



FIFTH THIRD BANK

COMMERCIAL CARD SERVICE AGREEMENT

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

1. Introduction

Card Programs. The Fifth Third Commercial Card is designed to handle all of an organization's purchasing, travel, and fleet spending needs through a single card platform. Our Card programs offer a wide array of features and control options including merchant category and velocity controls that limit your Cardholders to or from a particular category of spend. Certain features of our Card programs including Fifth Third ePay may be accessed pursuant to the Access Channels described below

The Card Service. At your request, we have agreed to provide to you our Commercial Card Service on the terms and subject to the conditions set forth in this Agreement (the "**Card Service**"). The Card Service consists of the Account, the Cards and the related services described in this Agreement. The Card Service may only be used for business or commercial purposes and not for personal, family, household or other consumer purposes. This Agreement is not binding on us until one of our authorized officers has executed it and delivered the signed copy to you.

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

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

OCAA. This Agreement is one of the Bank Agreements referred to in the Online Channel Access Agreement in effect between Customer and us (as it may be amended from time to time, the "**OCAA**"). The Card Services provided under this Agreement are "Bank Services" for purposes of the OCAA and this Agreement. The OCAA governs the Access Channel and Channel Services (each as defined in the OCAA) used to access the Card Services and together with this Agreement govern the Card Services provided to Customer contemplated by this Agreement.

If Customer uses the Channel Services without having executed an OCAA, Customer will be nevertheless be bound by the OCAA in the form provided or made available to Customer.

Channel Services. The Channel Services available in connection with the Card Services include the Admin Applications described in Section 17 of this Agreement.

2. *Establishment of Account and Issuance of Cards*

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

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

Transactions. Cards and the Account may be used to effect the purchase or reservation of goods or services and cash advances by all generally recognized means unless otherwise restricted by us including swipe, virtual card numbers (if you select this feature of the Card Service), signed seller drafts, telephone, internet entry, use of an account number or otherwise. We are not responsible for the failure or refusal of anyone to honor a Card. Subject to the express limitations set forth in this Agreement, you are responsible for all uses of a Card and Card number regardless of the means by which the transaction is effected and regardless of whether it is authorized by you or violates your internal policies, controls or restrictions. Merchant category and velocity controls, when properly implemented and used by you and reported by the merchant, can be effective in controlling transaction activity.

Card Administrator. In the set up process for the Card Service, you will appoint an individual to serve as your administrator (“*Card Administrator*”) with the authority to administer and manage the use of the Card Service on your behalf as further described in this Agreement and the User Guide including the authority to issue, impose limits on and cancel Cards and accept and act on communications from us regarding the Card Service.

Customer Identification Program. To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person or business entity that establishes an Account. When you establish an Account with us, you must provide us with your business entity name, principal and local (if different) address, date of establishment, employer identification number and other information. We may also seek additional information or documents. You agree that we may seek information about you from third parties to confirm your identity and for other Account related purposes. We are required to follow these procedures even if you are already a customer of ours.

3. *Promise to Pay*

Obligation. You promise to pay us all Obligations without deduction or set-off in accordance with this Agreement. Subject to the limitation under “**Fifth Third Use Liability Policy**” in the following paragraph, you are required to pay us whether or not the use of the Account, Card, account numbers or other incurrence of indebtedness was authorized by you. Cancellation of a Card or termination of the Account does not in any way excuse your obligation to pay for all purchases or other charges incurred against or in connection with the Account or with any Card or account number through the effective time of the cancellation or termination. As used in this Agreement, the term “**Obligations**” means: (a) the aggregate outstanding principal amount of, and all interest, fees and charges on advances made by us on or in connection with the Account, through the use of a Card, an account number or otherwise (including any interest accruing after the commencement of any proceeding by or against you under the federal or state bankruptcy, insolvency or other similar laws, and any other interest that would have accrued but for the commencement of such proceeding); (b) all of your obligations and liabilities for the indemnification of us under this Agreement; and (c) all fees, costs, charges, expenses, reimbursements and other similar obligations from time to time owing to us under this Agreement. Payment of the Account balance is due in full on the due date specified by us in the set up process unless otherwise expressly agreed by you and us in the set up process as evidenced by our implementation records (“**Payment Due Date**”).

Fifth Third Use Liability Policy. If you believe that a transaction on your Account was unauthorized, you must notify us as soon as possible but not more than sixty (60) days after the transaction in question appears on your Account Statement (as defined below). You will be required to provide us with reasonable information about the transaction to enable us to investigate the matter, and to reasonably cooperate with us in any investigation. If you do that, and the following conditions are met, you will not be responsible for the unauthorized transaction: (a) the transaction was not effected by a current or former employee or other Cardholder designated by you; (b) there are no past due obligations on the Account; and, (c) you have exercised reasonable care in safeguarding your Cards and Account from unauthorized use including that you did not provide, directly, by implication or otherwise, the right to use a Card or the Account to the person effecting the transaction, or receive any tangible benefit from the transaction. If the conditions in this paragraph are satisfied, we will credit your Account for the amount of the transaction in question and any fees and interest that may have been applied or accrued as a result of that transaction. In addition, MasterCard or other payment network associated with the Cards, if any (a “**Payment Network**”) may offer a liability protection program; contact the Payment Network for additional information. We will provide a copy of the Payment Network’s program literature upon request. If we have issued fewer than ten Cards in connection with the Account, your liability for a series of unauthorized uses cannot exceed either \$50 or the value obtained through the unauthorized use before the card issuer is notified, whichever is less. The term “unauthorized use” means the use of a credit card by a person, other than the Cardholder, who does not have actual, implied, or apparent authority for such use, and from which the Cardholder and you receive no benefit.

4. *Periodic Account Statements*

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

Discrepancies. Except for matters subject to Section 3, if there is a discrepancy between your records and the information shown on any Account Statement or other confirmation, or you discover any other error in an Account Statement or confirmation, you must notify us within thirty (30) calendar days after you receive such Account Statement or confirmation, or within such greater amount of time as may be required by applicable law. You must also follow the procedures described in the User Guide. If you fail to notify us within such 30-day period or fail to follow the prescribed procedures, you may be precluded from asserting the discrepancy against us and you will be obligated to us as provided on the applicable Account Statement. All entries in our books, records and accounts shall constitute conclusive evidence of transactions unless you furnish proof of manifest error.

Foreign Currency Transactions. To convert transactions made in foreign currencies into U.S. dollars, the relevant Payment Network will use its then-current currency conversion rates and the procedures established by such

Payment Network in its sole discretion. Currently, the currency conversion rate used to determine the transaction amount in U.S. dollars is generally either a wholesale market rate or a government-mandated rate in effect on the date of the conversion, increased by the applicable conversion charge determined by the Payment Network, if any. The currency conversion rate used on the conversion date may differ from the rate in effect on the date the transaction occurred.

5. *Making Payments*

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

Payments. Payments must be made in U.S. dollars. Except for payments made by Auto Debit as described below, you are responsible for timely making payments in the form we accept for receipt at the destination we specify to you on or before the date due. Payments not delivered or transmitted in that form to that destination will not be treated as timely received. Payments received after 3:00 p.m., Eastern Time, on any business day or on a day which is not a business day will be credited on the next business day. Credit to any Card or the Account may be delayed for up to five days if the payment is not: (a) made in U.S. dollars drawn on or from a U.S. financial institution located in the U.S. or by money order; or (b) accompanied by the proper account number and if not made electronically, not accompanied by the top portion of the Account Statement. Delayed crediting may cause you to incur additional fees and finance charges.

Debit Authorization. Unless you and we have agreed in writing to payment by another method, all payments on the Account may be made by direct automated clearinghouse (ACH) debits to your banking account with us or another financial institution ("*Auto Debit*"). You agree to complete an authorization form required by us and you authorize us to initiate debit entries to the account with the financial institution you designate for the amount due on the Account Statement until you have properly revoked the authorization. You agree to be bound by the NACHA Operating Rules with respect to these ACH transactions. We agree to timely initiate Auto Debits for payments on the Account subject to access to and availability of funds in your bank account.

Application. We reserve the right to apply payments and other credits to the Account in any manner that we may choose in our sole discretion. All credits for payments to the Account are subject to final payment or settlement by the institution on which the item of payment was drawn or from which the electronic payment was made. Although we may post payments as of the date we receive them, the available credit limit associated with the Account may not be restored for up to five days after we receive the payment.

Credit Balances. Credit balances will be applied to the next Account Statement unless you and we expressly agree otherwise.

6. *Fee Schedule*

Except as we may expressly agree in a written agreement executed by our authorized representative and delivered to you by us, you agree to pay all fees, interest and charges associated with the Account including those set forth in the Account Fees Schedule (the "*Fee Schedule*") attached to, or accompanying the executed version of this Agreement which is incorporated into this Agreement by this reference; if a Fee Schedule is not so attached or accompanying the executed version of this Agreement, you agree to pay our standard account fees, interest, penalties and charges. The Fee Schedule may be revised by us as provided in Section 19 of this Agreement. If there is any conflict between this Agreement and the Fee Schedule, this Agreement shall govern, but only to the extent reasonably necessary to resolve the conflict. Any finance charges, fees and other amounts, including penalties, assessed against the Account will be posted as direct charges to the Account and will count against the applicable credit limit until paid.

7. *Account Controls*

Monitoring Obligation. You are responsible for monitoring the use of the Cards, account numbers and the Account, and detecting unauthorized or improper use. We offer online account management tools through the Channel

Services to assist you in carrying out this responsibility, including access to transaction information and the means to cancel a Card or impose limits on the use of a Card.

Lost or Stolen Cards; Unauthorized Use. You are responsible for cancelling any lost, misused or stolen Cards, Cards or the Account that you suspect may have been the subject of fraud, unauthorized use or misuse, and the Card (and associated authorization) of any Cardholder no longer authorized by you to use a Card, whether as a result of termination of employment or otherwise. You are responsible for retrieving the cancelled Card and destroying it to prevent further use. You may also cancel a Card or terminate a Cardholder's use of a Card by calling our customer service center. **All telephone communications by you to us must be made by calling our customer service center at 1-800-375-1747 as soon as the need arises.** You understand that we will require a reasonable amount of time to act on any request made by telephone. You will not be liable for unauthorized use that occurs after you notify us of the loss, theft, or possible unauthorized use in writing at Madisonville Operations Center, Issuer Disputes Dept., Mail Drop 1MO2G, Cincinnati, Ohio 45263 or by telephone at the number given above.

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

8. *Credit Limit*

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

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

Changes. We may from time to time and in our sole discretion: (a) change the Account's or any Card's credit limit(s); (b) reduce the Account or Card credit limit to \$0; (c) cancel one or more Cards or close the Account; or (d) limit the number and amount of transactions on the Card or the Account. We will notify you promptly in the event we decide to take such action on the Account or a Card. While we expressly reserve the discretion described in this paragraph, except for cases of known or suspected fraud, changes resulting from regulatory requirements or where we believe there exists a risk of loss to us, we will use commercially reasonable efforts to consult with you in advance prior to reducing credit limits for the Account or any Card.

9. *Representations, Warranties and Undertakings*

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

Yours. You represent and warrant to us that: (a) the financial statements you have delivered or made available to us at any time have been prepared in accordance with US Generally Accepted Accounting Principles, and fully and fairly present your financial condition as of the dates of the statements and results of operations for the periods covered by the statements; all other financial information you have provided is true and correct; you have not suffered or incurred a material adverse change in your business, financial condition or operating results since the date of the most recent financial statements you provided to us; and, you are not subject to any material undisclosed liability; (b) you have the legal right to execute and perform your obligations under this Agreement; (c) you are duly

organized, validly existing and in good standing in the jurisdiction in which you were organized; (d) the execution and delivery by you of this Agreement and the incurrence of the Obligations have been authorized by all necessary corporate and required governmental action; (e) each person signing this Agreement on your behalf is an Authorized Person and is duly authorized to do so; and, (f) your execution, delivery and performance of this Agreement do not violate any laws, rules or regulations affecting you or your use of the Card Service, your articles of incorporation, bylaws or similar governing documents, or any material agreement that is binding on you.

Regulation GG. You agree not to use the Account in connection with any business of placing, receiving or otherwise knowingly transmitting bets or wagers by any means which involves the use, at least in part, of the Internet, or for any other transaction which is prohibited by Federal Reserve Regulation GG - Unlawful Internet Gambling Enforcement Act of 2006.

Financial Statements. Except to the extent your current financial statements are timely filed with, and publicly available from the Securities and Exchange Commission, you agree to furnish us upon request with your current financial statements and other information pertaining to your business or financial condition, and operating results.

10. Confidentiality, Security and Privacy

Your Obligations. You represent that you have in place, and covenant that you will maintain in effect and enforce reasonable policies and measures to reduce the incidence of fraud and other unauthorized use of, and access to Cards and your Account and to preserve the confidentiality of your Account numbers and account access procedures. In addition, you agree to safeguard, keep confidential and not disclose to any third party the payment, pricing terms or fees for the Card Service and any Security Procedures, and to limit the internal disclosure and distribution of such information to your Representatives who have a need to know such information. You must notify us immediately if there has been a breach of your security, or any Security Procedures have been lost, stolen, compromised or misused. Notwithstanding the foregoing, the confidentiality obligations set forth in this Section 10 do not apply to the extent you are subject to freedom of information, open government or similar laws or regulations requiring you to disclose any such information.

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

System Security. We have implemented policies, procedures, and controls to safeguard Customer information in accordance with applicable law including the Interagency Guidelines Establishing Standards for Safeguarding Customer Information which address standards for security, confidentiality and integrity of customer information. We are subject to periodic reviews by our federal banking regulators.

Breach Incidents. We will notify Customer of security breach incidents involving Customer's information as required by and in accordance with applicable law.

11. Disclaimer of Warranties

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

12. Limitation of Liability

YOU AGREE TO THE MAXIMUM EXTENT PERMITTED BY LAW THAT: IN NO EVENT WILL WE BE LIABLE UNDER ANY THEORY AT LAW OR IN EQUITY FOR ANY DAMAGES THAT YOU OR ANY OTHER PERSON MAY INCUR OR SUFFER IN CONNECTION WITH THE CARD SERVICE OR THIS AGREEMENT THAT ARE NOT DIRECT, ACTUAL DAMAGES RESULTING FROM OUR BAD FAITH,

GROSS NEGLIGENCE OR WILFULL MISCONDUCT IN PROVIDING THE CARD SERVICE; AND, WE WILL NOT IN ANY EVENT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL OR SPECULATIVE LOSSES OR DAMAGES (INCLUDING LOST PROFITS, GOOD WILL AND OPPORTUNITIES) EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES AND REGARDLESS OF THE TYPE OF CLAIM. Except for our subcontractors, we shall not in any event be liable for (a) any loss, damage or injury caused by any act or omission of any third party, whether or not such third party was chosen by us, (b) any charges imposed by any third party, or (c) any loss, damage or injury caused by any failure of the hardware or software used by a third party to provide the Card Service to you. In addition, we shall not be responsible for, or incur any liability to you for any failure or delay in carrying out any of our obligations under this Agreement, if such failure or delay was caused by any third party.

13. *Your Indemnification Obligations*

Except to the extent prohibited by applicable law, you agree to indemnify and hold us and our officers, directors, employees, shareholders and agents harmless from and against any and all losses, liabilities, actions, claims, judgments, settlements, damages, costs and expenses, including reasonable fees, expenses and costs of outside and in-house legal counsel (collectively, “*Losses*”) resulting directly or indirectly from, or arising in connection with (a) our providing the Account or Cards, extending credit to you or otherwise providing the Card Service to you (other than Losses that result from our bad faith, gross negligence or willful misconduct), (b) your violation of any of your representations, warranties or covenants under this Agreement and (c) Individual Billing or the issuance by us, or use by you, of Nameless Cards (each as defined below) other than Losses that result from our bad faith, gross negligence or willful misconduct.

14. *Special Situations*

Nameless Cards. If you request that we issue Cards without the individual Cardholder’s name embossed or otherwise noted on the Card (a “*Nameless Card*”), you acknowledge that we strongly recommend against the use of Nameless Cards. Nameless Cards present, among other risks, the increased risk of loss to you from fraud and unauthorized or improper use. If you nevertheless request that we issue Nameless Cards, you assume all known and unforeseeable risks associated with the use of a Nameless Card and release us and our Representatives from any and all liability for issuing and the use of a Nameless Card.

Individual Billing. If you request that we bill any Cardholder individually (a practice sometimes referred to as “*Individual Billing*”), you acknowledge that we recommend against the practice. If you nevertheless request, and we agree to send individual Account Statements to one or more individual Cardholders, you acknowledge that you are in no way relieved of any of your Obligations under this Agreement whatsoever including the obligation to timely pay the full amount due for that Card and all other Cards by the applicable Payment Due Date, as well as all applicable fees, interest and charges. You assume all known and unforeseeable risks associated with Individual Billing and release us and our Representatives from any and all liability for Individual Billing.

License of Your Marks. For some of our Card programs, we offer you the ability to affix a Mark (as defined below) to a physical Card. If you wish to use this feature of our Card Service, you grant to us a non-transferable, non-sub-licensable, non-exclusive, royalty-free, worldwide license to use the trademark, trade name or service mark and related design or logo that you specify (collectively, “*Marks*”) for the sole purposes of affixing it to Cards issued under this Agreement. The use and display of the Mark on a Card is subject to our requirements and approval, and the approval of the Payment Network. You represent and warrant to us that you have the right to use and license to us the Mark as contemplated by this Agreement and that the Mark, your license of the Mark and the use of the Mark on a Card do not infringe or violate the intellectual property or other rights of any third party. We agree that we will use the Marks only in the manner you authorize, and that you retain all rights in and to the Marks not expressly granted under this Agreement. Once you approve the model of the Mark for impression on a Card, you may be responsible for the costs we have incurred in producing the Card and Mark design should you not use that model.

15. *Default*

Events. Subject to applicable law, you shall be in default under this Agreement upon the occurrence of any one of the following: (a) you fail to make any payment of any Obligation when due in accordance with provisions of this Agreement; (b) you become generally unable to pay your debts as they become due; (c) any other creditor tries by

legal process to take or foreclose upon any of your assets; (d) you or any guarantor of the Obligations: becomes insolvent, is placed in receivership, is adjudicated bankrupt, or is subject to any voluntary or involuntary bankruptcy or insolvency proceeding or any assignment for the benefit of your creditors; (e) you provide us with any false or misleading material information; (f) any representation or warranty made by you in this Agreement is untrue or incorrect in any material respect or you breach in any material respect any covenant or undertaking under this Agreement; (g) you are in default of any other credit, loan, leasing or similar agreement for the extension of credit you have with us or any of our affiliates; (h) you violate any applicable law in connection with the Account or use of the Cards; (i) any guarantor or other third party that has guaranteed or assumed any responsibility for the Obligations is in default of any guaranty or similar agreement with us; or (j) we believe in good faith that your ability to pay or perform the Obligations under this Agreement has been materially impaired. You may incur fees or other charges in connection with a default. The payment of any fee or other charge will not cure the default that triggered the fee or charge.

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

16. Term and Termination

Term. The term of this Agreement commences on the date it is accepted and executed by us and continues until terminated by us under this Section 16 or by us or you upon thirty (30) days' written notice to the other party.

Termination Rights. We may terminate this Agreement or terminate or suspend the Card Service if: (a) you are in default as provided in Section 15; (b) any person or group acting in concert that does not on the date of this Agreement control a majority of your outstanding stock acquires, directly or indirectly (whether by merger, stock purchase or issuance, recapitalization, reorganization or otherwise), a majority of your outstanding stock; or (c) the continued provision of the Card Service in accordance with the terms of this Agreement would, in the good faith opinion of our legal counsel, violate federal, state or local law or any regulation applicable to our business. We will provide notice of the exercise of our termination rights as soon as practical.

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

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

17. Channel Services

Options. We offer several management and administrative applications ("**Admin Applications**") as part of the Channel Services associated with our Card Service. Some or all of these applications may be hosted or provided by the Payment Network or another third party and may be subject the terms of use posted through that application. You may, at your option and where available, access the Admin Applications with a single sign on from Fifth Third Direct, without additional log in requirements for that Channel Service. Updates to, and new features of, the Admin Applications and other Channel Services may be described in updates to the User Guide, and any related terms of use will be posted through the applicable Admin Applications. Updates and features offered by us, and the related terms of use will become part of the Card Service and this Agreement upon first use by you.

Administration. Use of any Admin Application is optional on your part. The Card Administrator has full authority to use all of the Admin Applications. Users are provisioned for the Admin Applications by the Channel Administrator or Card Administrator. For the sake of clarity, the term User as used in this Agreement does not include a Cardholder except as expressly noted to the contrary.

Card Management. Card Management is your general Admin Application for the overall administration of your Card program. The Card Administrator and authorized Users have the ability to: designate persons who will be issued Cards and become Cardholders and establish their individual Card credit limit and spending controls; cancel a Card and change the credit limit associated with a Card; issue replacement Cards for damaged or lost Cards or to effect a name change on an existing Card; select, create and maintain templates through the Channel Services that implement available spending controls; and, obtain information and reports about, and monitor Account and Card use.

Payment Platform. The Payment Platform enables the Channel Administrator and authorized Users to make payments on the Account and enables Cardholders to make payment of their respective Card balances. Payments are effected through ACH transactions authorized through the platform. Each payer making a payment through the Payment Platform is responsible for the accuracy, timeliness and completeness of the data they input into the platform and for the availability of funds in the payment account.

Cardholder Portal. The Cardholder Portal gives your Cardholders who register to use this application the ability to access and manage information about their Card usage. The Cardholder Portal can also be accessed through the Commercial Card Mobile App which is available for download by any Cardholder on a recognized, enabled mobile device through an approved app location. Each Cardholder is responsible for establishing and safeguarding its Credentials to access the app.

Smart Data. Smart Data (or SDG2) is an Admin Application provided by MasterCard that facilitates the reporting and management of account activity for Users and Cardholders (including their managers).

Security Procedures. Access to the Channel Services for the Card Service is subject to “**Security Procedures**” as further described in the OCAA. You understand that all access to, and use of the Channel Services using such Security Procedures will be considered by us and the providers of the Channel Services for all purposes and without further investigation to be authorized by you and your Users and Cardholders, as the case may be, and that we and the other providers may act and rely upon all instructions or data transmitted to us or them using the Security Procedures.

Additions and Changes. We may in the future add or change features of these Admin Applications, add new or withdraw existing Admin Applications at any time. We will provide notice of the addition or change together with any change to this Agreement related to the addition or change, through the applicable Admin Application, update to the User Guide or notice to your Channel or Card Administrator. Your first use of the Admin Application after notice of the addition or change constitutes your acceptance of the addition or change.

18. *Fifth Third ePay*

The Solution. Fifth Third ePay is an Admin Application that provides you the ability to pay your vendors through an integrated preapproval process and virtual card numbers, and includes features to integrate transaction data into your existing accounting and reporting infrastructure. Fifth Third ePay includes two solutions: “Fifth Third ePay Online” and “Fifth Third ePay Batch.” These solutions are described in greater detail in the Fifth Third ePay User Guide. The use of virtual card numbers in connection with Fifth Third ePay is considered for all purposes of this Agreement to be the authorized use of a Card and the Account.

MasterCard inControl™. Fifth Third ePay is based upon a license from MasterCard International of the MasterCard inControl™ platform and is accessed through an Access Channel. MasterCard also offers a direct interface to the inControl™ Platform that is not part of our Card Service; we may, however, upon request, assist in enabling a direct connection through an API-based solution to the inControl™ Platform. Any such connection may be subject to additional agreements between you and MasterCard. The inControl trademark is owned by MasterCard International.

Online. Fifth Third ePay Online enables you to make payments using the Account to vendors and others to whom you wish to make payment (“*Vendors*”) on an individual basis. Fifth Third ePay Online generates authorized, virtual card numbers through the platform that you give to your Vendor to enable them to authorize a payment to their account.

Batch. Fifth Third ePay Batch enables you to manage your accounts payable by enrolling one or more Vendors in an automated platform to receive payment information from you. When you desire to make a payment to an enrolled Vendor, you will transmit to us a payment file that includes the name of each Vendor you wish to pay by Card and the payment amount. You can communicate payment, vendor and confirmation information to us through an Access Channel or direct transmission as established with us in the set up process. Based on the payment and Vendor information and your confirmation, we create a payment data sheet (encrypted for virtual card transactions) that we send by email to the email account for the Vendor contact person you specify in the set up process. The payment data sheet includes a fixed or variable (at your option) virtual card number against which the Vendor can process your payment through MasterCard as with any other Card payment. You are responsible for obtaining proper authorization from your Vendor to participate in this payment process and for the accuracy of the Vendor data, billing and payment information you send to us. We are not responsible if the payment or account information you provide us is not accurate or timely, or if a Vendor fails to receive or act upon the email and payment data sheet we send to the email account you give us.

Card Administrator. If you elect to use Fifth Third ePay, your Card Administrator will have the authority to manage this Admin Application on your behalf. In addition to any other authority they may have, the Card Administrator will be able to: (a) provision Users with the authority to request and generate virtual account numbers for making payments as part of the Card Service and establish the limits, if any on the authority of such persons; and (b) provision Users with the authority to designate and enroll vendors to whom payments may be made through Fifth Third ePay and provide us with Vendor and payment information.

Additions and Changes. We may in the future add or change features of these Admin Applications, add new or withdraw existing Admin Applications at any time. We will provide notice of the addition or change together with any change to this Agreement related to the addition or change, through the applicable Admin Application, update to the User Guide or notice to your Channel or Card Administrator. Your first use of the Admin Application after notice of the addition or change constitutes your acceptance of the addition or change.

19. General Provisions

Merchants. We have no liability or responsibility for: (a) goods or services purchased with a Card or the Account or for any dispute you may have with a merchant or Vendor over goods or services you purchase, a merchant’s or Vendor’s use of a Card or Account number you give to them; (b) a merchant’s or supplier’s failure to accept the Card or the Account; or, (c) any failure of a merchant to seek authorization before honoring a Card. You are in all events responsible for the purchases you make with the Card or Account.

Vantiv. If you are using the merchant processing services of Vantiv, LLC (“*Vantiv*”), you understand that Vantiv is a separate, independent legal entity. We are not responsible for the actions or obligations of Vantiv, or any agent or vendor engaged or used by Vantiv with respect to merchant processing services.

Banking Agreements. If you are a party to our Master Treasury Management Agreement, you and we agree that the Card Services provided under this Agreement are not subject to or part of the Master Treasury Management Agreement.

Amendments. We may amend, supplement or change (a “*revision*”) the terms of this Agreement including the Fee Schedule at any time and from time to time as follows: by a written instrument signed by both parties; or, we may give you at least thirty (30) calendar days’ prior written or electronic notice (including through website posting) of a revision and if you do not give us written notice of your termination of this Agreement before the expiration of the thirty (30) day period or the later effective date specified in such notice, you are deemed to have accepted the revision. If, however, a revision to this Agreement is, in our good faith opinion, required by law or a regulatory authority with jurisdiction over us, we will provide you notice of such revision and the revision will be effective immediately upon us giving you notice. Subject to applicable law, any revision shall apply to the outstanding balance on the Account on the effective date of the revision and to any future balances created after that date. No

revision to this Agreement or Fee Schedule shall affect in any manner your obligation to pay in full all Obligations under this Agreement.

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

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

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

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

Set-off. You agree that we may set-off any and all funds in any bank account you have with us or any of our affiliates (excluding any account expressly titled to clearly demonstrate that the account is held by you in a fiduciary or representative capacity for a third party) against or to pay any Obligation you have to us under this Agreement. We may exercise our right of set-off by debit or other means without recourse to other rights or collateral, if any, we may have and regardless of the effect on your bank account. You waive notice of the exercise of these rights to the extent permitted by applicable law. Our right of set-off is limited only to the extent expressly limited by applicable law.

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

Electronic Copies. The parties agree that this Agreement may be executed and delivered by facsimile or electronic mail in PDF or similar format and that the copies or counterpart signature pages so sent shall be treated and have the same force and effect as delivery of an original with a manual signature. Our records as to the executed Agreement shall be controlling. We may, however, require that Customer deliver an original of this Agreement with a manual original signature.

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

and the remainder shall be deemed stricken from this Agreement. All other provisions shall remain in full force and effect.

Compliance with Law. We and you each agree to comply with, and be responsible for all applicable state, local and federal statutes, rules, regulations, orders, directives, policies and other laws, and the rules and regulations of any applicable Payment Networks or payment clearing system. Without limiting the generality of your obligations, you agree to comply with programs and regulations administered by the Office of Foreign Assets Control (“*OFAC*”) and the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (“*FinCen*”) including screening each Cardholder to insure such Cardholder is not on the list of Specially Designated Nationals or Blocked Persons maintained by OFAC and implementing measures to prevent use of the Account in violation of such programs and regulations.

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

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

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

[**Signature Page Immediately Follows****]**

Signature Page to Commercial Card Service Agreement

WITNESS, the parties have caused this Agreement to be executed by their respective duly authorized representative.

Marion County Public Schools
(CUSTOMER'S LEGAL NAME)

By: T Schlosser

Name: Taylor Schlosser

Title: Superintendent

[Second Signature (if required by Customer's resolutions)]

By: _____

Name: _____

Title: _____

FIFTH THIRD BANK

By: _____

Name: _____

Title: _____

[Second Bank Representative Signature]

By: _____

Name: _____

Title: _____

DATED: _____, 201_

Fee Schedule

Card Fees

Emergency Replacement Card Delivery (Overnight)	\$25.00 per card
Card Design Fees	
Standard (Recommended)	No charge
Graphic Design (one color for client logo or name)	\$500.00
Custom Card (multiple colors and/or images allowed)	Varies based on requirements

Transaction Fees

Online Reporting (SDg2)	\$0.10 per transaction TPS
Foreign Currency Conversion Fee	2%
Cash Advance Fee	3% of total advanced (\$3.00 min.)
Cash Advance* Finance Charge	19.8% per annum

*For this purpose, a Cash Advance is a transaction in which you use your Card or the Account to (a) purchase or obtain cash or cash-like equivalents (for example, money orders, traveler's checks or similar instruments) from an ATM or other company or source; (b) conduct balance transfers (where we offer this feature); (c) conduct gaming transactions (if permitted by us); or (d) conduct similar quasi-cash transactions as specified by the Payment Network.

Account Fees

Annual Program Fee	\$250.00 TPS
(waived if > \$350,000 spend in calendar year)	
Online Card Administration (CCM)	No charge
Finance Charge Rate on Past Due Balances	19.8% per annum
Late Payment Fee	\$29.00 per month per account
Excess Credit Limit Charge	\$35.00 per occurrence
Returned Check Fee	\$35.00 per check returned
Standard File Feed (optional service)	\$1500 for setup; \$150 per month
Custom File Feed (optional service)	\$3000 for setup; \$150 per month
MasterCard® Fifth Third ePay API (optional service)	\$18,000 one-time up front
Custom Work Request & Special Project Fee	\$125/hour