

SILICON VALLEY BANK

BUSINESS DEBIT CARD AGREEMENT AND DISCLOSURE

Effective September 1, 2012

This Business Debit Card Agreement and Disclosure (“Agreement”) specifies the rights and obligations of Silicon Valley Bank (“Bank”) and the Bank’s customer (“Company”, as defined below). Some provisions of this Agreement also apply to the individual cardholder (“Cardholders,” as defined below), so please read them carefully. *Note to Cardholder: By signing, using, activating, or accepting a Card, you agree to the terms and conditions that apply to a Cardholder.*

Company’s acceptance of this Agreement may occur in writing or electronically. Agreement by Company’s contracting officer or other authorized representative to an application (or other document acceptable to Bank) that refers to this Agreement, or through other (including electronic) means allowed by law, constitutes Company’s acceptance. Alternatively, Company may accept this Agreement by a contracting officer or other authorized representative activating or using a “Card,” as defined below. Activation of a Card by the contracting officer or other authorized representative constitutes Company’s acceptance of this Agreement. Either way, by accepting this Agreement Company agrees to the terms and conditions provided for in it and in the Business Debit Card Application (“Application”).

“Card” is the plastic business debit card bearing a MasterCard (and normally a Maestro) logo that is issued to Company. “Company” means the owner(s) of the accounts that can be accessed by a Card. “Cardholders” are the employees or other individuals that Company permits to use the Card. The Card is a debit card, and it is not a credit card.

When Cards are used, charges are made against and are deducted from the Company demand deposit account that is associated with the Card (“Attached Account”). The program does not commit to extend credit, and Company may not defer payment on Card transactions.

Note to Company and Cardholder: Cardholder agrees that Company may, and Company represents and warrants to Bank that Company is authorized to, provide Bank information on Cardholder (current or past), including the Cardholder’s taxpayer identification number, date of birth, address and telephone number. Cardholder and Company agree to provide assistance and information reasonably required by Bank as regards to Card usage or to support Bank’s compliance with laws, rules and regulations applicable to Bank, Cardholders or Card transactions.

1. Card Issuance. Bank may issue up to 12 Cards for each of Company’s Attached Accounts. Company will specify the Attached Account on Company’s Application (or, if not specified by Company or an unactivated Card is issued, Bank will designate the Attached Accounts and identify them to Company). Company certifies that all the Attached Accounts have been established for a commercial, business or agricultural purpose and not for personal, family or household purposes. Company may from time to time instruct Bank to issue new Cards or replacement Cards, or to retire outstanding or previously issued Cards. In this and in other communications, Bank may rely on instructions received from a person reasonably believed by Bank to be a contracting officer or other authorized representative of Company.

Each Card will be issued in Company’s name and that of the person designated by Company as a Cardholder. Cardholders may be designated by Company’s contracting officer or other authorized representative, via an Application or other wise in a manner acceptable to Bank. (An initial unactivated Card may, however, be issued in Company’s name and with the Cardholder being the person shown on Bank’s records as Company’s contracting officer.) Each Card will bear a unique identifying number. It will also include a field for the signature of the Cardholder and have a unique personal identification number (“PIN”). Company will ensure that each Card is signed by the Cardholder, but Company will be obligated on Card transactions regardless of whether a Card has or has not

Company and Cardholder Data: Company and Cardholders agree to the terms of the program’s privacy notice as posted at <https://www.mastercard.com/us/business/en/common/privacypolicy.html>, as may be amended from time to time. Company and Cardholders acknowledge and agree that Bank and MasterCard may share and use data regarding Company, Cardholders, Company personnel and Company’s small business card usage with each other and with third parties, such as merchants and service providers, to operate the program and for internal operational purposes, including, but not limited to, sending Company and Company personnel e-mails regarding the program.

Company’s Agreement with SVB

The form of an Easy Savings rebate may be a credit to Company’s Attached Account or in another form. A rebate may not appear on the same statement as the related purchase. There may be a delay of up to one statement cycle.

Company’s available balance in the Attached Account may be reduced by the full amount of a purchase, not reduced by the rebate. All or a portion of a rebate may be reversed in certain circumstances, including without limitation, upon a return, dispute, adjustment, or fraudulent card activity.

Disclaimer of Liability: Bank is not responsible for any rebate offers or rebates, Company and/or Cardholders’ ability to use offers or rebates, the crediting of any rebate to Company’s Attached Account, reversals of offers or rebates, accuracy or completeness of information about offers or rebates, or any acts or omissions of the participating merchants.

Bank is not liable for any damages that Company or Cardholders suffer in connection with participation in the Program, unless the damage results directly from Bank’s failure to perform the express obligations under these Terms and Conditions. Bank shall not be liable for any direct, indirect, special, incidental, or consequential damages (including lost profits). Without limiting the foregoing, Bank is not responsible for any fees or penalties that Company or Cardholders incur on the Card(s), including those that may result from rebate reversals.

Participating merchants may not vary these Terms and Conditions as applied to the relationship between Bank, Company and Cardholders and may not make any commitments that are binding on Bank.

Taxes. Any tax liability resulting from participation in the Program shall be Company’s sole responsibility. Company must account for rebates for tax purposes as required by law. Merchants may report information regarding Company’s participation in the Program to tax authorities.

Termination: How to terminate appears above. There may be a delay of up to 30 days in effecting termination, and reversals or adjustments of rebates may continue after termination. Bank may terminate Company participation in the Program at any time, without notice unless required by law. Any terms, which by their nature should survive the termination of these Terms and Conditions, shall survive.

Change of Terms: Bank can add to, delete from or change these Terms and Conditions, or terminate availability of the Program, at any time with or without notice to Company.

Disputes: Any disputes regarding offers or rebates may be determined by Bank, MasterCard, or the merchants. That resolution will be final and binding on Company.

Miscellaneous: Company may not assign its rights under these Terms and Conditions. Bank may assign Bank’s rights and obligations at any time.

amounts in accordance with the terms of this paragraph. Company agrees to pay any International Service Assessment (“ISA”) or similar charges. Currently, ISA and similar charges may total up to 2% or more of the transaction amount.

21. Miscellaneous. This Agreement will be governed by the laws of the State of California (excluding choice of law principles), except to the extent preempted by federal law. In any event, if any litigation is required to enforce the term and conditions of this Agreement, Company, on behalf of itself and its employees, agrees that venue for litigation will only be and commenced in Santa Clara County, California. If Bank hires an attorney to assist in collecting any amount due under this Agreement, then Company agrees to pay Bank’s reasonable attorneys’ fees and expenses, and any other compensation as permitted by law. Notice by Bank to Company may be given electronically or by mail sent to the address of Company as shown on the records of Bank and shall be effective 3 days following being placed in the U.S. Mail, postage prepaid, or upon receipt by Company if earlier. Bank’s business days are Monday through Friday; holidays are not included.

22. Survival. Termination of this Agreement by either party shall not affect any of Company’s obligations on Card transactions that occur prior to termination, including but not limited to any indemnification obligation that relates to action or inaction taken prior to termination. Without limiting the foregoing, Sections 4 through 12, 13, 15 and 17 through 23 of this Agreement shall survive termination of this Agreement.

23. Illegal or Disallowed Activity. Company agrees not to use the Card or any services to engage in any illegal activity (for example, funding any account that is set up to facilitate internet gambling). Display of a logo that is also shown on a Card (for example, by an online merchant) does not necessarily mean that the transactions are lawful in all jurisdictions in which Company may be located. Company agrees not to engage in any transaction or transmittals involving credit, funds or proceeds in connection with unlawful Internet gambling as set forth in the Unlawful Internet Gambling Enforcement Act of 2006 and its implementing Regulation GG. Further, Company agrees and acknowledges that if Bank determines in its sole discretion that it must block or prevent a credit or debit (including those credits and debits by means of card systems) to or from Company’s account(s) pursuant to the Unlawful Internet Gambling Enforcement Act of 2006 and its implementing Regulation GG, then the Bank may do so without being liable to Company for any damages. Bank may also block or prevent Card transactions that are reasonably determined by Bank to present the possibility of an illegal transaction or to present security or fraud risks unacceptable to Bank, and may do so without being liable to Company for any damages. Company agrees that none of the foregoing will be deemed to be wrongful dishonor by Bank. Finally, Company agrees to take steps to ensure each Cardholder will not use his or her Card or any Attached Account for any transaction that is illegal under the laws governing Company or Company’s accounts or is otherwise disallowed.

24. MasterCard Easy Savings Program Terms & Conditions (“Terms and Conditions”)

Company’s Agreement With MasterCard

Company and Cardholders have been or may be, upon activation of the program, enrolled in the MasterCard Easy Savings Program, an automatic rebate program for MasterCard small business cardholders. For complete terms and conditions, visit www.easysavings.com. Restrictions apply. Obtain savings on qualifying, eligible purchases. Participating merchants and rebate offers are subject to change. If Company does not wish to participate in this program please contact Bank immediately at:

1-866-563-1335

or write to:

Silicon Valley Bank
Attn: Card Services
P.O. Box 228
Wakefield, MA 01880-0428

otherwise contemplated by Company or Bank at the time this Agreement is consummated. Company will remain obligated under this Agreement even if the Bank changes this Agreement. Further, Company agrees that Company’s continued or first use of one or more Cards after notice is sent regarding a change constitutes Company’s agreement to the change.

17. Disclosing Information to Third Parties. Bank may disclose information to third parties about Company’s account or Card or other transactions Company makes, including but not limited to, the following:

- Where it is necessary or helpful in verifying or completing a transaction.
- To verify the existence or condition of Company’s account, or to provide experience information regarding Company’s account or transfers or to a third party (such as an affiliate, credit bureau or merchant).
- To communicate with Maestro or any other payment system that has its logo displayed on the Card with regard to a Card transaction.
- To communicate with MasterCard®, with regard to a Card transaction.
- To comply with government agencies or court orders.
- In connection with any claim of unauthorized use or error, or any dispute regarding a Card or a Service.

18. Relation to Other Agreements. Except as specifically modified herein, all other terms and conditions of the agreements (including the Deposit Agreement and Disclosure Statement) governing Company’s use of any Attached Account remain the same. Company agrees, however, that the provisions of the Deposit Agreement and Disclosure Statement that provide consumer protections (such as limited liability for unauthorized transactions) are not applicable to the Cards, the Card services or Company.

19. Review of Statements; Address and Telephone Number. If it is believed that a Card or Card number has been lost or stolen, or that someone has transferred or may transfer money from a Company account without Company’s permission, call:

1-866-563-1335

or write to:

Silicon Valley Bank
Attn: Card Services
P.O. Box 228
Wakefield, MA 01880-0428

Company agrees to review its statements and receipts immediately upon receipt and to notify Bank immediately if Company knows or suspects that any Card or PIN transaction is unauthorized or that the statement or receipt is otherwise incorrect. Company shall be precluded from asserting any unauthorized use of a Card or PIN or other error in a periodic statement if not asserted by Company within 60 days following the earlier of: (a) discovery by Company; or (b) the date Bank first makes available the statement on which the unauthorized use (or series of uses) or other error is first reported. The foregoing does not limit Company responsibility for unauthorized use in any way.

20. Foreign Transactions. If a Card is used to conduct a transaction in a currency other than U.S. dollars, then the merchant, network or card association that processes the transaction may convert any related debit or credit into U.S. dollars in accordance with its then current policies and may impose fees or charges as part of this. MasterCard currently uses a conversion rate that is either: (a) selected from a range of rates available in the wholesale currency markets (note: this rate may be different from the rate that MasterCard receives), or (b) the government-mandated rate. MasterCard and others may impose fees or charges and add them to the price of the conversion.

The conversion rate may be different from the rate in effect on the date of the transaction or date posted on the Attached Account. Company agrees to pay charges and accepts credits for the converted transaction

- If, through no fault of Bank, Company does not have enough money in the affected Attached Account to complete a transaction or authorization request;
- The terminal where the transaction is initiated is damaged or not working properly;
- Circumstances beyond Bank’s control (such as fire, flood, terrorism, power failure, computer breakdown) prevent the transaction;
- The funds in any Attached Account are subject to legal process, an uncollected funds hold, security interest or other claim;
- An Attached Account is frozen because of a delinquent loan or a dispute, or Bank receives inconsistent instructions regarding a Card or Attached Account from persons purporting to act on behalf of Company.

11. Indemnification. In addition to such other rights as Bank may otherwise have under this Agreement, Company will defend, indemnify and hold harmless Bank, and its officers, directors, agents, and employees, from and against any and all actions, costs, claims, losses, damages or expenses, including attorneys’ fees and expenses, resulting from or arising out of the use of: (a) any Card, PIN or the signature of any person previously named as a Cardholder; (b) from Company’s actions or inactions under this Agreement, including any breach of or under it; or (c) as a result of Bank’s receipt of any transaction data naming, identifying, or otherwise associated with Company, any Card, any PIN and Cardholder, or any access device, relating to the foregoing.

12. Card and PIN Security. Company and Cardholders agree not to disclose or otherwise make the Card(s) or corresponding PIN(s) or Card information issued in connection with this Agreement available to anyone not authorized by Company to engage in transactions using the same. Company shall use reasonable security procedures to protect against loss, theft or misuse of a Card and related information. Company and Cardholder(s) agree to notify Bank immediately if Company knows or suspects the Card, PIN or Card number has been compromised or any Card has been lost or stolen.

13. Cards. The Cards are the property of Bank. Company agrees to surrender all Cards to Bank upon request. Bank is not responsible for the refusal of anyone to honor the Cards.

14. Card Transactions and Disputes. Company has no right to cause Bank to stop payment, charge back or otherwise dispute any transaction data, including valid and invalid Card transactions. If Company has a dispute with a merchant regarding goods or services purchased with a Card transaction or other Service, Company needs to resolve its dispute with the merchant.

15. Termination. Company may terminate this Agreement upon 30 days written notification to Bank. Closure of an Attached Account will not terminate this Agreement or relieve Company of its obligations regarding Cards associated with that Attached Account. Bank reserves the right to terminate this Agreement or any Service immediately, with or without cause and with or without notice of such termination to Company. Bank may hold in reserve funds in any Attached Account or other Company account and prohibit access by Company to the same for up to the later of (a) 270 days following termination of this Agreement, and (b) 90 days following the last day on which any return or other disputed amount regarding any Card transaction may be processed through MasterCard®, Maestro or other payment system that has its logo displayed on a Card for return to Company.

16. Change in Terms. Bank may, from time to time and at any time, amend, modify, add or delete (collectively and individually a “change”) the terms of this Agreement with notice to Company. The notice of a change can be accomplished by Bank sending a written or electronic notice or an amended Agreement to the last physical address or e-mail address shown in Bank’s records for the corresponding Attached Account. Any such changes by Bank will be effective as of the day notice is sent (unless otherwise provided in the change notice).

A change may include a change to existing terms, a change in terms, a change that involves a new term or a change that involves conditions not

been signed by the Cardholder. Bank has no obligation to monitor who is designated as a Cardholder or to limit Card issuance or use to individuals that are “authorized signers” on an Attached Account.

2. Using the Card. Cards may be used to purchase goods and services at merchants that display the MasterCard and/or the Maestro logo, and at other merchants that participate in other point-of-sale (POS) systems that may or may not be identified on your Card. Typically, a PIN is needed to complete a Maestro or other POS transaction. When no PIN is required, a signature of the named Cardholder may be required by the merchant. (In some cases, a signature may not be required by the merchant even when a PIN is not needed – for example, in Internet, telephone and other signature-less environments, or when the merchant waives a signature requirement or the transaction is below levels set by MasterCard for required signatures). Cards may be used to obtain cash via withdrawal at financial institutions that accept debit cards with the MasterCard[®] logo (“cash advance transactions”). Finally, you can withdraw cash from Attached Accounts by using your Card at other participating automated teller machines (ATMs). (Note that ATM transaction capabilities are an optional services that Company may elect at the time of application or later. Contact the Bank, including via the telephone number listed below, to inquire further about or to add these ATM services to the Card(s).)

Services may not be available at all terminals or merchant locations, or at all times of the day. Bank does not control and is not responsible for Card acceptance by merchants or for any fees or charges imposed by others in connection with a Card transaction.

Bank may from time to time introduce new services that involve use of a Card or are associated with a Card and/or the Attached Account. If so, Bank will notify Company of the new service(s) and the notice will be a part of this Agreement (unless otherwise specified). By using a new service or a Card after this notice, Company agrees to the terms and conditions associated with the service and to the Agreement as amended or revised.

Bank does not advise Company on how use of Cards (including ATM withdrawals) or other services will be treated for tax purposes. Company will consult Company’s tax advisor for information on the tax treatment or consequences of Company’s use of the Card or Card services (including the adequacy of records relating to Card transactions or ATM withdrawals) for Company tax returns and records.

3. Transaction Limitations. Bank reserves the right to impose dollar, volume, activity, exposure or other limitations on Card transactions, and to change them at any time. If Company desires Company-specified limitations as a risk-control measure, Company must inform Bank and request that the desired risk-control measures be made available or implemented by Bank. Company is obligated on Card transactions, including those that are not in compliance with any Company internal policy or procedures, unless Bank specifically and in writing agrees to implement a requested risk-control measure.

Bank may increase dollar or other limitations for one or more Cards or Card transactions upon request by Company’s contracting officer or a person who is an authorized signer on the Attached Account. Company accepts the risks associated with this possibility of higher transaction limitations.

Since the Cards are not credit cards, no line of credit is associated with the Card (or an Attached Account, unless by agreement other than this Agreement). Therefore, Company’s available account balance must be sufficient to cover all Card withdrawal(s) and other transactions (whether at the authorization, settlement or other stages in a Card transaction). Bank may decline to authorize Card transactions that would exceed the available balance in the Attached Account after that balance is reduced by such other holds or other charges as may be processed by Bank against the account.

Card transactions are also limited as follows:

- Purchase transactions (including PIN-based) are limited to no more than 20 transactions per Card, and no more than \$15,000 per Card and per Attached Account, each calendar day. This includes any cash back obtained in point-of-sale

transactions. Cash advance transactions are limited to no more than 4 transactions per Card, and no more than \$3,000 per Card and per Attached Account, each calendar day.

Bank may for risk control purposes decline Card transactions that would otherwise be below the above limits.

Transaction limitations may also be imposed by the merchant or other owner of a terminal. Transactions may be limited by the operator of, or any other participant in, any system used in the transaction. Card transactions processed on a business day, or on any day that is not a business day, may be treated by Bank as occurring on the next business day. Cardholders may use a Card and engage in Card transactions 24 hours a day and 7 days a week, depending on merchant availability.

4. Discretionary Overdraft Program. Bank may also at its sole discretion authorize a Card transaction that is not covered by available balances, and pay any resulting Card transaction into overdraft at settlement if there are insufficient funds at that time (“Discretionary Overdraft Service”). If Company would prefer that Bank not provide Discretionary Overdraft Services, Bank will cease the service at any time upon Company’s “opt-out” request or instruction. Bank is not obligated to offer Discretionary Overdraft Services, and no commitment exists by Bank (or arises from any course of performance) to extend credit or to allow overdrafts or the possibility of overdrafts. Bank reserves the right to stop or change the dollar amounts of discretionary authorization and payment of Card transactions presented against insufficient available funds at any time and without notice. If an overdraft is created, Company agrees immediately to deposit sufficient available funds to cover the amount of the overdraft.

Pursuant to the Schedule of Fees and Charges that governs the Attached Account, overdraft fees are \$30 per transaction that is paid into overdraft, to a maximum of \$150 per business day. The overdraft fees and any maximum may be changed by Bank, whether through notice of a change made under this Agreement or through notice of a change made under the Deposit Agreement and Disclosure Statement governing the Attached Account. Since the discretionary overdraft program may result in overdraft fees, Company is advised to prevent overdrafts from occurring. Company is advised that there are other programs offered by Bank that offer loans and extensions of credit (for example, business credit cards and lines of credit) that will provide access to funds at fees and charges that are often less than overdraft fees and charges (in some cases, the difference can be very large).

Bank may at its sole discretion determine the order of posting of Card transactions, checks, items, debits and other charges to an Attached Account, both for purposes of determining the balance available for Card transactions at authorization and for purposes of settlement of Card transactions against an account. Generally, Card transactions on the settlement date are charged against an account before checks and other items. Wire transfers and certain other transactions are processed real time (or memo posted as a charge against available funds). An overdraft fee is charged when a Card transaction settles into overdraft – that is, causes a negative balance to occur.

An overdraft fee can also arise if a check or other item causes a negative balance. For example, if a Card transaction reduces an account balance, a check or other item may overdraw the account if not returned unpaid. A check or other item may pay into overdraft due to a Card transaction hold having been imposed (see below). Checks and other charges or debits to an account that occur after authorization of a Card transaction can also result in an overdraft. An overdraft fee may also be charged in these cases.

5. Hold on Funds; Security Interest. Bank may place a hold on funds in an Attached Account based on authorization requests. The hold may be for the amount of the transaction or for a pre-established amount in excess of the transaction (for example, hotel or car reservations). The held funds will not be available for other account purposes, and an overdraft fee may be assessed if a negative balance arises. Bank also has the right to return checks or other items drawn on or debits against an Attached Account to maintain sufficient funds to pay for any previously authorized Card

transactions. The hold may be released on or before, or may continue after, the date that the Card transaction is settled through the appropriate system (normally, Maestro or the MasterCard system). The Bank’s hold may continue even if Company does not purchase any goods or services for which authorization was obtained.

Company agrees to maintain sufficient available funds on deposit in the affected account to cover all previously authorized Card transactions and all current charges or debits against the Attached Account. If there are insufficient available funds in an account after giving effect to a hold, Bank may reject or return checks and other charges or debits to the account. If checks are returned, Company agrees to pay all applicable non-sufficient funds fees. In this regard, Bank may but is not obligated to allow transactions which exceed Company’s available balance. If Bank does, Company agrees to pay the overdraft and any overdraft fees. If Bank allows checks or other charges and debits to be authorized or paid in excess of the available balance, Bank may discontinue that practice at any time and with or without cause or notice to Company. Bank may honor or charge an account for withdrawals, checks, funds transfers, payment orders, Card transactions or other account debits or activity in any order of payment Bank chooses, and may change the order of payment at any time with or without notice to Company.

Company grants to Bank a security interest in all accounts of Company at Bank, and in all funds in such accounts, to secure Company’s obligations to Bank under this Agreement.

6. Fees and Fines. Company will pay to Bank its fees as set forth in the Schedule of Fees and Charges or as otherwise communicated to Company. Bank may charge Company a reasonable charge for photocopies and reprints which Company or any employee may request and for other special services. Bank fees are different from service charges imposed by other financial institutions or by merchants. Bank reserves the right to change its fees upon notice.

Company will also reimburse Bank for any fines or penalties (and any associated costs, including reasonable attorneys’ fees and costs) imposed on or assessed against Bank by MasterCard any card payment system, state or federal regulatory agency or other U.S. or foreign governmental body, or third party having oversight or rulemaking authority over Card transactions, when the fine, penalty or other expense is caused by or related to Company’s or a Cardholder’s use of Cards. Such amounts shall be immediately due and payable by Company to Bank.

7. Google Wallet. Cardholder may register the Card with Google Wallet, a program that allows Card access through a “virtual wallet.” Once registered the Google Wallet may be accessed online and through a cell phone or other mobile device. Company and Cardholder should consider there is risk of loss that may result from wireless transmission or loss of the mobile device. Information about Google Wallet, including enrollment and unenrollment, is available at www.google.com/wallet/.

Purchases made using Google Wallet may appear on the periodic statements with the phrase “Google Wallet” and the related merchant to assist with identification.

Cardholders may earn rewards or “offers” by engaging in Google Wallet transactions. Company will have no automated controls over how the individual Cardholder uses or redeems any rewards or offers.

We have no responsibility or liability whatsoever for any function, malfunction, delays or other problems, or any resulting loss, damage or liability, from enrollment in or use of Google Wallet by a Cardholder.

Use of the Card to fund a Google Prepaid card is treated as a cash advance transaction, subject to the cash advance fee provided in this Agreement.

8. Company’s Representation and Warranties. Company represents and warrants to Bank as follows:

- a. Company has all requisite power and authority to enter into this Agreement. The entering of the Agreement, and execution of the corresponding Application, if applicable, incorporating the same has been duly and validly authorized by all necessary action.

Further, the contracting officer and any other individual(s) who executes the Application or activates the Cards for the Services is acting on Company’s behalf and is each duly authorized by Company to do so.

- b. The transactions contemplated hereby will not be in violation of state or federal law;
- c. All formalities will be followed with respect to each transfer of funds, including but not limited to, proper authorization of individual transactions and any record-keeping requirements with respect thereto;
- d. The Card(s) will be used solely for commercial, business or agricultural purposes;
- e. A copy of this Agreement will be delivered to each Cardholder before a Cardholder is permitted by Company to use a Card and Company will require each Cardholder to sign the Card delivered by Company for Cardholder’s use before using the Card; and
- f. A copy of any updates or amendments to this Agreement will be delivered to each Cardholder and Company will require each Cardholder to agree to the updates or amendments, if applicable.

9. Company’s Liability. Use of the Card(s) or PIN(s) is controlled by Company. All use of a Card will be and will be deemed to be an act of and the responsibility of Company, whether or not the Card is or is not a valid Card. Company will be liable for all transactions made using a Card, PIN or Card number, or otherwise in connection with the service contemplated under this Agreement. Company shall be responsible regardless of whether such Card transactions were effectuated: (a) by or on behalf of any authorized individual, or for any authorized purpose, or by an unauthorized person or in conflict with any usage limitation established by Company; (b) using a valid PIN; or (c) in accordance with any rules or regulations of MasterCard[®], Maestro, the Bank or any merchant. Without limiting the foregoing, Company is responsible for any and all transactions of any type processed through an authorized system if Bank receives transaction data identifying a Card, PIN or other access device as one issued to Company. For purposes of this Agreement, an authorized system is any system that will process transaction data for valid Cards (including MasterCard[®], Maestro and any other POS or other system shown as a logo on any Card).

Company agrees to pay Bank for all transactions for which Company is liable under this Agreement, and authorizes Bank to charge any account of Company at Bank for the same (including but not limited to the affected Attached Account).

Company’s liability for Card transactions will continue until the later of the time that all Cards are returned to Bank or Company instructs Bank to cancel all Cards and Bank has had a reasonable opportunity to cancel all Cards. Company understands that loss or theft of a Card, or any unauthorized use of a Card, is no basis for Company to avoid liability for a Card transaction, whether before or after Company informs Bank of loss or theft of the Card (except as specifically provided in this Agreement). Bank may from time to time require closure of an Attached Account or accounts and re-issuance of one or more Cards as a means of preventing further losses, and Company agrees to bear all costs associated with the same.

Issuance of the Card(s) creates an inherent risk of unauthorized use. Authorization for use of the Cards and any PIN(s) is not dependent upon or limited to either those individuals specified on the signature card for an Attached Account, or other individuals specifically authorized by Company to use a Card or PIN. Authorization for use of the Card(s) and corresponding PIN(s) will not be subject to review by Bank. Company assumes the risk of loss associated with unauthorized use of the access provided herein, including but not limited to theft and embezzlement of valid Cards and the creation or forgery of invalid cards.

Company warrants that it will not redistribute the Card(s) among individuals not named on the Card. Company specifically assumes any risk associated with any distribution or redistribution of a Card(s) and corresponding PIN(s), if this occurs notwithstanding Company efforts to prevent this from occurring. Company further assumes any risk associated with disclosing Card or PIN information to others, including,

but not limited to, risks of loss associated with theft or embezzlement.

Limited Liability. If a Card is used in a MasterCard transaction, then the MasterCard Zero Liability Policy may apply. If the Zero Liability Policy applies, Company will not be responsible for “unauthorized use” of the Card, where “unauthorized use” means the use of the Card by a person other than Company or a Cardholder who does not have actual, implied or apparent authority for such use, and from which Company or Cardholder receives no benefit.

The MasterCard Zero Liability Policy may not apply if any of the following are true:

- Company or Cardholder did not exercise reasonable care in safeguarding the Card from risk of loss or theft;
- Company or Cardholder had reported two or more incidents of unauthorized use to the Bank in the immediately preceding 12 month period;
- Company’s account to which transactions initiated with such Card are posted is not in good standing;
- The Card is issued for commercial, business or agricultural purposes, except for MasterCard commercial cards used for small businesses as listed on www.mastercardbusiness.com (currently, a “small business” is one with revenues of less than \$10 million, but this is subject to change by MasterCard);
- A PIN was used as the Cardholder verification method for unauthorized Card transaction(s);
- Company’s or Cardholder’s identity is not registered by or on behalf of Bank in connection with issuance or use of a Card; or
- Under the MasterCard Zero Liability Policy, the zero liability limitation would not apply for any other reason.

Finally, the MasterCard Zero Liability Policy may not apply to all transactions that are processed on a Card. Company should not assume that the MasterCard system is being used just because a PIN was not entered. The Cards issued by Bank have been enabled for use in transactions that are not processed via MasterCard (PIN and non-PIN based transactions may use systems that are not through the MasterCard payment system). The MasterCard Zero Liability Policy only applies to transactions that use the MasterCard payment system. If a payment system other than MasterCard is used (for example, Maestro), then the transaction will not be covered by the MasterCard Zero Liability Policy.

Examples of the types of actions that are required to initiate a transaction through the MasterCard payment system (with possible application of the MasterCard Zero Liability Policy) include signing a receipt, providing a Card number over the telephone or via the Internet, or swiping the Card through a point-of-sale terminal without a PIN. Examples of the types of actions that may be required to initiate a transaction that is not through the MasterCard payment system (and, thus, not covered by the MasterCard Zero Liability Policy) include initiating a payment directly with the biller (possibly via telephone, Internet, or kiosk locations), responding to a logo displayed at a payment site and choosing to direct payment through that network, and verifying identity using known information derived from an existing relationship with the Cardholder instead of through the use of a PIN.

10. Bank’s Liability. Bank will not be liable for failure to detect or prevent any unauthorized use of a Card or for invalid transactions using fraudulent Cards. Bank will not be responsible for monitoring Card use or usage patterns. BANK WILL NOT BE LIABLE FOR SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER ARISING UNDER ANY CLAIM IN CONTRACT OR TORT OR OTHERWISE, EVEN IF BANK OR ITS AGENTS MAY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Bank’s liability under the MasterCard Zero Liability Policy (if it applies) is limited to reimbursing Company for the face amount of any unauthorized Card transaction.

Without limiting the foregoing, Bank will not be liable for failure to complete any transaction as may be allowed under this Agreement or under any of the following instances: