

## **State of Florida Purchasing Card Program Eligible User Agreement**

In accordance with State Term Contract No. 84121500-15-01

The State of Florida Department of Management Services ("Department" or "DMS") has agreed that State Agencies and local government entities in the State of Florida (each an "Eligible User") may utilize the purchasing card program of the State of Florida ("Purchasing Card Program") as the basis for establishing a purchasing card program with an Eligible User.

This Eligible User Agreement (the "Agreement") is entered into by City of Clearwater (the "Eligible User") and Bank of America (the "Contractor") as of the date last signed by the parties (the "Effective Date"). By signing this Agreement, the Eligible User requests, and the Contractor agrees to provide to the Eligible User, the corporate purchasing card services set forth in State Term Contract number 84121500-15-01. Incorporated documents do not negate the provision of the Contract. Any product, service or maintenance provisions that do not comply with Florida law or require an Eligible User to indemnify the Contractor are invalid. The Eligible User and the Contractor agree as follows:

- A. All defined terms in the Contract apply to this Eligible User Agreement.
- B. By signing this Eligible User Agreement, the Eligible User and the Contractor agree to be bound by the terms of this Eligible User Agreement and the Contract in the performance of their obligations. By signing below, the Eligible User represents that a copy of the Contract has been provided or made available to it.
- C. With regard to Eligible User participation, the following applies:

1. Eligible User Warranties.

The Eligible User represents and warrants to the Contractor that:

- 1.1 it is an Eligible User, as defined under the Contract;
- 1.2 it is contracting for purchasing card services with the Contractor, and its performance of its obligations under this Agreement and the Contract will not violate any law, regulation, judgment, decree or order applicable to it; and
- 1.3 it desires to utilize the Purchasing Card Program ("Program") of the Department as the basis for establishing a purchasing card program.

The Eligible User acknowledges and agrees that, notwithstanding anything to the contrary in the Contract, the Contractor will provide the Department and DFS with access to the following information: (i) Eligible User's name and agreement to the provisions of the Contract and the Agreement; (ii) data related to the Eligible User's Cardholder Transactions and use of the purchasing card program; and (iii) amount of rebate paid by the Contractor to the Eligible User under the Program.

## **2. Contractor's Obligations.**

**2.1 Card Accounts.** The Contractor will open Card Accounts, upon the Eligible User's request, which Cardholders may use to conduct Transactions for the Eligible User's business. All Transactions made on a Card Account are considered authorized by the Eligible User unless the Contractor receives, and has had a reasonable period of time to act upon, written notice from the Eligible User that the Cardholder is no longer authorized to use the Card or the Card Account.

At the Eligible User's request, the Contractor may also establish a Cardless Account. If an OEU so requests, the Contractor will provide to the Cardholder, at the address the OEU specifies, a Billing Statement reflecting the Cardholder's use of the relevant Card Account.

**2.2 External Fraud.** The Contractor will assume the financial liability for all external fraud if the Eligible User or Cardholder has not authorized or participated in the specific Transaction. If there is internal fraud or collusion, the Contractor will deliver misuse insurance provided by the card network to help the Eligible User with recovery from card networks.

## **3. Eligible User's Obligations.**

**3.1** The Eligible User shall use each Card Account solely for business purposes, and shall pay according to section 13, Exhibit C, Special Contract Conditions, for each Transaction, regardless of its purpose or whether the Eligible User signed a sales draft or received a receipt.

**3.2** The Eligible User represents and warrants to the Contractor that each Cardholder is a current employee, or for OEU's, an employee or agent of the OEU. If a Cardholder ceases to be the Eligible User's employee or agent, the Eligible User must provide notice as soon as practicable and destroy or return to the Contractor as soon as practicable the Card allocated to that Cardholder.

**3.3** The Eligible User will promptly furnish such financial and other information as the Contractor requests for the purpose of reviewing the Eligible User's ability to perform the Eligible User's obligations to the Contractor. Notwithstanding the foregoing, the financial information for State Agencies is located at:

[http://www.myfloridacfo.com/aadir/statewide\\_financial\\_reporting/index.htm](http://www.myfloridacfo.com/aadir/statewide_financial_reporting/index.htm). The Eligible User represents and warrants that all information about the Eligible User, its employees, and agents is accurate and sufficiently complete to give the Contractor accurate knowledge of the Eligible User's financial condition.

**3.4** The Eligible User and each Cardholder will check to ensure that the information on each new Card is correct, and the Eligible User will contact the Contractor if there is an error.

**3.5** The Statewide Purchasing Card Administrator or OEU Eligible User must give Contractor prompt written notice of any addition, deletion or change of its Purchasing Card Administrator.

3.6 The Eligible User is responsible for maintaining the security of its data outside the Contractor's or Contractor's vendors' systems. The Contractor is responsible for maintaining the security of the Eligible User's data on the Contractor's or Contractor's vendors' systems.

3.7 Compliance with Law. The Eligible User must comply, and ensure that its Cardholders and Transactions comply with all laws to which the Eligible User, the Cardholder or the Transaction may be subject, including all AML/Sanctions Laws. The Eligible User must provide all notifications or information necessary to allow the Contractor to comply with obligations under any AML/Sanctions Laws, including (if necessary) providing any information required to establish and verify the identity and background of any Cardholder. The Eligible User represents and warrants to the Contractor that the performance of its obligations will not violate any law or facilitate illegal transactions.

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

3.9 Credit Limit. The Contractor will establish one total credit limit for all Card Accounts issued to the Eligible User and all of its Cardholders. The Eligible User shall determine an individual credit limit for each Cardholder Account which is part of any of its Card Accounts issued to the Eligible User and all of its Cardholders. The individual credit limits for each Cardholder Account, when aggregated, may exceed the total credit limit for all Card Accounts issued to the Eligible User and all of its Cardholders. However, this will not increase the total credit limit. Upon the Eligible User's request and if approved by the Contractor, the Contractor may increase the total credit limit or any individual limit. The Contractor may decrease the total credit limit or any individual limit in its reasonable discretion with notification to the Eligible User as soon as practicable, but in no event later than the same date as the decrease.

3.10 Transactions Exceeding the Credit Limit. The Eligible User agrees not to incur obligations which would cause the total credit limit for all Card Accounts to be exceeded. The Contractor will make available online tools and standard reporting to monitor cardholder activity. If the Eligible User exceeds the total credit limit for all Card Accounts, the Contractor may refuse any Transactions on all Card Accounts. The Contractor also may require the entire balance owing on the most recent Billing Statement to be immediately due and payable before further use of Card Accounts. If the Eligible User's individual Card limit is exceeded and that individual Cardholder Account is individually billed, the Contractor may (i) refuse any Transactions applicable to that Cardholder Account until a payment is made to reduce the balance below the individual Cardholder's credit limit or until the Eligible User increases that Cardholder's credit limit; and (ii) charge the Eligible User a fee as set in the Schedule of Charges in Exhibit A-1 (attached hereto).

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

**3.12 International Transaction Fee.** The Contractor may add a fee to the U.S. dollar amount of any Transaction that is made in a foreign currency (the "International Transaction Fee"). The International Transaction Fee is set in the Schedule of Charges in Exhibit G (as defined in State Term Contract number 84121500-15-01) and Exhibit A -1 (attached hereto).

#### **4. Disputes with Merchants and Suppliers.**

**4.1 Disputes with Merchants and Suppliers.** The Contractor will have no liability for goods or services purchased with, or for a Merchant's or Supplier's failure to honor purchases made with a Card Account. If the Eligible User has any questions, problems or disputes concerning the quality of any goods or services purchased using a Card Account or Card, a purchase price discrepancy, warranty or other performance issues or any other purchase matter, the Eligible User must contact the Merchant or Supplier directly. The Eligible User may not rely on any claim or dispute concerning the purchase of goods or services using a Card Account or Card as a reason to avoid the Eligible User's payment obligations under the Contract. Notwithstanding the foregoing, when the Contractor processes any request for a Transaction refund through a card network on the Eligible User's behalf, which for the avoidance of doubt shall be processed in accordance with the operating rules and regulations of such card network, the Eligible User agrees that, in a dispute with a Merchant or Supplier, the Contractor will be subrogated to the Eligible User's rights and each Cardholder's rights against the Merchant or Supplier and the Eligible User will assign (and cause the Cardholder to assign) to the Contractor the right to assert a billing error against the Merchant or Supplier. The Eligible User will, and will cause the Cardholder to, do whatever is necessary to enable the Contractor to exercise those rights. The Contractor may reverse from any Card Account any Transactions relating to the dispute.

**4.2 Authorization for Transactions.** A Merchant or Supplier may seek prior authorization from the Contractor before completing a Transaction. If the Eligible User advises the Contractor in writing that the Eligible User desires to restrict Transactions to Merchants falling within certain categories the Contractor designates, to the extent consistent with the Statement of Work and the Contract, the Contractor will take reasonable steps to prevent authorization of Transactions from other types of Merchants. The Contractor, however, will not be liable to the Eligible User if Merchants or suppliers nonetheless accept a Card for other types of Transactions, or if authorization for a Transaction is not given. The Contractor may also refrain from authorizing a Transaction for any reason in the Contractor's reasonable discretion.

4.3 Forms of Consent. If a Transaction is made using a Card or a Card Account number, the Eligible User needs to consent to the Transaction (whether by a Cardholder giving consent or otherwise) so that the Contractor can make sure that it is genuine. A Transaction can be consented to by:

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

The Contractor may deem Transactions which have not been consented to in one of the above manners to be unauthorized and the Contractor may decline to process such Transactions. This is in addition to any other rights the Contractor has to decline Transactions according to Eligible User Agreement Sections 4, 5.1, or 5.2 (disputes, authorizations and Unauthorized Use).

#### 5. Lost or Stolen Cards; Unauthorized Use.

5.1 Authorization Denials. The Contractor may refrain from authorizing any Transaction:

- i. if the Contractor suspects that the Transaction is or might be fraudulent or unlawful or for the purpose of any fraudulent or unlawful activity;
- ii. if the Contractor suspects that the Transaction constitutes or might constitute Unauthorized Use as defined in Section (3)(yyy), Exhibit A, Definitions; or
- iii. if to authorize that Transaction would cause the Contractor to breach any law (including any AML/Sanctions Laws by which the Contractor must abide).

5.2 Failure to Authorize. Subject to applicable law, the Contractor will not be liable to the Eligible User if the Contractor fails to authorize or declines any Transaction for any reason. If a Transaction is not authorized or declined, the Eligible User may seek, and the Contractor will provide, reasonable assistance in investigating and resolving the declined or unauthorized Transaction.

5.3 Reporting a Loss, Theft or Unauthorized Use; Assisting with Investigations. In the event of a possible loss or theft of a card, or Card Account or possible Unauthorized Use, the Eligible User will give the Contractor notice as provided in section 10.6, Exhibit D, Statement of Work, or using the Solution. The Eligible User agrees to give the Contractor this notice as soon as reasonable after discovery of the known or suspected loss or theft or Unauthorized Use. If notice is provided and the Eligible User assists the Contractor in investigating the loss, theft or possible Unauthorized Use, then the Eligible User will not be liable for Transactions resulting from Unauthorized Use. If the Contractor has issued fewer than ten Card Accounts to the Eligible User, the Eligible User's liability for Transactions by a person who does not have actual, implied or apparent authority to use the Card, or Card Account and whose use does not result in a direct or indirect benefit to the Eligible User, will not exceed \$50 on each Card.

**6. License to Use the Eligible User's Marks.**

Upon the Eligible User's request, the Contractor may place the Eligible User's trademark, trade name, service mark and/or designs ("Eligible User's Marks") on the Cards consistent with section 10, Exhibit D, Statement of Work. The Eligible User will provide the graphics to the Contractor in sufficient time to allow for review and approval by the Contractor and, if necessary, the respective card network. The Eligible User or the State, as applicable, grants to the Contractor a non-exclusive license to use, during the term of the service, Eligible User's Marks on the Cards.

**7. Convenience Checks.**

In the event the Contractor provides Convenience Checks with regard to an OEU Card Account, the Convenience Checks may not be used to make payment on the Card Account. The Contractor may pay a Convenience Check and post its amount to the Card Account regardless of any restriction on payment, including a Convenience Check that is post-dated, that states it is void after a certain date or that states a maximum or minimum amount for which it may be written. Once paid, Convenience Checks will not be returned to the OEU or the Cardholder.

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

**8. Cardless Accounts; Accounts not in Name of Individual.**

The Contractor may establish a Cardless Account or establish a Card Account with a designation which is not an actual individual, including, without limitation, designation of a vehicle identification number, license number, department name or "Authorized Representative" on the Card Account if requested by the Eligible User. The Eligible User may provide the number associated with the Cardless Account to its Cardholders. The Eligible User agrees to be solely responsible for the use of any such Cardless Account or Card Account, including, without limitation, any Unauthorized Use. The Contractor will however assist the Eligible User with any disputed transaction as described in Section 4.

**9. Statements and Payment.**

For Eligible Users see section 13, Exhibit C, Special Contract Conditions. For OEUs, see Sections 9.1 – 9.5.

9.1 Issue of statements. The Contractor will provide to the Card Administrator, or other person the OEU designates in writing, a Billing Statement which will identify each Transaction posted during the billing cycle and the date of the Transaction. The Billing Statement will also list any applicable fees and charges for a Service. If the OEU has requested a Card Account for travel and entertainment Transactions, the Contractor will provide, upon the OEU's request, an additional copy of the Billing Statement covering such use of the relevant Card Account to the appropriate Cardholder at the address which the OEU or the Cardholder provides to the

Contractor. The OEU agrees that the Contractor may provide Billing Statements or make Billing Statements available by electronic means, including by way of electronic mail or a Website.

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

9.3 Payment of statement amount. The OEU will pay, or ensure that the relevant Cardholder pays on the OEU's behalf, to the Contractor the total amount shown as due on each Billing Statement on or before the Payment Due Date shown on the statement. If the Contractor does not receive payment in full by the specified due date, in addition to its other rights, the Contractor may assess a late fee and finance charge as set in the Schedule of Charges for the OEU in Exhibit A -1 (attached hereto). The OEU has no right to defer any payment due on any Card Account. For the avoidance of doubt, if individual billing applies, the Contractor will collect from the OEU for any amount due which is not paid by a Cardholder.

9.4 Service fees. The OEU will pay the Contractor for a Service set in the Schedule of Charges in Exhibit A -1 (attached hereto).

9.5 Account identification. If an OEU or any Cardholder makes any payment to the Contractor in connection with a Card Account, it must, or ensure that the Cardholder must, at the same time provide the Contractor with either the account number or the Card number. The Contractor shall not be liable for any delay in crediting any such payment or recording any Transaction, where this information is not provided to the Contractor in accordance with this Section 9.5.

## 10. Termination.

10.1 All terminations are contingent on written notice. The following events may be the basis for termination for default:

10.1.1 If an Eligible User fails to pay when due undisputed charges totaling at least two months' charges under the Contract and fails to make such payment within fifteen (15) days after receipt of written notice of non-payment from the Contractor referencing this section, and stating that the Contractor intends to terminate the Eligible User Agreement for nonpayment, then the Contractor may terminate the Agreement as of the date specified by the Contractor in a separate written notice of termination. This notice is contingent on prior completion of a dispute resolution process between the parties.

10.1.2 If an Eligible User fails to comply with any material law or regulation controlling its operation, including AML or Sanctions Law, the Contractor has the right to file a notice of termination immediately, which notice shall specify the asserted non-compliance and attach supporting evidence.

10.1.3 If an Eligible User materially breaches any of the terms and conditions of this Agreement, and does not cure or commence a cure of the breach within 30 days of written notice, then the Contractor has the right to file an immediate notice of termination contingent on prior completion of a dispute resolution process between the parties.

10.2. If an Eligible User experiences a material adverse change in the Eligible User's financial condition and the Eligible User's ability to perform its obligations under the terms of the Eligible User Agreement are negatively impacted, then the Contractor may terminate the specific Eligible User Agreement after providing written notice referencing this section and stating that the Contractor intends to terminate the Eligible User Agreement as of a date specified in the notice of termination. This notice is contingent on prior completion of a dispute resolution process between the parties.

10.3 Upon any termination of an Eligible User Agreement, the Eligible User will immediately destroy, and will instruct all Cardholders to immediately destroy, all Cards. The Eligible User's responsibility to pay for all undisputed Transactions regarding each Card Account will continue until the Eligible User notifies the Contractor to close the Card Account or until the Eligible User pays for all Transactions entered into before the Contractor closes the Card Account to future use, whichever occurs later. The Contractor and the Eligible User shall settle all outstanding liabilities and all claims arising out of such termination. After termination, the Eligible User and all Cardholders will make no new Transactions on any Card Account. If, however, the Eligible User makes such Transactions, the Eligible User will be liable for each of them. These obligations will continue after a service the Eligible User is using has been terminated.

#### 11. Receipts Imaging Service.

The OEU may elect to use the Contractor's receipts imaging service whereby the OEU will send copies of its transaction receipts, and the Contractor will electronically store those receipts (the "receipts imaging service"). It is the OEU's obligation to send the Contractor legible copies of transaction receipts. The OEU acknowledges and agrees that the Contractor will not review the transaction receipts and that the OEU is responsible for retaining the original receipts. The Contractor will not be liable for damages if the images are illegible or blank or for failure to provide copies by a given time or for failure to provide copies the Contractor is not reasonably able to provide. Images will be made available to the OEU by website at such times as may be set forth in the applicable User Documentation or as otherwise established by the Contractor. There is no charge for this service.

#### 12. Notices.

Any notice required or permitted to be given under this Eligible User Agreement or the Contract from one party to the other will be in writing and will be given and deemed to have been given when actually received, if hand delivered, delivered by telephonic facsimile transmission equipment and confirmed by telephone, with and original mailed or hand-delivered thereafter or

mailed by certified or registered mail with postage prepaid to the Party or their successor at the address specified as follows:

i. Eligible User: City of Clearwater  
Procurement Division  
PO Box 4748, Clearwater, FL 33758

ii. Contractor: Bank of America  
P.O. Box 28  
Norfolk, VA 23510

*For overnight delivery send to:*  
Bank of America  
Commercial Card: Floor 11  
3 Commercial Place  
Norfolk, VA 23510

Routine notices given by Contractor to the Eligible User, such as transaction details, changes in terms required by systems updates or payment card network changes and any reasonable notice required by the Contractor's licenses or schedules, may be delivered by electronic mail to the address provided by the Eligible User. Either party may change the address to which notices are to be delivered by giving to the other party not less than ten (10) Business Days prior written notice thereof.

**13. Information Security/Data Protection.**

Data Security requirements are described in section 7, Exhibit C, Special Contract Conditions. The following are policies of the Contractor:

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

13.2 Security and Confidentiality. The Contractor maintains an information security policy that: contains appropriate administrative, technical, and physical safeguards designed to protect against Information Security Events; conforms as required to the requirements of applicable data protection laws; and sets forth policies and procedures that are consistent with, to the extent applicable to the Services, PCI DSS standards, the card networks' rules and regulations; and Financial Services Industry Best Practices.

**13.3 Organizational Security.** All information is stored in the United States for programs in the United States and Canada.

**13.4 Human Resources Security.** The Contractor takes reasonable steps to ensure that its Workforce is aware of their obligations in the provision of the Services and applicable data protection laws, including that any unauthorized processing or disclosure of the Personal Data may lead to disciplinary action under their contract of employment or other contractual arrangements. Prior to receiving access to Personal Data, the Workforce and any Extended Workforce will receive appropriate security awareness training and recurring security awareness training at appropriate intervals. The access rights of the Contractor's Workforce with access to the Contractor's Information Processing System(s) or media containing Personal Data are removed upon termination of their employment, contract or agreement, or adjusted upon change of job function.

**13.5 Physical and Environmental Security.** Contractor protects all areas that contain Information Processing System(s) or media containing Personal Data by the use of security controls deemed appropriate by the Contractor.

**13.6 Information Security Event Management.** The Contractor maintains an incident response plan that addresses handling of Information Security Events. In accordance with such incident response plan, the Contractor will:

Provide Eligible User prompt, but in no event later than two (2) Business Days of becoming aware thereof, notice of any Information Security Event documented and verified by the Contractor as part of its standard incident response process that involves, or which the Contractor reasonably believes involves, the unauthorized access, use or disclosure of Eligible User's Personal Data.

Such notice shall, to the extent the Contractor is legally allowed, summarize in reasonable detail the Information Security Event and the corrective action taken or to be taken by the Contractor, if known at that time. The Contractor will promptly take all corrective action deemed necessary or appropriate by the Contractor at no additional charge to the Eligible User.

**13.7 Security Assessments.** The Contractor permits the Eligible User's representatives to perform one annual on-site or written assessment of the security controls used at the Contractor's data processing and business facilities. Also such assessment may be requested after an Information Security Event. Such assessments will be performed during regular business hours, at a date and time agreed to by both Parties, and will not require access to Information Processing System(s). Such assessments will be subject to the Contractor's security policies, procedures, and restrictions, including restrictions on access to data centers, the ability to perform hands-on testing, and copying of certain materials.

The Contractor scans internal and external facing Information Processing System(s) with applicable industry standard security vulnerability scanning software (including network, server,

application and database scanning tools) at a minimum once per month and perform mitigations that the Contractor deems appropriate to address issues identified.

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

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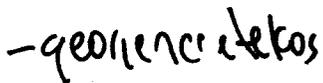
IN WITNESS WHEREOF, the parties hereby execute this Eligible User Agreement as of the Effective Date.

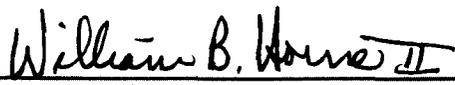
Bank of America, N.A.

Signature:   
Name: Jerri Winkteblack  
Title: Vice President  
Date: 9-30-19

Countersigned:

CITY OF CLEARWATER

  
George N. Cretekos  
Mayor

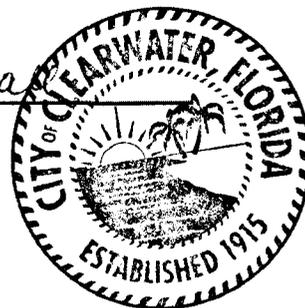
  
William B. Horne II  
City Manager

Approved as to form:

Attest:

  
Owen Kohler  
Assistant City Attorney

  
Rosemarie Call  
City Clerk



# **Schedule of Fees, Charges and Rebates**

## **Other Eligible Users**

**Please Note: Section III under "Rebate Calculation and Payment:" the equation formula, the Standard Transactions Rebate Multiplier Table and the Large Ticket / Partner Program Transactions Rebate Multiplier Table are confidential trade secret information.**

EXHIBIT A-1

I. GENERAL PRODUCT FEES AND CHARGES

General Fees	
Annual Card Fee	Waived
Logo Fee:	Fee Waived
Unique Custom Design Fee	As quoted
Return Payment Fee	Waived
International Transaction Fee	1.5% of USD amount*
Expedited Card Delivery Fee	> U.S. Mail/Bulk Mail (Default)=No Fee > Overnight=\$35.00
Overlimit Fee	Waived
Corporate Billed Fees	
Late Fee (assessed 3 days after cycle date when account is past due) (Assessed as a % of the past due amount for the current month's charges and any unpaid balances)	Pursuant to Section 218.70-218.80, Florida Statutes
Cash Advance Fee	2.5% of transaction amt (\$5 min/no max)
Individual Billed Fees	
Late Fee (assessed 3 days after due date when account is past due)	Pursuant to Section 218.70-218.80, Florida Statutes
Cash Advance Fee	2.5% of transaction amt (\$5 min/no max)

If you make a transaction in currency other than U.S. dollars, Visa or MasterCard will convert the charge or credit into a U.S. dollar amount. The conversion rate on the processing date may differ from the rate on the date of your transaction.

The exchange rate used by Visa will either be (i) a rate selected by Visa from a range of rates available in wholesale currency markets for the applicable central processing date, which rate may differ from the rate Visa receives, or (ii) the government-mandated rate in effect for the central processing date. MasterCard will use an exchange rate of either (i) a wholesale market rate or (ii) a government-mandated rate. We may add a 2% fee to the U.S. dollar amount of any transaction that is made in foreign currency or that is made outside the United States even if you pay in U.S. dollars (the "International Transaction Fee").

II. ELECTRONIC PRODUCTS SCHEDULE OF FEES AND CHARGES

Reporting and Data	
Works	Fee Waived
Payment Center	Fee Waived
Data File Feeds To Customers / Third Parties:	
<ul style="list-style-type: none"> <li>• Statement Billing File</li> <li>• EDI 811</li> <li>• Visa Commercial Format (VCF)</li> <li>• MC Commercial Data Format (CDF)</li> <li>• 1099 &amp; Socioeconomic Reporting</li> </ul>	Fee Waived
Visa Intellink - OPTIONAL	\$4,166

END OF SCHEDULES I AND II

## EXHIBIT A-1

### III. US SCHEDULE OF REBATES

#### (Cycle and Grace Days)

##### REBATE DEFINITIONS

Capitalized terms, which are not defined in this Section III have the meanings ascribed in the applicable Card Agreement.

**"Calculation Period"** means the twelve (12) month period commencing on the first day of the month after Bank receives a fully executed original of the Agreement and thereafter, each subsequent twelve (12) month period.

**"Credit Losses"** means any balances which remain unpaid by Other Eligible User, Participant or a Cardholder six (6) billing periods after the closing date on the Billing Statement in which the Transactions, fees and charges appeared for the reporting period.

**"Cycle Days"** means the number of days from the start of the billing period to the Billing Statement date.

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

**"Large Ticket Interchange (LTI) Transactions"** means certain transactions which, based upon the type of merchant and/or transaction dollar amount, are subject to a Visa or MasterCard large ticket interchange program, as determined by and amended by Visa and MasterCard from time to time.

**"Rebate Multiplier"** means the multiplier corresponding to the Standard Transactions volume, Cycle Days and Grace Days as set forth in the Standard Transactions Rebate Multiplier Table below.

**"Standard Transactions"** means the Transaction Volume not meeting the criteria for Large Ticket Interchange Transactions.

**"Total Credit Losses"** means, for any Calculation Period, the sum of (i) Bank's Credit Losses on the Card Accounts for the Calculation Period and (ii) Bank's Credit Losses on the Card Accounts for any previous Calculation Period which have not been applied against any rebate payable under the Agreement.

**"Transaction Volume"** means, for any Calculation Period, the total dollar amount of purchase Transactions made with the Cards during the Calculation Period, less the total dollar amount of: returned purchases, credit adjustments, Transactions resulting from Unauthorized Use, and disputed charges. Cash advances and Convenience Checks are not included in Transaction Volume.

##### REBATE CONDITIONS

During the Calculation Period, the program must meet all of the following conditions in order to qualify for a rebate:

- i. Other Eligible User and Participant pay Bank the total amount of the new balance shown as due on each Billing Statement on or before the Payment Due Date; and
- ii. Other Eligible User and Participant complied with terms in this Agreement; and
- iii. Calculation Period Transaction Volume meets the minimum volume requirement as set out in the Standard Transactions Rebate Multiplier Table; and
- iv. The Agreement has not been terminated by either party prior to the completion of a rebate calculation period.
- v. The four conditions above, together being the "Rebate Conditions".

**EXHIBIT A-1**

**Please Note: Section III under "Rebate Calculation and Payment:" the equation formula, the Standard Transactions Rebate Multiplier Table and the Large Ticket / Partner Program Transactions Rebate Multiplier Table are confidential trade secret information.**

**REBATE CALCULATION AND PAYMENT**

In the event that all of the above Rebate Conditions are met with respect to the Calculation Period, Bank will pay a rebate to Other Eligible User, which shall be calculated at the end of the Calculation Period in accordance with the Standard Transactions Rebate Multiplier Table and using the following equation:

$$\text{((Transaction Volume for Standard Transactions x Standard Transactions Rebate Multiplier) + (Transaction Volume for Large Ticket + Transaction Volume for Partner Programs) x Large Ticket and Partner Program Rebate Multiplier)} - \text{Total Credit Losses}$$

The Standard Transactions rebate multiplier will be determined based on the Calculation Period cumulative total of all Standard Transactions volume.

Payment of any rebate will be made by ACH credit or other means determined by Bank, within ninety (90) days following the end of the Calculation Period.

Should one or more of the above Rebate Conditions not be met, Bank will be under no obligation to pay any rebate, although Bank may, in its sole discretion, determine to pay a rebate in an amount determined by Bank. Bank's payment of a rebate in such circumstance will in no way obligate Bank to pay a rebate with respect to any subsequent Calculation Period.

<b>Florida Other Eligible User (OEU)</b>	<b>Cycle days</b>	<b>7</b>	<b>14</b>	<b>14</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	
<b>Annual US Volume Tiers</b>	<b>Grace days</b>	<b>3</b>	<b>3</b>	<b>7</b>	<b>3</b>	<b>7</b>	<b>14</b>	<b>20</b>	<b>25</b>	
<b>Excludes Large Ticket and Partner Program Transactions</b>		<b>REBATE BASIS POINTS</b>								
0	\$999,999	0	0	0	0	0	0	0	0	
\$1,000,000	\$2,499,999	125	123	120	117	115	110	106	102	
\$2,500,000	\$3,499,999	160	158	155	152	150	145	141	137	
\$3,500,000	\$6,999,999	167	165	162	159	157	152	148	144	
\$7,000,000	\$9,999,999	170	168	165	162	160	155	151	147	
\$10,000,000	\$14,999,999	181	179	176	173	171	166	162	158	
\$15,000,000	\$19,999,999	187	185	182	179	177	172	168	164	
\$20,000,000	\$24,999,999	195	193	190	187	185	180	176	172	
\$25,000,000	\$29,999,999	202	200	197	194	192	187	183	179	
\$30,000,000	\$34,999,999	203	201	198	195	193	188	184	180	
\$35,000,000	\$39,999,999	204	202	199	196	194	189	185	181	
\$40,000,000	\$44,999,999	205	203	200	197	195	190	186	182	
\$45,000,000	\$49,999,999	206	204	201	198	196	191	187	183	
\$50,000,000	\$59,999,999	207	205	202	199	197	192	188	184	
\$60,000,000	\$84,999,999	208	206	203	200	198	193	189	185	
\$85,000,000	\$99,999,999	209	207	204	201	199	194	190	186	
\$100,000,000	+	210	208	205	202	200	195	191	187	

<b>Large Ticket/Partner Program Transaction Volume</b>	<b>Cycle Days</b>	<b>7</b>	<b>14</b>	<b>14</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>	
	<b>Grace Days</b>	<b>3</b>	<b>3</b>	<b>7</b>	<b>3</b>	<b>7</b>	<b>14</b>	<b>20</b>	<b>25</b>	
		<b>REBATE BASIS POINTS</b>								
\$0	+	55	55	55	55	55	55	55	55	

EXHIBIT A-1

Nothing in these schedules are intended to state a term for the Agreement. For the avoidance of doubt, any period of time set forth in the Schedules applies solely to pricing terms, but only to the extent the Agreement has not been terminated as set forth in the Agreement.

Notwithstanding anything to the contrary in the Agreement or any of its Schedules all fees, charges and rebates are subject to change upon 60 days' prior written notice to you if, in connection with us providing this card program, or any Services to you:

- i. An event external to us increases the cost or decreases the revenue to us;
- ii. There is any decrease to the interchange rates paid to us by a card network; or
- iii. There is an increase to funding costs due to interest rate changes;
- iv. There is any deterioration in your financial condition

END OF US SCHEDULE III

IV. ACKNOWLEDGEMENT

By signature of an authorized representative(s), you agree to the terms and conditions of this Schedule of Fees and Charges presented herein. This form must be signed in ink by an authorized representative(s) and submitted with the original signature to your Bank representative.

OTHER ELIGIBLE USER

Bank of America, N.A

City of Clearwater

By: William B. Home II  
(Signature)

By: Jeri Winkteblack  
(Signature)

Name: William B. Home II

Name: Jeri Winkteblack  
(Print or Type)

Title: City Manager

Title: Vice President  
(Print or Type)

Date: \_\_\_\_\_

Date: 9-30-19

Effective Date: October 1, 2019