

# MASTER COMMERCIAL CARD AGREEMENT

Version 2.1

This Master Commercial Card Agreement, which is comprised of the Master Terms together with any exhibits and Local Schedules attached thereto, as amended, supplemented or replaced from time to time (the "**Master Agreement**"), is made and entered into as of **March 28, 2018** (the "**Effective Date**") and sets forth the terms and conditions under which **JPMorgan Chase Bank, N.A.** or one or more of its Affiliates ("**Bank**") shall provide commercial card services to **Lexington-Fayette Urban County Government** ("**Client**") who executes this Master Agreement and/or one or more of such Client's Affiliates. Client and Bank may be referred to in this Master Agreement individually as "**Party**" and collectively as the "**Parties**". For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Client and Bank hereby agree as follows:

## MASTER TERMS

### 1. Definitions

Each capitalized term used in this Master Agreement shall have the following defined meanings set forth below or as otherwise set forth herein.

**Access Code** means the user identification code and password assigned to Authorized Users.

**Account** means each account established in the name of Client pursuant to this Master Agreement.

**Affiliate** means an entity controlling, controlled by, or under common control with, directly or indirectly, a Party to this Master Agreement. For this purpose, one entity "controls" another entity if it has the power to direct the management and policies of the other entity (for example, through the ownership of voting securities or other equity interest, representation on its board of directors or other governing body, or by contract).

**Applicable Law** means for any country, all federal, state, provincial and local laws, statutes, regulations, rules, executive orders, supervisory requirements, licensing requirements, export requirements, directives, circulars, decrees, interpretive letters, guidance or other official releases of or by any government, any authority, department or agency thereof, or any regulatory or self-regulatory organization such as the European Union, that apply to a Party's obligations under the Master Agreement.

**Authorized Approver** or **Authorized Signer** means an individual(s) designated by Client to have authority over the Program.

**Authorized User** means an individual designated by Client to access Account and Transaction data and reports.

**Business Day** means a day on which Bank is open for business as identified in the applicable Local Schedule.

**Card** means a Network-branded card that is issued to Cardholders by Bank upon the request of Client and approval by Bank, and includes any plastic card bearing a card number and accounts and card numbers with no associated plastic card, which includes Single-Use Accounts.

**Card Request** means a written or electronic transmittal from Client, requesting Bank to issue a Card(s).

**Cardholder** means: (A) an individual in whose name a Card is issued, and (B) any person or entity authorized by Client or named Cardholder to use a Card.

**Cardholder Agreement** means documentation provided by Bank to Client or Cardholder governing use of a Card by such Cardholder.

**Cardholder Credit Limit** means the maximum spending limit established in relation to a Cardholder.

**Corporate Liability** means Client is solely liable for the Transactions, subject to the Master Agreement and any Cardholder Agreement.

**Credit Card Network** or **Network** means either MasterCard International, Inc. or Visa U.S.A., Inc.

**Credit Limit** means the maximum spending limit established for Client in connection with the Program.

**Cycle** means the monthly period ending on the same day each month or, if that day is not a Business Day, then the following Business Day or preceding Business Day, as systems may require, or such other period as Bank may specify.

**Effective Date** means the date indicated as such on the introductory paragraph.

**Fraudulent Transactions** means transactions made on a Card by a person, other than Client or Cardholder, who does not have actual, implied or apparent authority for such use, and which Cardholder or Client receives no direct or indirect benefit.

**Joint and Several Liability** means Client and Cardholder are jointly and severally liable for the Transactions, subject to the Master Agreement, and the Cardholder Agreement.

**Local Schedule** means a schedule to this Master Agreement which sets forth the terms and conditions applicable to the commercial card Programs provided to Client in a particular geographic region or country.

**Marks** means the name, trade name, and all registered or unregistered service marks of Client, the Network and Bank.

**Program** means the commercial card system composed of Accounts, Card-use controls, reports to facilitate purchases of and payments for business goods and services, and related services, all as established in connection with the Master Agreement.

**Program Administrator** means an individual or individuals authorized by Client to perform administrative and security functions in connection with the Program and System.

**Single-Use Account** means a one-time virtual card number generated for a single transaction.

**Systems** means the systems through which Client can access Account and Transaction data and reports.

**Tax** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any related penalty or interest).

**Tax Deduction** means a deduction or withholding for or on account of Tax from a payment under the Master Agreement.

**Transaction** means a purchase, a cash advance, fees, charges or any other activity charged to an Account in respect of a Card.

## 2. Certain Bank Services

- A. Subject to prior financial, risk management and compliance approvals by Bank, Bank shall establish Accounts in the name of Client and, where applicable, issue Cards to employees and authorized representatives of Client who are approved by Bank and are designated and authorized by Client to incur legitimate business expenses on Client's behalf. Any balance outstanding associated with an Account for which a corporate liability waiver is requested shall become immediately due and payable.
- B. Extension of Program. Upon Client's submission of a request from time to time in the form required by Bank and following Bank's agreement to do so, Bank will extend the Program to Client's Affiliates. Client is responsible as principal obligor for all obligations under the Master Agreement (including, without limitation, as principal obligor with respect to all payment and other obligations as the same relate to its Affiliates and their respective Cardholders and waives any defences or offsets available to such Affiliates). Client shall cause each of its Affiliates and their respective Cardholders to comply with the Master Agreement.
- C. Notwithstanding the foregoing, Bank shall not be obligated to provide any Account to Client or any Client Affiliate or any Card to an employee or authorized representative of Client or any Client Affiliate or to process any transactions in violation of any limitation or prohibition imposed by Applicable Law, including, but not limited to, the regulations issued by the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC").
- D. Supplier Recruitment. Supplier recruitment is an optional recruitment campaign comprising of certain services provided by Bank (such services collectively, "Supplier Recruitment") in connection with certain products. Should Client request Supplier Recruitment services, Client shall be deemed to have accepted and agreed to the following terms of use:
- i. Client will complete Supplier Campaign Questionnaire/Form provided by Bank;
  - ii. Client will commit to having internal resources available to address weekly recruitment needs;
  - iii. Client will provide, to the extent commercially reasonable, complete and accurate supplier information including, but not limited to, supplier name, remittance address, contact name, phone number, and email addresses.
  - iv. Should Client not have complete and accurate Supplier contact information, the Bank will offer "Supplier Data Enrichment", a recruitment service utilizing internal and external data sources to obtain supplier contact information for the purpose of Supplier Recruitment. Bank will use commercially reasonable efforts to enrich supplier data provided by client via the Supplier Data Enrichment process. Client is solely responsible for validating Bank obtained supplier contact information during the recruitment process and prior to issuing payment to that supplier. Client acknowledges that supplier contact information is deemed to be accurate once payment has been requested.
  - v. Bank reserves the right to refuse or discontinue Supplier Recruitment and/or Data Enrichment services at any time.
  - vi. Furthermore, except to the extent that such Claims (as hereinafter defined) arise from the negligent or wrongful actions of the Bank or its Affiliates, Client, on its behalf and on behalf of each of its Affiliates:
    - (a) releases and forever discharges Bank and each of its Affiliates from any and all past, present and future claims, losses, liabilities, obligations, expenses, attorney or other fees, suits, debts, liens, contracts, agreements, promises, demands and damages, of any nature whatsoever, known or unknown, suspected or unsuspected, fixed or contingent (collectively, "Claims") that Client or any of its and each of its Affiliates ever had, now has, or hereafter may have against Bank and each of its Affiliates, arising out of or related to, Supplier Recruitment and Supplier Data Enrichment, and
    - (b) agrees to reimburse Bank and each of its Affiliates for any direct damages Bank incurs related to all Claims arising under clause (a) from Client suppliers.

## 3. Obligations of Client

In connection with the Program, Client shall:

- A. Submit Card Requests in the form and via the method required by Bank. Client shall not give, nor cause or permit to be given, any Card to a Cardholder before the Cardholder application process defined by Bank is completed.
- B. Notify each Cardholder at the earliest opportunity: (i) that Cards are to be used only for Client's business purposes; (ii) of the Cardholder Credit Limit and any other applicable limit; (iii) of Bank suspending a Card or refusing to issue any further Cards, closing an Account, or ending the Cardholder Agreement; (iv) of revisions to any guide to the use of Cards (if applicable); and (v) of the extent, if any, to which Bank will provide Transaction and Account information to third Parties at Client's request.
- C. Use commercially reasonable efforts: (i) to safeguard Accounts using reasonable security procedures; (ii) where applicable, to maintain a process ensuring timely and accurate reimbursement of all Transactions to its Cardholders; (iii) not to exceed the Credit Limit; (iv) to collect and destroy any Cards which are no longer required; and (v) to the extent that Cardholder Agreements and Cardholder documentation are provided, cause Cardholders to comply with the Cardholder Agreements and Cardholder documentation.
- D. If not previously provided by Bank, provide to each actual and prospective Cardholder, in accordance with Bank's instructions, Cardholder documentation supplied by Bank.
- E. Immediately notify Bank: (i) of any Card or any Account which is no longer required; and (ii) by phone of any Card that Client knows or suspects has been lost, stolen, misappropriated, improperly used or compromised. In connection with Client's notifications obligations described herein and notwithstanding anything to the contrary contained in this Master Agreement:
- i. Liability for Fraudulent Transactions Following Notification. Client shall not be liable for any Fraudulent Transactions made on a Card under any Account after the effective time of such notification to Bank of such Fraudulent Transaction.
  - ii. Liability for Fraudulent Transactions Prior to Notification. Subject to the terms and conditions contained in subsection (iii) below, Client shall not be liable for Fraudulent Transactions made on a Card under any Account prior to the effective time of such notification to Bank of such Fraudulent Transactions.
  - iii. Bank reserves the right, in its sole and absolute discretion, to hold Client liable for Fraudulent Transactions should Bank determine that, subsequent to implementation of Client's Program and at the time that the Fraudulent Transaction occurred, Client failed to operate its Program in accordance with the following fraud reduction requirements:
    - a. Client must block required high risk merchant category codes ("MCC's") identified by Bank and presented to Client;
    - b. Client must maintain reasonable security precautions and controls regarding the dissemination, use and storage of Account and Transaction data; and
    - c. Client must comply with all other requirements as Bank may reasonably require from time to time.
- If Client fails to comply with its obligations described in this subsection (iii), and Bank determines Client to be liable for Fraudulent Transactions, Bank will either: (1) invoice Client for the amount of such Fraudulent Transaction minus any amounts collected, or (2) deduct the amount of such Fraudulent Transaction amount from Client's rebate.
- F. Notify Bank of any Transaction that Client disputes as soon as practicable after the last day of the Cycle during which such Transaction is charged to Client, and in any event within sixty (60) days of such day. Client shall use commercially reasonable efforts to assist in obtaining reimbursement from a merchant. Client or, subject to any Cardholder Agreement and in the case of Cards under any Joint and Several Liability Accounts, the Cardholder, shall not be relieved of liability for any disputed Transaction if the charge-back is rejected in accordance with the applicable Network's charge-back policy. Bank shall not be liable to Client where notice is received after such sixty (60) day period unless specified in a Local Schedule. Client shall not make a claim against Bank or refuse to pay any amount because Client or the person using the Card may have a dispute with any merchant.
- G. Provide any required notification or obtain authorization under applicable privacy or data protection legislation.
- H. Unless previously provided to Bank, obtain and provide to Bank such information as Bank may reasonably request, for the purposes of investigating the identity of an actual or prospective Cardholder or Client or the identity or financial condition of Client, evidencing authority for Card issuance requests, and assisting in any review of Bank by a regulator with relevant jurisdiction. Any information provided by Client to Bank shall be, to the best of Client's knowledge, information and belief, accurate and complete in all material respects.
- I. Make payments for all Transactions posted to Accounts no later than the payment date (the "Payment Date"), as specified in the periodic statement. In the event that Client makes payments other than as contemplated by the periodic statement, Bank may require, and Client shall provide, such documentation as reasonably required by Bank to reconcile such payments to the amounts stated as due in the periodic statement by the Payment Date. Any amount due which is not received by the Payment Date shall be subject to the late fees as set out in Exhibit 1 to the Master Terms. If collection is initiated by Bank, Client shall be liable for payment of Bank's reasonable attorneys' fees and other costs and expenses of collection.
- J. In the case of Corporate Liability Programs, be solely liable for all Transactions and Client's obligations shall be enforceable regardless of the validity or enforceability of a Cardholder's obligations. In the case of any Joint and Several Liability Account, Client shall pay Bank, within ten (10) days of written notice, for any Transactions not paid by a Cardholder within one hundred and twenty (120) days of the first billing in respect of the relevant Transaction.
- K. Unless otherwise provided to Bank, provide Bank with such financial statements and other related information annually, or as otherwise requested by Bank in form and in such detail as Bank may reasonably request.

- L. Use commercially reasonable efforts to ensure that such applicants to whom it requests Bank to issue Cards and whom Client authorizes to use the Cards are not identified on a prohibited government sanctions list, or otherwise subject to a sanctions program applicable to Client.

#### **4. Credit Limits and Certain Bank Rights**

- A. Bank may establish a Credit Limit and Cardholder Credit Limit and may establish other limits from time-to-time. The establishment of a limit does not prevent such limit from being exceeded and, subject to the Master Agreement, Client is responsible for all amounts including such amounts that exceed a limit.
- B. Bank may at any time: (i) increase or decrease any Credit Limit or the Cardholder Credit Limit or any other limit in connection with any Card or any Account or the Program; (ii) refuse to authorize Transactions; (iii) vary the payment terms, or require the provision of security or additional security; (iv) suspend or terminate any Card or any Account; (v) decline to open any Account; or issue any Card or (vi) require MCC authorization restrictions in connection with a Program; (vii) apply or offset any credit balance hereunder to the payment when due of any amount owing under this Master Agreement; (viii) offset any obligation of Client to Bank under this Master Agreement or otherwise against any obligation Bank owes to Client.

#### **5. System Access**

- A. Bank shall provide Client with password-protected access to Systems through use of an Access Code. Bank shall assign an initial Access Code to the Program Administrator who shall create and disseminate Access Codes to Authorized Users.
- B. Client shall adhere to security procedures, terms and conditions provided by Bank regarding the System as set forth herein. Client agrees that any access, Transaction or business conducted using an Access Code is presumed by Bank to have been in Client's name for Client's benefit.
- C. Except for unauthorized use by a Bank employee, Client is solely responsible for the genuineness and accuracy of all instructions, messages and other communications received by Bank via the System. Bank may rely and act upon all instructions and messages which are issued with Access Codes, without making any further verification or inquiry.
- D. Bank is authorized to rely upon any written instruction that designates an Authorized Signer until the authority of any such Authorized Signer is revoked by Client by written instruction to Bank, and Bank has reasonable opportunity to act on such instruction.
- E. From time to time, Bank may suspend the System when Bank considers it necessary to do so (including, without limitation, for maintenance or security purposes). Bank will use reasonable efforts to provide Client with notice prior to the suspension.

#### **6. Representations and Warranties**

Each Party represents, warrants and covenants that it will comply with Applicable Laws in connection with the performance of its obligations under the Master Agreement. Each Party represents and warrants that this Master Agreement constitutes a legal, valid and binding obligation enforceable in accordance with its terms, and that execution and performance of the Master Agreement: (A) does not breach any agreement of such Party with any third party, (B) does not violate any law, rule, or regulation, or any duty arising in law or equity applicable to it, (C) are within its organizational powers, and (D) has been authorized by all necessary organizational action of such Party and validly executed by a person(s) authorized to act on behalf of such Party. Client also represents, warrants and covenants that it will use its commercially reasonable efforts to ensure that the Accounts and the Cards shall only be used for Client's business purposes. Client also represents and warrants that it will use commercially reasonable efforts to ensure that such applicants to whom it requests Bank to issue Cards to and whom Client authorizes to use the Cards/Accounts are not identified on a prohibited government sanctions list, are not located or resident in a sanctioned country, or otherwise subject to a sanctions program applicable to Client. Bank reserves the right to terminate the Master Agreement and/or cancel any of the Accounts at any time if Bank determines that a Card has been issued to a person residing in a sanctioned jurisdiction or where the Cardholder's name, or the name of an individual authorized to use a Card/Account, appears on a government sanctions list applicable to Client or Bank. EXCEPT AS SET FORTH IN THIS MASTER AGREEMENT OR IN ANY LOCAL SCHEDULE, NEITHER PARTY MAKES ANY OTHER REPRESENTATIONS AND WARRANTIES WHETHER EXPRESS OR IMPLIED INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

#### **7. Fees and Charges**

Bank may change the fees and charges payable by Client at any time, provided that Bank notifies Client at least thirty (30) days prior to the effective date of the change or such other period as is specified in the applicable Local Schedule. Bank's periodic statements represent the official record of amounts due and owing by Client to Bank regardless of the method(s) by which Client elects to receive invoice information from Bank (e.g., in electronic form, mappers or other methods). Client acknowledges that it has an obligation to verify and reconcile its payment obligations to Bank's periodic statements. Client and Bank agree that all periodic statements shall be sent or made available electronically unless otherwise agreed to in writing. Client specifically agrees to the delivery and receipt of or access to such electronic periodic statements.

#### **8. Term and Termination**

- A. This Master Agreement shall commence as of the Effective Date and continue in full force and effect for a period of **five (5) years** unless otherwise terminated in accordance with the terms of this Section 8. Thereafter this Master Agreement shall automatically renew for successive one-year terms unless earlier terminated as set forth herein.
- B. Either Party may terminate this Master Agreement for any or no reason upon sixty (60) days prior written notice to the other Party.

- C. Either Party may terminate this Master Agreement immediately upon the occurrence of one or more of the following events: (i) the other Party's violation of Applicable Law, (ii) the liquidation, insolvency or dissolution of the other Party, (iii) the voluntary or involuntary filing of bankruptcy proceedings or similar proceedings with respect to the business of the other Party, or (iv) with the exception of a payment obligation, a Party's breach of a material obligation under this Master Agreement that is not cured within thirty (30) days following receipt of notice of the breach from the non-breaching Party.
- D. In addition, Bank may immediately (a) terminate this Master Agreement, (b) terminate one or more services provided for in this Master Agreement, and/or (c) terminate one or more Cards upon the occurrence of one or more of the following events: (i) Client fails to remit any payment in accordance with the terms of this Master Agreement, (ii) there is a default by Client or its parent, subsidiary or affiliate in the payment of any debt owed to Bank or a Bank-related entity under any other agreement, (iii) there is a material adverse change in the business, operations or financial condition of Client, or (iv) any representation or warranty made by the Client or any financial statement or certificate furnished to Bank, shall prove to be inaccurate, false or misleading in any material respect when made.
- E. This Master Agreement shall terminate immediately upon the termination of all Accounts issued pursuant to this Master Agreement.
- F. In the event of termination of this Master Agreement by Bank in accordance with Section 8.C or Section 8.D above, Client shall immediately pay all amounts owing under the Agreement, without set-off or deduction.
- G. In the event of termination of the Master Agreement for any reason other than by Bank in accordance with Section 8.C or 8.D above, Client shall pay all amounts due and owing under this Master Agreement in accordance with the settlement terms of the Program, without set-off or deduction.
- H. Upon termination of this Master Agreement for any reason, Client shall promptly destroy all physical Cards furnished to Cardholders.
- I. Client (upon notice to Bank) may suspend or terminate any Account or any Card under any Account at any time and for any reason.
- J. Sections 3, 4, 5, 6, 8.D, 9, 10, and 11 of this Master Agreement shall survive the termination of the Master Agreement or any Local Schedule Notwithstanding anything to the contrary contained in this Section 8, the provisions of this Master Agreement shall remain in effect until all Cards and Accounts have been cancelled.

## 9. Limitation of Liability

- A. Bank shall be liable only for Client's actual damages which Client suffers or incurs as a direct result of Bank's negligence or willful misconduct and shall not be liable for any other loss or damage of any nature.
- B. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY EXEMPLARY, PUNITIVE, SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR THE LIKE, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, EACH OF WHICH ARE EXPRESSLY EXCLUDED BY AGREEMENT OF THE PARTIES HEREIN REGARDLESS OF WHETHER SUCH DAMAGES WERE REASONABLY FORESEEABLE AND WHETHER EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 10. Confidentiality

Except as expressly provided in this Master Agreement, all information furnished by either Party in connection with this Master Agreement, the Program or Transactions shall be kept confidential. The foregoing obligation shall not apply to information that: (A) is already lawfully known when received without an obligation of confidentiality other than under this Master Agreement, (B) is or becomes lawfully obtainable from other sources who are not under a duty of confidentiality, (C) is in the public domain when received or thereafter enters the public domain through no breach of this Section; (D) is developed independently by the receiving Party without use of the disclosing Party's confidential information; (E) is in an aggregate form non-attributable to the disclosing Party; (F) is required to be disclosed to, or in any document filed with, the U.S. Securities and Exchange Commission (or any analogous body or any registrar of companies or other organizations in any relevant jurisdiction), banking regulator, or any other governmental agencies, (G) is required by Applicable Law to be disclosed and notice of such disclosure is given (when legally permissible) to the disclosing Party, or (H) may be disclosed as provided in the Cardholder Agreement or other Cardholder-related documentation. Notice under (G), when practicable, shall be given sufficiently in advance of the disclosure to permit the other Party to take legal action to prevent disclosure. Bank may exchange (and Client insofar as necessary hereby consents to such exchange) Client and (to the extent authorized) Cardholder confidential information with Affiliates. Bank may also disclose confidential information to service providers in connection with Bank's provision of Program services; provided, that the service providers comply with the terms of this Section 10.

## 11. Miscellaneous

- A. Except as otherwise mutually agreed, neither Party shall use the Marks of the other Party without its prior written consent. If Client elects to have its Marks embossed on the Cards or provide them to Bank for other uses, Client hereby grants Bank a non-exclusive limited license to use the Marks for the foregoing purposes.
- B. If any provision of this Master Agreement is found by an arbitrator or court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the Parties set forth in this Master Agreement. The failure of either Party hereto to enforce any right or pursue any remedy hereunder shall not be construed to be a waiver thereof.
- C. Bank and Client will at all times be independent contractors. In furtherance of the Parties' mutual interests in this Master Agreement, no third party will be deemed an intended or unintended beneficiary of this Master Agreement. This Master Agreement is enforceable only between the Parties hereto and shall not be subject to any actual or implied right or obligations of, or commitment to, any third party without the prior written consent of Bank.

- D. In the regular course of business, Bank may monitor, record and retain telephone conversations made or initiated to or by Bank from or to Client or Cardholders.
- E. This Master Agreement shall be binding upon and inure to the benefit of Client and Bank and their respective successors and permitted assigns. This Master Agreement, or any of the rights or obligations hereunder, may not be assigned by Client without the prior written consent of Bank.
- F. This Master Agreement constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior or contemporaneous proposals, understandings, representations, negotiations, and agreements of any kind, whether written, oral, expressed or implied, relating to the subject matter thereof. This Master Agreement may be amended or waived, subject to Applicable Law, only by notice to Client in writing from Bank.
- G. This Master Agreement may be signed in one or more counterparts, each of which shall be an original, with the same effect as if the signatures were upon the same document. Facsimile signatures shall have the same force and effect as the original.
- H. If applicable, to the extent that Client would have been able to claim sovereign immunity in any action, claim, suit or proceeding brought by Bank, Client irrevocably waives and agrees not to claim such immunity.
- I. Unless Client provides Bank with a valid applicable exemption certificate or other proof of exemption, Client will pay or reimburse Bank upon demand for any taxes, levies, imposts, deductions, charges, stamp, transaction and other duties and withholdings (together with any related interest, penalties, fines, and expenses) in connection with the Master Agreement, any Account or any Transactions, except if imposed on the overall net income of Bank. If a Tax Deduction is required by law, the amount of the payment due to Bank from Client will be increased to an amount which (after making the Tax Deduction) leaves an amount equal to the payment which would have been due to Bank if no Tax Deduction had been required.
- J. Neither Bank nor Client shall be liable for any loss or damage to the other for its failure to perform or delay in the performance of its obligations under this Master Agreement, if such non-performance or delay is caused directly or indirectly by an act of God, act of governmental authority, de jure or de facto, legal constraint, war, terrorism, catastrophe, fire, flood or electrical, computer, mechanical or telecommunications failure, or failure of any agent or correspondent, or unavailability of a payment system, or other natural disaster or any cause beyond its reasonable control.
- K. Any disputes between the Parties hereto concerning this Master Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to choice of law provisions thereof. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY HEREBY WAIVES ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING OF ANY KIND ARISING OUT OF, BY REASON OF, OR RELATING TO THIS AGREEMENT, THE INTERPRETATION THEREOF OR TO ANY TRANSACTIONS HEREUNDER. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY THE PARTIES.
- L. Client acknowledges that Bank prohibits the use of Cards under any Accounts to conduct transactions (including, without limitation, the acceptance or receipt of credit or other receipt of funds through an electronic funds transfer, or by check, draft or similar instrument, or the proceeds of any of the foregoing) that are related, directly or indirectly, to unlawful internet gambling. The term "unlawful internet gambling," as used here, shall have the meaning as set forth in 12 C.F.R. Section 233.2(bb).
- M. All notices and other communications required or permitted to be given under this Master Agreement shall be in writing except as otherwise provided herein, and shall be effective on the date on which such notice is actually received by the Party to which it is addressed. All notices shall be sent to the address set forth below or such other address as specified in a written form from one Party to the other.

To Bank: JPMorgan Chase Bank, N.A.  
 10 S. Dearborn Street  
 Mail Code IL1-0286  
 Chicago, IL 60603-2300  
 UNITED STATES  
 Attn: Commercial Card Legal

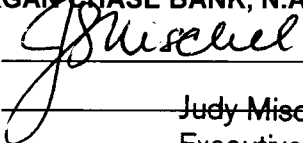
To Client: Lexington-Fayette Urban County Government  
 200 E. Main Street  
 Lexington, KY 40507  
 Attn: Todd Slatin

- N. If any credit arises on an Account in respect of a Card (for example as a result of a duplicate payment, merchant refund or refund for a disputed transaction), Bank will apply the credit to offset any amount owed to Bank, either then or at any later time, under this Master Agreement. Bank may at its option pay it to the relevant Cardholder or Client using any method chosen by Bank.

REMAINDER OF PAGE INTENTIONALLY BLANK. SIGNATURES ON FOLLOWING PAGE

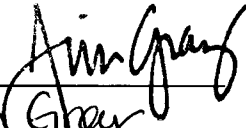
IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be executed by their duly authorized representatives as of the Effective Date.

**JPMORGAN CHASE BANK, N.A.**

By   
Name Judy Mischel  
Title Executive Director  
Commercial Card

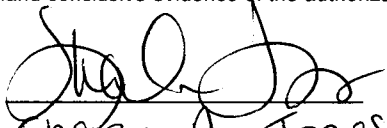
**Client Authorization:** The undersigned is an officer, member, manager, director, managing partner, or general partner (or person authorized to represent the foregoing), as applicable, of Client, authorized to bind Client to enter into and to perform its obligations under this Master Agreement. The undersigned certifies to Bank that the governing body of Client has adopted resolutions or other appropriate and binding measures authorizing Client to enter into and perform its obligations under this Master Agreement and that those resolutions or other appropriate and binding measures were: (a) adopted in accordance with, as applicable, all requirements of law and Client's organizational or constituent documents, (b) have been entered into the minute books or company records of Client, and (c) are now in full force and effect. Client shall provide to Bank immediately upon demand conclusive evidence of the authorizations described above.

**CLIENT**

By   
Name Jim Gray  
Title Mayer

Note: The legal name of any member, managing member or general partner who is signing but is not an individual person must appear in the signature block.

**Client Attestation:** The undersigned officer, member, manager, director, managing partner, or general partner (or person authorized to represent the foregoing) of Client, hereby certifies that the individual signing above on behalf of Client has been duly authorized to bind Client and to enter into and perform its obligations under this Master Agreement and that the person signing above on behalf of Client, whose execution of this Master Agreement was witnessed by the undersigned, is an officer, member, manager, director, managing partner, or general partner (or person authorized to represent the foregoing) of Client possessing authority to execute this Master Agreement. Client shall provide to Bank immediately upon demand conclusive evidence of the authorizations described above.

By   
Name Sharon A. Jones  
Title Deputy Council Clerk

Note: The person signing the attestation shall be someone different from the person signing above on behalf of Client.

# EXHIBIT 1 to the Master Terms

## FEES & INCENTIVES

1. **DEFINITIONS.** Capitalized terms herein that are not otherwise specifically defined herein shall have the same meanings as set forth in the Agreement.

**“Average Annual Spend per Card”** means annual U.S. Total Charge Volume divided by the average number of open Cards included in the calculation of annual U.S. Total Charge Volume for any Contract Year. The average number of open Cards is calculated as the number of Cards open at each month-end, averaged over such Contract Year.

**“Average Annual Transaction Size”** means annual U.S. Total Single-Use Charge Volume divided by the total number of Transactions included in the calculation of annual U.S. Total Single-Use Charge Volume for any Contract Year.

**“Average File Turn”** has the meaning given to it in Section 3.A.i.

**“Combined Large Ticket Transaction Volume”** means the sum of U.S. Large Ticket Transaction Volume and U.S. Single-Use Large Ticket Transaction Volume.

**“Combined Net Charge Volume”** means the sum of U.S. Net Charge Volume and U.S. Net Single-Use Charge Volume.

**“Combined Total Charge Volume”** means the sum of U.S. Total Charge Volume and U.S. Total Single-Use Charge Volume.

**“Contract Year”** means a 12-month period beginning on the Effective Date of this Agreement or any anniversary of such date.

**“Credit Losses”** means all amounts due to Bank in connection with any and all Cards or Accounts that Bank has written off as uncollectible, excluding amounts due in respect of Fraudulent Transactions.

**“Fraudulent Transactions”** means Transactions made on a Card or Account by a person, other than Client or Cardholder, who does not have actual, implied, or apparent authority for such use, and which the Cardholder or Client receives no direct or indirect benefit.

**“Large Ticket Transaction”** means a Transaction that the Credit Card Networks have determined qualifies as a large ticket transaction.

**“Settlement Terms”** means the combination of the number of calendar days in a billing Cycle and the number of calendar days following the end of a billing Cycle to the date the payment is due. Settlement Terms are expressed as X & Y, where X is the number of calendar days in the billing Cycle and Y is the number of calendar days following the end of a billing Cycle to the date the payment is due.

**“U.S. Large Ticket Transaction Volume”** means total Large Ticket Transactions made on any and all U.S. dollar issued Cards or Accounts, net of returns, cash advances, convenience check amounts, Fraudulent Transactions and any Transactions that do not qualify for interchange under applicable Credit Card Network rules. U.S. Large Ticket Transaction Volume does not include U.S. Single-Use Large Ticket Transaction Volume.

**“U.S. Net Charge Volume”** means total charges made on any and all U.S. dollar issued Cards or Accounts, net of returns, cash advances, convenience check amounts, Fraudulent Transactions and any Transactions that do not qualify for interchange under applicable Credit Card Network rules. U.S. Net Charge Volume does not include U.S. Large Ticket Transaction Volume, U.S. Net Single-Use Charge Volume, or U.S. Single-Use Large Ticket Transaction Volume.

**“U.S. Net Single-Use Charge Volume”** means total charges made on any and all U.S. dollar issued Single-Use Accounts, net of returns, cash advances, Fraudulent Transactions and any Transactions that do not qualify for interchange under applicable Credit Card Network rules. U.S. Net Single-Use Charge Volume does not include U.S. Single-Use Large Ticket Transaction Volume.

**“U.S. Single-Use Large Ticket Transaction Volume”** means total Large Ticket Transactions made on any and all U.S. dollar issued Single-Use Accounts, net of returns, cash advances, convenience check amounts, Fraudulent Transactions and any Transactions that do not qualify for interchange under applicable Credit Card Network rules.

**“U.S. Total Charge Volume”** means the sum of U.S. Net Charge Volume and U.S. Large Ticket Transaction Volume.

**“U.S. Total Single-Use Charge Volume”** means the sum of U.S. Net Single-Use Charge Volume and U.S. Single-Use Large Ticket Transaction Volume.



**2. REBATES**

**A. Volume Rebate**

Bank will pay Client a rebate based on the annual Combined Total Charge Volume achieved according to the following schedule. The rebate will be calculated as the Volume Rebate Rate (as determined according to the following schedule) multiplied by the annual Combined Net Charge Volume, subject to the rebate adjustments below.

<b>Combined U.S. One Card and U.S. Single-Use Account Programs</b>	
<b>Annual Combined Total Charge Volume</b>	<b>Volume Rebate Rate @ 30 &amp; 14 Settlement Terms</b>
\$2,000,000	1.25%
\$3,000,000	1.25%
\$4,000,000	1.50%
\$5,000,000	1.50%
\$6,000,000	1.55%
\$7,000,000	1.55%
\$8,000,000	1.60%
\$9,000,000	1.60%
\$10,000,000	1.65%
\$15,000,000	1.72%
\$20,000,000	1.72%
\$25,000,000	1.73%
\$30,000,000	1.73%
\$35,000,000	1.77%
\$45,000,000	1.81%
\$55,000,000	1.84%
\$65,000,000	1.85%
\$75,000,000+	1.86%

**B. Large Ticket Rebate**

Should Client achieve the minimum annual Combined Total Charge Volume required to earn a Volume Rebate as stated above, Bank will pay Client a rebate based on annual Combined Large Ticket Transaction Volume. The rebate will be calculated as the Large Ticket Rebate Rate (as determined according to the following schedule) multiplied by the annual Combined Large Ticket Transaction Volume, subject to the rebate adjustments below.

<b>Combined U.S. One Card and U.S. Single-Use Account Programs</b>	
	<b>Large Ticket Volume Rebate Rate @ 30 &amp; 14 Settlement Terms</b>
Large Ticket Rebate	0.60%

### 3. REBATE ADJUSTMENTS

#### A. Average File Turn Adjustment

##### i. Programs Contracted on Settlement Terms of 30 & 14

- a. For purposes of this Section 3.A.i, "Average File Turn" means the annual average outstanding balance for Programs contracted on Settlement Terms of 30 & 14 (i.e. sum of the average outstanding balances for each calendar month divided by 12) divided by the annual Combined Total Charge Volume associated with Programs contracted on Settlement Terms of 30 & 14, multiplied by 365.

The Volume Rebate Rate and Large Ticket Rebate Rate will be adjusted (either increased or decreased as applicable) based on the Average File Turn of Client's Program(s) over a Contract Year ("Average File Turn Adjustment").

- b. Programs with Settlement Terms of 30 & 14 will have an Average File Turn of 29 if Client spends ratably throughout each Cycle. The Average File Turn Adjustment for Client's Program(s) with Settlement Terms of 30 & 14 is calculated by determining the difference between Client's actual Average File Turn for such Program(s) and 29. If Client's actual Average File Turn for such Program(s) is less than 29, the Volume Rebate Rate and Large Ticket Rebate Rate will each be increased by 0.0050% for each whole number less than 29. If the Average File Turn for such Program(s) is greater than 29, the Volume Rebate Rate and Large Ticket Rebate Rate will each be decreased by 0.0050% for each whole number greater than 29 but less than 46.

- ii. If Client's actual Average File Turn under Section 3.A.i is greater than 45 days, Client will not qualify for any rebate payment (as described below in the General Rebate Terms Section).

#### B. Average Annual Spend per Card Adjustment

Bank may adjust the Rebates if the Average Annual Spend per Card decreases more than 20%. The U.S. One Card Program assumes an Average Annual Spend per Card of \$26,000.00.

#### C. Average Annual Transaction Size Adjustment

Bank may adjust the Rebates if the Average Annual Transaction Size decreases more than 20%. The U.S. Single-Use Account Program assumes an Average Annual Transaction Size of \$1,500.00.

#### D. Interchange Rate Adjustment

In the event of a reduction in interchange rates by the Credit Card Networks, Bank reserves the right to adjust the rebate rates and fees accordingly.

### 4. GENERAL REBATE TERMS

#### A. Annual Rebates

- i. Rebates will be calculated annually in arrears. Rebate payments will be made in USD within the ninety (90) day period after the end of the Contract Year (the "Rebate Calculation Period") via wire transfer to a business account designated by Client and authenticated by Bank. Payment is contingent upon Bank receiving Client's wire instructions and Bank's authentication of such instructions prior to the end of the Rebate Calculation Period.

- ii. Rebate amounts are subject to reduction by all Credit Losses. If Credit Losses exceed the rebate earned for any Contract Year, Client shall pay to Bank the amount in excess of the rebate, which invoice shall be due and payable in accordance with the terms of such invoice. If Client is participating in more than one Program, Bank reserves the right to offset any Credit Losses from one Program against any rebate earned under any other Program. In no event will Bank pay Client a rebate for the year in which the Agreement is terminated.

- B. To qualify for any rebate payment, all of the following conditions must be met.

- i. Client is not in default under the Agreement at the time of rebate calculation and payment.
- ii. Account(s) must be current at the time of rebate calculation and payment.
- iii. Average File Turn must be less than 46 days (as stated in the Average File Turn Adjustment section).

### 5. SETTLEMENT TERMS

Payment must be received by Bank in accordance with the Settlement Terms. Late payments shall be subject to fees as specified in the Fees Section of this Exhibit. Settlement Terms are 30 & 14 for the U.S. One Card and U.S. Single-Use Account Program(s).

**6. FEES**

**A. United States**

The following are the fees associated with U.S. Single-Use Account Programs:

<b>STANDARD SERVICES AND FEES</b>	
Late payment charge	Central bill: 1% of full amount past due assessed at end of the Cycle in which payment first became due and each Cycle thereafter
International transaction	1.5% of the US Dollar amount charged

If Client requests services not listed in this schedule, Client agrees to pay the fees associated with such services.

**B. United States**

The following are the fees associated with U.S. One Card Programs:

<b>STANDARD SERVICES AND FEES</b>	
Late payment fee	Central bill: None Individual bill: \$10 late fee at the end of the first Cycle NOTE: Client can be billed both a late fee and a finance charge
Delinquency/Finance charge	Central bill: Prime + 2.00% is applied to the average daily balance, which is calculated as follows: (past due balance + any new spend) / number of days in Cycle. Will be charged at the end of the first Cycle and each Cycle thereafter.
International transaction	1% surcharge
Standard Card	\$0.00
<b>ADDITIONAL SERVICES AND FEES</b>	
Cash advances	2.0% of advance amount (\$3.00 minimum with no maximum)
Rush card	\$25 per card if processed through Bank.

If Client requests services not listed in this schedule, Client agrees to pay the fees associated with such services.

# LOCAL SCHEDULE FOR THE UNITED STATES

This Local Schedule for the United States ("U.S. Schedule") sets forth the terms and conditions that will apply to Bank's establishment of Accounts in the name of Client and/or one or more Client Affiliates and issuance of Cards to its and their respective employees and authorized representatives in the United States. This U.S. Schedule is made a part of and incorporated into the Master Terms as though fully set forth therein. If a provision of this U.S. Schedule conflicts with the Master Terms, the provision of this U.S. Schedule will prevail.

## I. Overview

Bank shall issue Cards under the Program in the United States ("U.S. Program") in United States Dollars, and Client may participate in the U.S. Program subject to the terms of this U.S. Schedule.

## II. Definitions

Capitalized terms used but not defined in this U.S. Schedule will have the meanings given to them in the Master Terms. For purposes of this U.S. Schedule, the following terms shall be defined as set forth below:

**Business Day** means a day on which Bank and Federal Reserve Banks are open for business.

**International Transaction** means any Transaction that is made in a currency other than U.S. dollars or is made in U.S. dollars outside of the United States of America.

## III. Certain Additional Terms

Client represents and warrants that the Cards and Accounts to be issued and established under this U.S. Schedule are substitutes for accepted cards and accounts, or will be sought and issued only in response to written requests or applications for such Cards or Accounts. Client shall retain such applications (paper or electronic) for any Card when such application is not provided to Bank, for a period of twenty-five (25) months after the application has been received and acted upon.

## IV. Fees and Incentives

The fees and charges and incentives (if any) related to this U.S. Schedule are set forth on **Exhibit 1 to the Master Terms**.

## V. Notices

All notices and other communications required or permitted to be given under this U.S. Schedule shall be in writing, except as otherwise provided herein, and shall be effective on the date on which such notice is received by the Party to which it is addressed. All notices shall be sent to the address set forth below or such other address as specified in a written form from one Party to the other.

To Bank: JPMorgan Chase Bank, N.A.  
10 S. Dearborn Street  
Mail Code IL1-0286  
Chicago, IL 60603-2300  
UNITED STATES  
Attn: Commercial Card Legal

To Client: Lexington-Fayette Urban County Government  
200 E. Main Street  
Lexington, KY 40507  
Attn: Todd Slatin

## VI. International Transactions and Fees

If an International Transaction is made in a currency other than U.S. dollars, the applicable Network will convert the Transaction into U.S. dollars using its respective currency conversion procedures. The exchange rate each Network uses to convert currency is a rate that it selects either from the range of rates available in the wholesale currency markets for the applicable processing date (which rate may vary from the rate the respective entity itself receives), or the government-mandated rate in effect on the applicable processing date. The rate in effect on the applicable processing date may differ from the rate on the date when the International Transaction occurred or when the Card was used. Bank reserves the right to charge an International Transaction Fee, as specified herein. The International Transaction fee will be calculated on the U.S. dollar amount provided to Bank by the Network.

## VII. Governing Law

This U.S. Schedule and any matters arising out of or in relation to this U.S. Schedule shall be governed by and construed in accordance with the laws of the State of New York without reference to the principles of conflicts of that State.