebate Table is not attached to this Amendment but there is in effect and not superseded a Rebate proposal from us set forth in a writing signed in ink by one of our authorized representatives that has been accepted by you, signed by you in ink, returned to us you and appears in our records, that Rebate proposal is deemed incorporated into this Exhibit A. If a Rebate Table is attached to this Amendment, that Rebate Table supersedes any such proposal.



COMMERCIAL CARD SERVICE AGREEMENT

This Commercial Card Service Agreement (this "*Agreement*") is entered into by and between Fifth Third Bank, an Ohio banking corporation ("*Bank*" or "*we*") and the undersigned Customer ("*Customer*" or "*you*") effective as of the date accepted by Bank as written on the signature page to this Agreement.

1. *Introduction*

The Service. We will provide to you our Commercial Card Service (the "*Service*") as provided in this Agreement. The Service consists of the Account, the Cards and the related services we provide or make available to you as described in this Agreement. Important features of the Service are selected by you in the Service set up and implementation process as described below. The Service may only be used for business or commercial purposes and not for family, household or consumer purposes. This Agreement is not binding on us until one of our authorized officers has executed it and delivered the signed copy to you.

Information. Before we can make the Service available to you, you are required to complete a set up and implementation process and complete related forms, and provide us with evidence satisfactory to us of the authority of the individuals acting on your behalf ("*Authorized Persons*"). This process includes the selection of important features and options available with the Service and the designation of persons with authority to act for you. Some of this information will be entered into forms by one of our representatives. In addition, we may require information or the execution of documents at various times throughout the duration of this Agreement. You agree to provide any information and to execute documents that we reasonably require in order to provide the Service to you. Additional information about, and requirements for the Service and various features of the Service are included in the reference guides and other information we provide to you in the set up process and throughout your use of the Service (as updated from time to time, "*User Guides*").

Representatives. We will rely on the information provided to us by you or an Authorized Person or other agents, officers, employees and representatives ("*Representatives*") in providing the Service to you. Any changes to the information you provide us must be promptly communicated to us and confirmed or given in writing. Such changes shall be effective only after we receive the proper request for such changes and we have had a reasonable opportunity to act on such request. Until then, we may rely on acts that purport to have been authorized by individuals you previously authorized. You agree that we may refuse to comply with requests from any person until we receive documentation reasonably satisfactory to us confirming the person's authority.

2. *Establishment of Account and Issuance of Cards*

The Account. Upon completion of the set up process, we will establish for you a commercial credit account ("*Account*") subject to the credit limit we establish, and issue one or more cards (or similar devices) and account numbers associated with your Account ("*Card*" or "*Cards*") to your Representatives as designated by you from time to time ("*Cardholders*") in accordance with the Service procedures. At your request, Cards may be issued in the name of a group or department or as a Nameless Card (as described below), and we can enable you to effect transactions solely with a Card or account number without a physical card or device; the use of an account number is considered the use of a Card for purposes of this Agreement. All use of such Cards and transaction are considered as effected by a Card for purposes of this Agreement. We will issue each Card for the original term indicated on the Card. We will honor all transactions unless the Card or the Account has been effectively cancelled as provided in this Agreement. Unless and until a Card has been properly cancelled, the Card is valid, it may be used for transactions and renewal or replacement Cards will be issued for them as appropriate. Once issued as requested by

you, you are solely responsible for the use of the Card by the Cardholder and for imposing and enforcing any limits or restraints you wish to impose on a Cardholder's use of the Card. Except for specific features of the Service relating to restricted merchant codes which are properly implemented and used by you and reported by the merchant, you are solely responsible to us with respect to a Cardholder's use of a Card.

Cardholders. You are responsible for the use of each Card and account number by you and each of your Cardholders. As part of this responsibility, you agree: (a) that you will require each Cardholder to limit use of Cards to business or commercial purposes on your behalf; (b) to review, or cause each Cardholder to review the Cards upon receipt to confirm that all information relating to you or the Cardholder on the Card is correct, and to notify us immediately if the information is not correct; (c) to impose internal controls and procedures to prevent fraud and unauthorized use of a Card; and (d) to timely review and reconcile all Account activity and transactions as further described below.

Transactions. Cards and the Account may be used to effect the purchase or reservation of goods or services and cash advances by all generally recognized means unless otherwise restricted including swipe, virtual card numbers (if you select this feature of the Service), signed seller drafts, telephone, internet entry, use of an account number or otherwise. We are not responsible for the failure or refusal of anyone to honor a Card. Subject to the express limitations set forth in this Agreement, you are 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 you or violates your internal policies, controls or restrictions.

3. *Card Administrator*

In the set up process, you will appoint an individual to serve as your administrator ("**Card Administrator**") with complete authority to administer and manage the use of the Service on your behalf. Unless restricted by you in the set up process, the Card Administrator has the authority to: designate personnel including the Card Administrator with access to some or all of the administrative features of the Service; designate persons who will be issued Cards and become Cardholders and establish their individual Card credit limit; cancel a Card and change the credit limit associated with a Card; obtain information and reports about, and monitor Account and Card use; and, accept and act on all communications from us regarding the Service. If you choose to utilize any of the Online Features or Card Payable (each as described below) available with the Service, the Card Administrator will have the additional authority described with that feature. We rely on the authority of the Card Administrator in providing the Service to you.

4. *Promise to Pay*

Obligation. You promise to pay us all Obligations without deduction or setoff, in accordance with this Agreement. Subject to the limitation under "**Fifth Third Use Liability Policy**" in the following paragraph, you are required to pay us whether or not the use of the Account, Card, account numbers or other incurrence of indebtedness was authorized by you. Cancellation of a Card or termination of the Account does not in any way excuse your obligation to pay for all purchases or other charges incurred against or in connection with the Account or with any Card or account number through the effective time of the cancellation or termination. As used in this Agreement, "**Obligations**" means (a) the aggregate outstanding principal amount of, and all interest, fees and charges on advances made by us on or in connection with the Account, through the use of a Card, an account number or otherwise (including any interest accruing after the commencement of any proceeding by or against you under the federal or state bankruptcy laws, or insolvency or other similar law, and any other interest that would have accrued but for the commencement of such proceeding), (b) all of your obligations and liabilities for the indemnification of us under this Agreement, and (c) all fees, costs, charges, expenses, reimbursements and other similar obligations from time to time owing to us under this Agreement.

Fifth Third Use Liability Policy. If you believe that a transaction on your Account was unauthorized, you must notify us as soon as possible but not more than sixty (60) days after the transaction in question appears on your Account Statement. You will be required to provide us with reasonable information about the transaction to enable us to investigate the matter, and to reasonably cooperate with us in any investigation. If you do that, and the following conditions are met, you will not be responsible for the transaction: (a) the transaction was not effected by a current or former employee or other Cardholder designated by you; (b) there are no past due obligations on the Account; and, (c) you have exercised reasonable care in safeguarding your Cards and Account from unauthorized use including that you did not provide, directly, by implication or otherwise, the right to use a Card or the Account.

to the person effecting the transaction, or receive any tangible benefit from the transaction. If the conditions in this paragraph are satisfied, we will credit your Account for the amount of the transaction in question and any fees and interest that may have been applied or accrued as a result of that transaction. In addition, the Card Association may offer a liability protection program, to which unauthorized use of the Card may be subject. We will provide a copy of the Card Association's program literature upon request.

5. *Periodic Account Statements*

Effect. After the close of each billing cycle, we will mail or transmit to you an Account Statement, with transactions on each Card during the billing cycle itemized separately as subaccounts on the main Account. You may also request in writing that we mail or transmit individual statement memos to each Cardholder. The Account Statement will show transactions that have been posted to the Account in connection with any Card since the last Account Statement, any payments and adjustments to the Account, any fees charged to any Card or the Account, any finance charges, the outstanding balances on each Card and on the Account and the Payment Due Date.

Discrepancies. If there is a discrepancy between your records and the information shown on any Account Statement or other confirmation, or you discover any other error in an Account Statement or confirmation, you must notify us within thirty (30) calendar days after you receive such Account Statement or confirmation, or within such greater amount of time as may be imposed by applicable law. You must also follow the procedures described in the User Guide. If you fail to notify us within such 30-day period and follow the prescribed procedures, you may be precluded from asserting the discrepancy against us and you will be obligated to us as provided on the applicable Account Statement. All entries in our books, records and accounts shall constitute conclusive evidence of transactions unless you furnish proof of manifest error.

Foreign Currency Transactions. To convert transactions made in foreign currencies into U.S. dollars, the relevant card association or its affiliate ("*Card Association*") will use its then-current currency conversion rates and the procedures established by such Card Association in its sole discretion. Currently, the currency conversion rate used to determine the transaction amount in U.S. dollars is generally either a wholesale market rate or a government-mandated rate in effect on the date of the conversion, increased by the applicable conversion charge determined by the Card Association, if any. The currency conversion rate used on the conversion date may differ from the rate in effect on the date you or any Cardholder used their Card or the Account.

6. *Making Payments*

Payment Due Date. Payment of the full amount of the Account as shown on the Account Statement is always due on or before the Payment Due Date shown on the Account Statement. The Service is a full pay Account - you must pay in full the amount specified on the Account Statement. Any amount of the Account balance not timely paid is subject to a finance charge as calculated by us.

Payments. You agree to make all payments by check or other negotiable instrument drawn on a U.S. financial institution located in the U.S., money order or by electronic transfer as you and we agree in the set up process. Payments must be made in U.S. dollars. All payment must be delivered or transmitted to us in the manner and to the destination agreed in the set up process. Payments not delivered or transmitted to that destination will not be treated as timely received. Payments received after 3:00 p.m., Eastern Time, on any business day or on a day which is not a business day will be credited on the next business day. Credit to any Card or the Account may be delayed for up to five days if the payment is (a) not made in U.S. dollars drawn on or from a U.S. financial institution located in the U.S. or by money order, or (b) not accompanied by the proper account number and if not made electronically, not accompanied by the top portion of the Account Statement. Delayed crediting may cause you to incur additional fees and finance charges.

Debit Authorization. If you and we have agreed in the set up process or at any time in writing that payments may be direct debits to your banking account, you authorize us to initiate debit entries to the account with the financial institution you designate for the amount due on the Account Statement until you have properly revoked the authorization. You agree to be bound to the NACHA Operating Rules as a "Receiver" of authorized debit entries and that we are an authorized originator of debits to the account specified in the set up process.

Application. We reserve the right to apply payments and other credits to the Account in any manner that we may choose in our sole discretion. All credits for payments to the Account are subject to final payment or settlement by

the institution on which the item of payment was drawn or from which the electronic payment was made. Although we may post payments as of the date we receive them, the available credit limit associated with the Account may not be restored for up to five days after we receive the payment.

7. *Fee Schedule*

Fee Schedule. Except as we may agree in a written agreement executed by our authorized representative and delivered to you by us, you agree to pay all fees, interest and charges associated with the Account including those set forth in the Account Fees Schedule (the "*Fee Schedule*") attached to, or accompanying the executed version of this Agreement which is incorporated into this Agreement by this reference; if a Fee Schedule is not so attached or accompanying the executed version of this Agreement, you agree to pay our standard account fees, interest, penalties and charges. The Fee Schedule may be revised by us as provided in Section 20 of this Agreement. If there is any conflict between this Agreement and the Fee Schedule, this Agreement shall govern, but only to the extent reasonably necessary to resolve the conflict.

Charges. Any finance charges, fees and other amounts, including penalties, assessed against the Account will be posted as direct charges to the Account and will count against the applicable credit limit. Fees and finance charges will be assessed at the rates set forth in the Fee Schedule or, if applicable, a written agreement executed and delivered by us and you.

8. *Account Controls*

Your Obligation. You are responsible for monitoring the use of the Cards, account numbers and the Account, and detecting unauthorized or improper use. We offer online account management tools through the Online Features to assist you in carrying out this responsibility, including access to transaction information and the means to cancel a Card or impose limits on the use of a Card. You are responsible for cancelling any lost, misused or stolen Cards, Cards which you suspect may have been the subject of fraud, unauthorized use or misuse, and the Card (and associated authorization) of any Cardholder no longer authorized by you to use a Card, whether as a result of termination of employment or otherwise. You are responsible for retrieving the cancelled Card and destroying it to prevent further use. You may also cancel a Card or terminate a Cardholder's use of a Card by calling our customer service center. **All telephone communications by you to us must be made by calling our customer service center at 1-800-375-1747 as soon as the need arises.** You understand that we will require a reasonable amount of time to act on any request made by telephone.

Our Programs. We may (but are not obligated to) apply software programs and other techniques to detect patterns and other indications of potential fraud and authorized use of the Account. These programs and techniques are not a substitute for proper Account management and the implementation and enforcement of Card controls by you, and cannot be relied upon to prevent fraud or unauthorized use. Our techniques may, however, result in the denial of a transaction, reduction of limits or other actions by us as indicated by such programs and techniques.

9. *Credit Limit*

Establishment. We will establish an aggregate credit limit for the Account and communicate the limit to you prior to or during the set up process. You are responsible for specifying a credit limit for each individual Card or class of Cards you request for Cardholders. You understand that you can impose and change Card limits through the Online Features. We may refuse to authorize any transaction against a Card that would bring the total amount outstanding against the Card or against the Account as a whole to a level that would exceed the relevant credit limit.

Over-limit Transactions. If we determine in our sole discretion to authorize or accept a transaction on the Account or a Card that would exceed the credit limit for the Account or that Card, we shall not be liable for doing so. If we authorize or accept a transaction which exceeds the relevant credit limit, you shall, at our request immediately pay in full the entire amount of the excess, together with any applicable over-limit charges and related fees.

Changes. We may from time to time and in our sole discretion (a) change the Account's or any Card's credit limit(s), (b) reduce the Account or Card credit limit to \$0, (c) cancel one or more Cards or close the Account, or (d) limit the number and amount of transactions on the Card or the Account. We will notify you promptly in the event we decide to take such action on the Account. While we expressly reserve the discretion described in this Section,

except for cases of known or suspected fraud, changes resulting from regulatory requirements or where we believe there exists a risk of loss to us, we will use commercially reasonable efforts to consult with you in advance prior to reducing credit limits for the Account or any Card.

10. Representations and Warranties

Ours. We represent and warrant to you that: (a) we have the legal right to execute and perform our obligations under this Agreement; (b) we are duly organized, validly existing and in good standing under the laws of Ohio; (c) the execution and delivery by us of this Agreement has been authorized by all necessary corporate and required governmental action; (d) the person or persons signing this Agreement on our behalf are duly authorized to do so; and, (e) our execution, delivery and performance of this Agreement do not violate any laws, rules or regulations affecting us or the provision of the Service, our articles of association or bylaws, or any material agreement that is binding on us.

Yours. You represent and warrant to us that: (a) the financial statements you have delivered or made available to us have been prepared in accordance with applicable governmental accounting standards for Michigan municipalities, and fully and fairly present your financial condition as of the dates of the statements and results of operations for the periods covered by the statements; all other financial information you have provided is true and correct; and you have not suffered or incurred a material adverse change in your business, financial condition or operating results since the date of the most recent financial statements you provided to us, and are not subject to any material undisclosed liability; (b) you have the legal right to execute and perform your obligations under this Agreement; (c) you are duly organized, validly existing and in good standing in the jurisdiction in which you were organized; (d) the execution and delivery by you of this Agreement and the incurrence of the Obligations have been authorized by all necessary corporate and required governmental action; (e) each person signing this Agreement on your behalf is an Authorized Person and is duly authorized to do so; and, (f) your execution, delivery and performance of this Agreement do not violate any laws, rules or regulations affecting you or your use of the Service, your articles of incorporation, bylaws or similar governing documents, or any material agreement or obligation to which you are subject.

11. Confidentiality, Security and Privacy

Your Obligations. You represent that you have in place, and covenant that you will maintain in effect and enforce reasonable policies and measures to reduce the incidence of fraud and other unauthorized use of, and access to Cards and your Account and to preserve the confidentiality of your Account numbers and account access procedures. In addition, you agree to safeguard, keep confidential and not disclose to any third party any Security Procedures, except to the extent you determine such disclosure to be required by law. You must notify us immediately if there has been a breach of your security, or any Security Procedures have been have been lost, stolen, compromised or misused.

Our Obligations. We acknowledge that all non-public information we obtain from you in providing the Service may be confidential. We will maintain the confidentiality of such information in accordance with our normal procedures for safeguarding customer information. We may, however, share your information in accordance with the Fifth Third Privacy Notice for Commercial Customers which is available on our website at www.53.com.

Business Continuity. Throughout the term of this Agreement, we shall maintain off-site business continuity capabilities designed to permit us to recover from a disaster and continue providing the Service in accordance with our business continuity plan and capabilities. Our business continuity capabilities will permit the recovery from a disaster and resumption of the provision of the Service to you within a commercially reasonable period as dictated by the particular recovery rating of the system or application in question.

12. Disclaimer of Warranties

We disclaim all warranties expressed or implied in connection with the Service, and any such warranties are hereby expressly excluded. We do not warrant that the Service shall be error free or that the use of the Service shall be uninterrupted. **YOU WAIVE ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

13. *Limitation of Liability*

YOU AGREE TO THE MAXIMUM EXTENT PERMITTED BY LAW THAT IN NO EVENT WILL WE BE LIABLE FOR ANY DAMAGES THAT YOU OR ANY OTHER PERSON MAY INCUR OR SUFFER IN CONNECTION WITH THE SERVICE THAT ARE NOT DIRECT, ACTUAL DAMAGES RESULTING FROM OUR BAD FAITH, GROSS NEGLIGENCE OR WILFULL MISCONDUCT IN PROVIDING THE SERVICE. WE WILL NOT IN ANY EVENT BE LIABLE FOR ANY CONSEQUENTIAL, PUNITIVE, SPECIAL OR SPECULATIVE LOSSES OR DAMAGES EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES. We shall not in any event be liable for (a) any loss, damage or injury caused by any act or omission of any third party, whether or not such third party was chosen by us, (b) any charges imposed by any third party, or (c) any loss, damage or injury caused by any failure of the hardware or software used by a third party to provide the Service to you. In addition, we shall not be responsible for, or incur any liability to you for any failure or delay in carrying out any of our obligations under this Agreement, if such failure or delay was caused by any third party.

14. *Your Indemnification Obligations*

You agree to indemnify and hold us and our officers, directors, employees, shareholders and agents harmless from and against any and all losses, liabilities, actions, claims, judgments, settlements, damages, costs and expenses, including reasonable fees, expenses and costs of outside and in-house legal counsel (collectively, "*Losses*") resulting directly or indirectly from, or arising in connection with (a) our providing the Account or Cards, extending credit to you or otherwise providing the Service to you (other than Losses that result from our bad faith, gross negligence or willful misconduct), and (b) your violation of any of your representations, warranties or covenants under this Agreement.

15. *Special Situations*

Nameless Cards. If you request that we issue Cards without the individual Cardholder's name embossed or otherwise noted on the Card (a "*Nameless Card*"), you acknowledge that we strongly recommend against the use of Nameless Cards. Nameless Cards present, among other risks, the increased risk of loss to you from fraud and unauthorized or improper use. If you nevertheless request that we issue Nameless Cards, we will issue them to you but you assume all known and unforeseeable risks associated with the use of a Nameless Card and release us and our Representatives from any and all liability for issuing a Nameless Card. You further agree to indemnify and hold us and our Representatives harmless from and against any and all Losses we may suffer or incur arising out of or related to the issuance by us or use by you of Nameless Cards (other than Losses that result from our bad faith, gross negligence or willful misconduct).

Individual Billing. If you request that we bill any Cardholder individually (a practice sometimes referred to as "*Individual Billing*"), you acknowledge that we recommend against the practice. If you nevertheless request, and we agree to send individual Account Statements to one or more individual Cardholders, you acknowledge that you are in no way relieved of any of your Obligations under this Agreement whatsoever including the obligation to timely pay the full amount due for that Card and all other Cards by the applicable Payment Due Date, as well as all applicable fees, interest and charges. You assume all known and unforeseeable risks associated with Individual Billing and release us and our Representatives from any and all liability for Individual Billing. You further agree to indemnify and hold us and our Representatives harmless from and against any and all Losses we may suffer or incur arising out of or related to Individual Billing (other than Losses that result from our bad faith, gross negligence or willful misconduct).

16. *Default*

Subject to applicable law, you shall be in default under this Agreement upon the occurrence of any one of the following: (a) you fail to make any payment of any Obligation when due in accordance with provisions of this Agreement; (b) you become generally unable to pay your debts as they become due; (c) any other creditor tries by legal process to take any of your assets in our possession; (d) a petition is filed or other proceeding is commenced by or against you with respect to your company under the federal bankruptcy code or any other applicable federal or state insolvency laws; (e) you provide us with any false or misleading material information; (f) you breach any covenant or undertaking under this Agreement; (g) you are in default of any other credit agreement you have with

us or any of our affiliates; (h) you violate any applicable law in connection with the Account or use of the Cards; (i) you become insolvent, are placed in receivership or adjudicated bankrupt or you become subject to any voluntary or involuntary bankruptcy proceeding or any assignment for the benefit of your creditors; (j) any guarantor or other third party that has guaranteed or assumed any responsibility for the Obligations is in default of any guaranty or similar agreement with us; or (k) we believe in good faith that your ability to pay or perform the Obligations under this Agreement is or has been impaired. You may incur fees or other charges in connection with a default. The payment of any fee or other charge will not cure the default that triggered the fee or charge.

If you are in default under this Agreement, we may in our sole discretion, subject to applicable law take any one or more of the following actions: (i) declare all or any portion of the Obligations to be immediately due and payable; (ii) allow you to repay the Obligations according to the terms of this Agreement; (iii) immediately terminate this Agreement, the Account and any and all Cards and authorizations relating to the Account; (iv) revoke or suspend the use of the Account, reduce the Account credit limit or otherwise limit your ability to use any Cards; and, (v) commence an action against you to collect all amounts owed in connection with this Agreement. You are liable for any court costs and reasonable attorneys' fees incurred by us in the collection of amounts due on the Account.

Upon our request made at any time, you agree to furnish us with your current financial statements and other information pertaining to your business or financial condition.

17. Term and Termination

Term. The term of this Agreement commences on the date it is accepted and executed by us and continues until terminated by us under this Section 17 or by us or you upon thirty (30) days written notice to the other party.

Termination Rights. We may terminate this Agreement or terminate or suspend the Service if: (a) you are in default as provided in Section 16; or (b) the continued provision of the Service in accordance with the terms of this Agreement would, in the good faith opinion of our legal counsel, violate federal, state or local law or any regulation applicable to our business. We will provide notice of the exercise of our termination rights as soon as practical.

Actions. Upon any termination of the Service or this Agreement, you shall: (i) promptly pay to us all sums due or to become due under this Agreement; (ii) have no further right to make use of the Service, Account or any Card; and (iii) surrender to us or destroy all Cards that have been issued to you or to any Cardholder.

Effect. Termination of this Agreement, the Account or any Card does not release you or us from any of our respective obligations that arose or became effective prior to such termination; you remain fully obligated to repay all amounts owed to us under this Agreement or in connection with the Account, the use of the Cards or account numbers or otherwise. In addition, all provisions of this Agreement relating to the parties' respective warranties, representations, limitation of liability or indemnification shall survive the termination of the Service, the Account or this Agreement.

18. Internet Online Features

We offer online access features as part of the Service ("**Online Features**") to enable you to access information about, and administer and manage the Account via the Internet including through the applicable Card Association or through our online portal, *Fifth Third Direct*SM. The use of the Online Features is subject to the limitations and specifications in the User Guide we provide for the Online Features. Some or all of the Online Features may be hosted or provided by the Card Association or another third party and are also subject to any terms of use established by us or that third party.

Administration. You have the option to enable the use of the Online Features. If you elect to use one of the Online Features, the Card Administrator will have complete authority to manage the Online Features on your behalf. The Card Administrator has critical authority with respect to the Online Features including the authority to: designate personnel including Cardholders and the Card Administrator ("**Users**") with access to some or all of the aspects of the Online Features; monitor Card usage; establish the entitlements of Users regarding the use the Online Features; enable the assignment of Identification Codes described below and initial passwords to Users; and accept and act on all communications from us regarding the Online Features. We will rely on the authority of the Card Administrator in the use of the Online Features by you.

Security Procedures. Access to the Online Features of the Service are subject to “*Security Procedures*” which may include certain procedures, the use of personal identification numbers, log-on identification, access codes, passwords or other security or authentication measures (collectively, “*Identification Codes*”) that are designed to verify the origin of access to the Online Features. You understand that all access to, and use of the Online Features using such Security Procedures as we mutually agree upon will be considered by us for all purposes and without further investigation to be authorized by you and we may act and rely upon all instructions or data transmitted to us using the Security Procedures.

Your Responsibilities. You must ensure that your personnel use the Online Features only as authorized and within the limits of their entitlements or permission. We do not monitor access to the Service or the Online Features and are not responsible if any person exceeds the limits of their entitlements or permission rights. You are responsible for having and maintaining at your expense proper functioning, secure and safe hardware, software and communication devices, Internet access and service necessary for use with the Online Features. To the extent you select an option available with the Online Features that allows Cardholders to view and enter data about their transactions, you agree to monitor and limit their access to proper business purposes on your behalf.

Legal Compliance. We make no representation or warranty that the Online Features are available or appropriate for use in countries other than the United States. You are solely responsible for compliance with all laws and regulations applicable in jurisdictions where you conduct business.

License. Access to, and use of websites or software provided by anyone other than us may be subject to the terms and conditions of a license, terms of use or similar agreement.

Intellectual Property. All pages, screens, text, and other materials, and other works of authorship and material appearing on or utilized in connection with the Online Features, the names, trademarks, logos, slogans and service marks used, displayed and found on websites, and all other intellectual property relating to the Online Features (collectively, “*Intellectual Property*”) are owned by and proprietary to us, the applicable Card Association, and our vendors or licensors, except as otherwise specified. No Intellectual Property may be copied, modified, distributed, used in any way or publicly displayed in any medium of expression without our prior written consent.

Warranty Disclaimer. The Online Features are provided “as is,” and “as available.” While our websites include encryption and other data protection features, you understand that the Internet is inherently insecure and that there is a risk that data communications and transfers will be compromised or intercepted. Except where these risks occur as the direct result of our failure use industry standard data security measures, we are not liable if these risks occur or for the use of such data by others, or if privacy is not maintained, in any case, prior to you establishing a secure connection to our designated portal or after properly terminating that connection. All material found on the websites is provided “as is.”

19. Card Payables

Card Payables. We offer a feature of our Service known as Card Payables that provides enhanced global controls and increased transaction security through a combination of an integrated preapproval process with virtual account numbers, along with the capacity to integrate transaction data into your existing accounting and reporting infrastructure. Card Payables includes two solutions: Card Payable Online and Card Payable Batch. The use of virtual account numbers in connection with Card Payables is considered for all purposes of this Agreement to be the authorized use of a Card and the Account.

MasterCard inControl. Card Payables is based upon a license from MasterCard International of the Purchase Control™ application of the MasterCard inControl™ platform. MasterCard also offers a direct interface to the inControl Platform for Card Payables Online that is not part of our Service. Purchase Control™ and inControl™ are trademarks of MasterCard International.

Card Payables Online. Card Payables Online enables you to obtain make payments using the Account to vendors and other persons and entities to which you wish to make payment (“*Vendors*”) on an individual basis. Card Payables Online generates authorized, virtual account numbers through the Card Payables platform that you give to your Vendor to make a payment. Additional information about Card Payables Online is provided in the User Guide.

Card Payables Batch. Card Payables Batch enables you to manage your accounts payable by enrolling multiple Vendors in an automated platform to receive payment information from you. When you desire to make a payment to an enrolled Vendor, you will transmit to us a payment file that includes the name of each Vendor you wish to pay by Card and payment amount. Based on that payment information, we create an encrypted payment data sheet which we send by email to the email account for the Vendor contact person you provide to us in the set up process. The payment data sheet includes a virtual card number against which the Vendor can process your payment through MasterCard as with any other Card payment. Additional information on Card Payables Batch is available in the User Guide. You are responsible for obtaining proper authorization from your Vendor to participate in this payment process and for the accuracy of the Vendor data and payment information you send to us. We are not responsible if the payment information you provide us is not accurate or timely, or if a Vendor fails to receive or act upon the email and payment data sheet we send to the email account you give us.

Card Administrator. If you elect to use Card Payables, your Card Administrator will have the authority to manage the use of Card Payables on your behalf. In addition to any other authority they may have, the Card Administrator will be able to (a) for Card Payables Online, designate persons with the authority to request and generate virtual account numbers for making payments as part of the Service and establish the limits, if any on the authority of such persons, (b) for Card Payables Batch, designate the Vendors to whom payments may be made with Card Payables and provide us with Vendor and payment information. We will rely on the information provided to us by the Card Administrator.

Set Up. If you elect to use the Card Payables features, you will be required to complete a set up process with us before the features are available. In the set up process, we will, among other things, establish and test communications with you.

Access. Card Payables is accessed through the Online Features described in Section 18 of this Agreement. Card Payables Online may also be accessed through a direct interface with the MasterCard inControl Platform.

20. General Provisions

Amendments. We may amend, supplement or change (a "*revision*") the terms of this Agreement including the Fee Schedule at any time and from time to time as follows: by a written instrument signed by both parties; or, we may give you at least twenty (20) calendar days' prior written or electronic notice of a revision and if you do not give us written notice of your termination of this Agreement before the expiration of the twenty day period or the later effective date specified in such notice, you are deemed to have accepted the revision. If, however, a revision to this Agreement is, in our good faith opinion either required by law or a regulatory authority with jurisdiction over us or necessary to preserve or enhance security of the systems that we use in providing Service to you, we will provide you notice of such revision and the revision will be effective immediately upon us giving you notice. Subject to applicable law, any revision shall apply to the outstanding balance on the Account on the effective date of the revision and to any future balances created after that date. No revision to this Agreement or Fee Schedule shall affect in any manner your obligation to pay in full all Obligations under this Agreement.

Delay in Enforcement. We may at any time and in our sole discretion delay or waive enforcing any of our rights or remedies under this Agreement or under applicable law without losing any of such rights or any other rights or remedies. Even if we do not enforce our rights or remedies at any specific time, we may enforce them at a later date. For example, we may accept late payments or payments that are marked "payment in full" or with other restrictive endorsements without losing any of our rights under this Agreement or applicable law.

Notice. Any written notice from you to us shall be effective once we have received the notice and had a reasonable opportunity to act on it. Any written notice from us to you shall be effective and deemed delivered when mailed to you at your address as it appears on our records.

Force Majeure. We shall not be responsible for, nor shall we incur any liability to you for any failure, error, malfunction or any delay in carrying out any of our obligations under this Agreement if any such failure, error, malfunction or delay results from causes beyond our reasonable control, including without limitation, fire, casualty, breakdown in equipment or failure of telecommunications or third party data processing services, internet disruptions, lockout, strike, accident, act of God, act of terrorism, riot, war or the enactment, issuance or operation of any adverse governmental law, ruling, regulation, order or decree, or an emergency that prevents us from operating normally.

Assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns. You may not sell, assign or transfer the Account or any of your rights or obligations under this Agreement. We may sell, assign or transfer the Account, or any balance due thereon, and our rights and obligations under this Agreement without prior notice to, or consent from you, which notice and consent are knowingly waived by you.

Set-off. You agree that we may set off any and all funds in any bank account you have with us against or to pay any Obligation you have at the time to us under this Agreement. We may exercise our right of set off by debit or other means without recourse to other rights or collateral, if any, we may have and regardless of the effect on your bank account. You waive notice of the exercise of these rights to the extent permitted by applicable law. Our right of set off is limited only to the extent expressly limited by applicable law.

Entire Agreement. This Agreement, together with the Fee Schedule, User Guides and any separate pricing, rebate or other similar agreement executed by the parties which specifically refers to this Agreement constitutes the complete and exclusive statement of the agreement between the parties with respect to the Service and the Account and supersedes any prior or contemporaneous proposal, understandings, discussions or agreements between the parties with respect to the Service and the Account. The Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument. No person or entity other than the parties, their permitted assigns, indemnified persons, our vendors and the Card Association shall have any rights under this Agreement

Severability. If performance of the Service in accordance with the terms of this Agreement would result in a violation of any present or future statute, regulation or government policy to which we are subject, and that governs or affects the Service or any transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the degree necessary to comply with such statute, regulation or policy, and we shall incur no liability to you as a result of such violation or amendment. If any provision of this Agreement is deemed to be illegal, invalid, void or unenforceable by a court of competent jurisdiction, or by any governmental agency with jurisdiction in such matter, such provision shall continue enforceable to the extent permitted by that court or agency, and the remainder shall be deemed stricken from this Agreement. All other provisions shall remain in full force and effect.

Compliance with Law. We and you each agree to comply with and be responsible for all applicable state, local and federal statutes, rules, regulations, orders, directives, policies and other laws, and the rules and regulations of any applicable Card Associations or payment clearing system.

Governing Law; Venue. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Ohio, without regard to Ohio's conflict of law principles, and with applicable federal laws and regulations. You irrevocably submit to the nonexclusive jurisdiction of the courts of the state and federal courts in Ohio and agree that any legal action or proceeding with respect to this Agreement may be commenced by us in such courts.

Waiver of Jury Trial. You agree that any suit, action or proceeding, whether as part of a claim or counterclaim, brought or instituted by you on or with respect to this Agreement or any event, transaction or occurrence arising out of or in any way connected with this Agreement shall be tried only by a court and not by a jury. YOU EXPRESSLY, KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION OR PROCEEDING. You acknowledge that we would not have extended credit under this Agreement if this waiver of jury trial were not part this Agreement.

Headings. The Section headings used in this Agreement are for convenience only, and do not in any way limit or define your or our rights or obligations under this Agreement.

WITNESS, the parties have caused this Agreement to be executed by their respective duly authorized representative as of the dates indicated below.

Dated: _____, 20____

ACCEPTED: _____, 20____

(CUSTOMER'S LEGAL NAME)

FIFTH THIRD BANK

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

RFP FOR BANKING SERVICES - PROCUREMENT CARD OPTIONAL SERVICES RFP-RH-11-029
 PROPOSALS TABULATION

NAME	Fifth Third Bank	First of America	Comerica	Charter One
Product	Mastercard - Multi-Card=Purchasing, Travel & Fleet	VISA State of Michigan Contract expires June, 2012	Mastercard	Mastercard
Services	Dedicated Card Specialist and Relationship Manager Implementation Maintains 3 yrs on-line data 15 payment options-cycle days	Assigned Acct Mgr and Card Acct Specialist Payment cycle 14/30 days	Assigned Program Advisor	3 billing options
Software	Smartdat.gen2-web-based Fifth Third Direct Integrates w/ JDE Purchasing Module 3 years history	Works Solution - web-based Vantiv	SmartData Custom Export set-up 12 mos of statements on-line On-line card management system	SmartData
Other	Master Coverage up to \$100,000 per employee	Coverage up to \$100,000 per employee		
Costs to city	0	0	Logo on Card - \$500	Card set-up \$500
Rebate Structure	\$0 mill - 4 mill 4mill - 10 mill >10 mill	.75% 1% 1.15%	Based on aggregate spend and applicable basis points-approx 1% Must meet \$1mill spend; aggregate spend of participants-subj to change	\$1mill+ .90% \$1mill+ .90%
Rebate Threshold	\$250,000	\$1 million	\$1 million	\$1 million

RFP FOR BANKING SERVICES - PROCUREMENT CARD OPTIONAL SERVICES RFP-RH-11-029
 PROPOSALS TABULATION

NAME	Citizens	PNC	Chase
Product	Visa - First Bankcard	Visa	Mastercard US One Card program
Services	7 years card statement available Electronic statements	Implementation Specialist Download information to CSV format	US One Card Program/Mastercard Platform Declining balance cards Assigned Representative
Software	Direct Card Access On-line administration; interfaces to most accounting software	Back office workflow tools and online data delivery	Smart Data
Other	One time use card	\$100,000 coverage per card for loss	\$100 min transaction size
Costs to city	No Charges		\$35 annual card fee if less than \$1mill
Rebate Structure	No Rebates		\$1mill .65%
Rebate Threshold			\$1 million