

Agency or Department
Name
Department of Personnel &
Administration
Department or Agency
Number
AEA
Contract Routing Number
05 AEA 00037

CONTRACT AMENDMENT # 1

THIS CONTRACT AMENDMENT #1 ("**Amendment #1**"), made this 1st day of November, 2004, by and between the State of Colorado for the use and benefit of the Department of Personnel and Administration, 1600 Broadway, Suite 1030, Denver, Colorado, 80202, hereinafter referred to as the State, and U.S. Bank National Association ND, 1010 South Seventh St. Minneapolis, MN 55415, hereinafter referred to as the Contractor.

FACTUAL RECITALS

Authority exists in the Law and Funds have been budgeted, appropriated, and otherwise made available and a sufficient unencumbered balance thereof remains available for payment; and

Required approval, clearance, and coordination has been accomplished from and with appropriate agencies; and

The parties entered into a contract dated April 18, 2003 for credit services to be used by state employees who travel in furtherance of their official duties. The purpose for this Amendment #1 is described below.

The parties have reason to amend the original contract to further delineate their duties and responsibilities.

The parties, therefore, desire to amend the original contract as hereinafter stated.

NOW THEREFORE, it is hereby agreed that

1. Consideration for this Amendment #1 to the original contract, 03 AEA 00330, dated April 18, 2003 consists of the payments which shall be made pursuant to this Amendment #1 and the promises and agreements herein set forth.
2. It is expressly agreed by the parties that this Amendment #1 is supplemental to the original Contract, referred to as the "original contract," which is, by this reference incorporated herein, that all terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to this Amendment #1 as though they were expressly rewritten, incorporated, and included herein.
3. It is agreed the original contract is and shall be modified, altered, and changed in the following respects only:

- a. Section 9 (Lost or Stolen Corporate Cards or Event Cards or Compromised Non-Plastic Accounts) is amended to delete the word "written" in the first sentence.
- b. Exhibit M, Agreement Between Corporate Cardholder and U.S. Bank is attached and incorporated into the contract.
- c. Section 1 (Scope), subsection C (Corporate Card and Event Card Issuance and Renewal or Replacement), paragraph (3) is amended to add the words ("**Exhibit M**") after the words "cardholder agreement" within the first sentence. The following is added to paragraph (3): "Contractor shall notify the Employee Cardholder after adjusting the line of credit available to the Employee Cardholder within the calendar quarter that the adjustment is done."
- d. Section 2 (Agency/Institution Enrollments and Participation), subsection A (Affiliates) shall be amended to add the following clause immediately before the last sentence: "The State shall forward to the Contractor three (3) signed originals of each Participating Affiliate Addendum. The Contractor shall promptly execute each original and forward two (2) fully executed originals of each Participating Affiliate Addendum to the State of Colorado Travel Program Manager".
- e. Section 1 (Scope), subsection B (Purpose and Services) is amended by adding the following language after the last current paragraph:

"Contractor will provide an implementation management tool for the State's use. This tool will allow the State to more easily and efficiently implement a new program for an Affiliate or Participant. Contractor currently utilizes Encompass. Use of Encompass is subject to the terms and conditions of an Encompass On-Line Agreement ("**Encompass Agreement**"), attached hereto as Exhibit N and incorporated herein by reference."
- f. Section 5 of the Encompass Agreement is amended to include the words "Except as authorized by law" as a preface to the first sentence. Section 8.2 (Indemnification) of the Encompass Agreement is deleted. Section 11.3 of the Encompass Agreement is amended to delete the word "Minnesota" and substitute the word "Colorado."
- g. Exhibit L, U.S. Bank Access[®] On-line Subscriber Agreement ("**Access[®] Online Subscriber Agreement**"), is amended to delete Section 10, (indemnification). Section 14 of the Access[®] Online Subscriber Agreement is amended to delete the words "North Dakota" and substitute the word "Colorado". Exhibit L is attached and incorporated into the Contract.

- h. Exhibit K, Performance Volume Rebate Addendum, is amended by renaming it "Exhibit K, Option 1, Performance Volume Rebate Addendum" hereinafter referred to as "Option 1 Rebate Addendum".
 - i. The Contract is further amended by incorporating, "Exhibit K, Option 2, Performance Volume Rebate Addendum" with "Schedule B" attached hereto.
 - j. Section 1 (Scope), Subsection C (Corporate Card and Event Card Issuance and Renewal or Replacement), is amended to add paragraph 6 to read as follows:

"Contractor will not conduct an initial credit check on prospective Employee Cardholders upon request for Card issuance. However, Contractor reserves the right to conduct credit checks of any Employee Cardholders in the event the Employee Cardholder is delinquent and the State has already reimbursed the Employee Cardholder. No report to any credit bureau shall be made until the delinquent debt is 150 days past due."
 - k. Section 16 (Revenue Sharing) is amended by adding the following paragraph as the second paragraph of that section:

"At the end of each Addendum Year, Contractor will calculate each rebate option and State's revenue sharing payment will be derived from whichever rebate option yields the greatest dollar amount for State for that Addendum Year".
 - l. Section 1 (Scope), subsection B (Purpose and Services) is amended to add the following definition of Employee Cardholder at the end of the second (2nd) paragraph: "**Employee Cardholder**" shall be defined as to all State of Colorado employees, to those individuals on official State business, and to employees of political subdivisions of the State, that participate under this Contract."
 - m. Replace current Exhibit J with the new Exhibit J attached and incorporated herein.
- 4. The effective date of this Amendment #1 is upon approval of the State Controller or November 1, 2004, whichever is later.
 - 5. Except for the "Special Provisions," in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment #1 and any of the provisions of the original contract, the provisions of this Amendment #1 shall in all respects supersede, govern, and control. The "Special Provisions" shall always be controlling over other provisions in the Contract or this Amendment #1. The representations in the Special Provisions concerning the absence of bribery or corrupt influences and personal interest of State employees are presently reaffirmed.

6. FINANCIAL OBLIGATIONS OF THE STATE PAYABLE AFTER THE CURRENT FISCAL YEAR ARE CONTINGENT UPON FUNDS FOR THAT PURPOSE BEING APPROPRIATED, BUDGETED, AND OTHERWISE MADE AVAILABLE.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 on the day first above written.

U.S. Bank National Association ND
By U.S. Bancorp Card Services, Inc. Agent

State of Colorado
Bill Owens, Governor

(Full Legal Name)

Charles L. Wilkins
(Signature of Individual)

By: *[Signature]*
Executive Director or College President

Charles L. Wilkins
(Name of Individual)
Institution)

Dept. of Personnel and Administration
(Department of or Higher Ed.)

Senior Vice President
Position (Title)

Date: *2/8/05*

Federal Tax ID Number: 41-1881896

~~Attorney General, Ken Salazar~~ John W. Suthers

By: *N/A*

Date: _____

Attestation:

By: *Jeanne M. Escobedo*
Corporate Secretary, ~~Asst. Secretary~~
or Equivalent,
Town/City/County Clerk

no seal
(SEAL)

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for goods and/or services provided.

State Controller
Leslie Shenefelt

By: *Philip Holtzman*

Date: *March 3, 2005*

EXHIBIT J

PARTICIPATION ADDENDUM

This Participation Addendum ("**Participation Addendum**") is entered into, by and between U.S. Bank National Association ND ("**Contractor**") and the State of Colorado (the "**State**"), and constitutes an addendum to and modification of the Contract dated April 18, 2003 (the "**Contract**") between the State and Contractor. This Participation Addendum shall become effective upon signing by or on the behalf of Contractor ("**Effective Date**") and is in addition to any previous and like addenda with the State.

Per the terms and conditions of the Contract, Corporate Cards and Event Cards could be issued to, and Non-Plastic Accounts could be opened for, employees of the entities listed below:

- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

This Participation Addendum does not change any of the terms and conditions of the Contract.

In witness whereof, the parties hereto have, by their duly authorized representatives, executed this Participation Addendum.

Dated this ____ day of _____, 200__ by:

(State)

(Signature of Authorized Individual)

(Printed Name of Authorized Individual)

(Printed Title of Authorized Individual)

Dated this ____ day of _____, 200__ by:

U.S. BANK NATIONAL ASSOCIATION ND
By U.S. Bancorp Card Services, Inc., Agent

(Signature of Authorized Individual)

Charles L. Wilkins

Senior Vice President

EXHIBIT K

OPTION 2

PERFORMANCE VOLUME REBATE ADDENDUM

This Performance Volume Rebate Addendum ("**Option 2 Rebate Addendum**") is entered into, by and between U.S. Bank National Association ND ("**Contractor**") and the State of Colorado (the "**State**"), and constitutes an addendum to and modification of the Contract dated April 18, 2003 (the "**Contract**") between the State and Contractor. This Option 2 Rebate Addendum shall become effective upon signing by or on the behalf of Contractor ("**Effective Date**") and supersedes any previous and like addenda with State.

Contractor shall extend to State the following revenue sharing opportunities:

1. a) Contractor will pay to State a portion of their aggregate Net Annual Charge Volume through a rebate ("**Performance Rebate**"). The Performance Rebate will be based on the File Turn Days Payment Performance for all Accounts for each Addendum Year. The Performance Rebate calculation will be made in accordance with Table A, below. The qualifying Performance Rebate Percentage, if any, will be applied to the Net Annual Charge Volume for the Addendum Year to determine the amount of the Performance Rebate.

File Turn Days	Performance Rebate Percentage
40	0.000%
39	0.010%
38	0.020%
37	0.030%
36	0.040%
35	0.050%
34	0.060%
33	0.070%
32	0.080%
31	0.090%
30	0.100%
29	0.110%
28	0.120%
27	0.130%
26	0.140%
25	0.150%
24	0.160%
23	0.170%
22	0.180%
21	0.190%
20	0.200%
19	0.210%
18	0.220%
17	0.230%
16	0.240%

b) Contractor will pay to State a portion of their aggregate Net Annual Charge Volume through a rebate ("**Volume Rebate**"). The Volume Rebate will be based on the Net Annual Charge Volume and the Average Transaction Size. The Volume Rebate calculation will be made in accordance with Schedule B, attached hereto and made a part hereof. The qualifying Volume Rebate Percentage, if any, will be applied to the Net Annual Charge Volume for the Addendum Year to determine the amount of the Volume Rebate.

c) No rebate calculation shall be made unless a) the File Turn Days Payment Performance for all Accounts monthly billing statements is equal to or less than forty (40) File Turn Days, and b) the Net Annual Charge Volume is equal to or greater than twenty seven million five hundred thousand U.S. Dollars (\$27,500,000.00), and (c) the Average Transaction Size is equal to or greater than one hundred fifty U.S. Dollars (\$150.00). Any payment made pursuant to this Option 2 Rebate Addendum will be net of accumulated Charge-offs resulting from participation in Contractor or U.S. Bancorp Card Services, Inc. programs regardless of whether any of the underlying agreements between the parties is/are valid or has/have been terminated. **"Charge-off"** means any amount due and owing to Contractor or its affiliates by State, Affiliate, Participant or Employee Cardholder that remains unpaid for one hundred fifty (150) days after the date that it was first billed. The first revenue sharing payment, if any, shall be made by the end of the twentieth (20th) month after the Effective Date of this Option 2 Rebate Addendum. Subsequent calculations and payments, if any, shall be made in a similar fashion on each twelve (12) month anniversary of the first calculation. If any revenue sharing payment date falls on a non-business day, revenue sharing payments due shall be made on the next business day.

2. Capitalized terms used in this Option 2 Rebate Addendum and not otherwise defined in this Option 2 Rebate Addendum are used with the same respective meanings attributed thereto in the Contract. **"Net Annual Charge Volume"** means all Charges set forth on the monthly billing statements furnished for all Accounts, less cash advances, fees, Fraudulent Charges, charge-backs, Charges qualifying for large transaction interchange rates and amounts Charged-off by Contractor with respect to such Accounts as uncollectible for each twelve (12) month period beginning with the first such period following the Effective Date of this Option 2 Rebate Addendum (an **"Addendum Year"**). **"Average Transaction Size"** means the Net Annual Charge Volume divided by the number of purchase transactions during each Addendum Year. A purchase transaction is a debit point of sale purchase transaction.. **"File Turn Days"** are the number of days from the date Contractor funds a Charge transaction to the date payment for that transaction is posted, inclusive of the beginning and ending dates. Accordingly, the **"File Turn Days Payment Performance"** is the average speed of repayment of Charges made for each Addendum Year. An **"Account"** is any account number to which Charges and payments may be posted. This includes, but is not limited to, Corporate Card accounts, Event Card accounts and Central Travel System Accounts.

3. This Option 2 Rebate Addendum shall terminate upon termination of the Contract and all rights hereunder shall cease.

4. Except to the extent that the Contract is expressly or implicitly modified by this Option 2 Rebate Addendum, all terms and conditions of the Contract remain in full force and effect.

In witness whereof, the parties hereto have, by their duly authorized representatives, executed this Option 2 Rebate Addendum.

Dated this ____ day of _____, 200__ by:

(State)

(Signature of Authorized Individual)

(Printed Name of Authorized Individual)

(Printed Title of Authorized Individual)

Dated this ____ day of _____, 200__ by:

U.S. BANK NATIONAL ASSOCIATION ND
By U.S. Bancorp Card Services, Inc., Agent

(Signature of Authorized Individual)

Charles L. Wilkins

Senior Vice President

EXHIBIT K
OPTION 2
PERFORMANCE VOLUME REBATE ADDENDUM
SCHEDULE B

Net Annual Charge	Average Transaction Size														
	\$150.00	\$175.00	\$200.00	\$225.00	\$250.00	\$275.00	\$300.00	\$325.00	\$350.00	\$375.00	\$400.00	\$425.00	\$450.00	\$500.00	\$550.00
	Volume Rebate Percentage														
\$27,500,000.00	0.0000%	0.0720%	0.1260%	0.1680%	0.2020%	0.2300%	0.2530%	0.2720%	0.2890%	0.3030%	0.3160%	0.3270%	0.3370%	0.3540%	0.3680%
\$30,000,000.00	0.0100%	0.0830%	0.1370%	0.1790%	0.2130%	0.2410%	0.2640%	0.2830%	0.3000%	0.3140%	0.3270%	0.3380%	0.3480%	0.3650%	0.3790%
\$32,500,000.00	0.0160%	0.0890%	0.1430%	0.1850%	0.2190%	0.2470%	0.2700%	0.2890%	0.3060%	0.3200%	0.3330%	0.3440%	0.3540%	0.3710%	0.3850%
\$35,000,000.00	0.0210%	0.0940%	0.1480%	0.1900%	0.2240%	0.2520%	0.2750%	0.2940%	0.3110%	0.3250%	0.3380%	0.3490%	0.3590%	0.3760%	0.3900%
\$37,500,000.00	0.0260%	0.0990%	0.1530%	0.1950%	0.2290%	0.2570%	0.2800%	0.2990%	0.3160%	0.3300%	0.3430%	0.3540%	0.3640%	0.3810%	0.3950%
\$40,000,000.00	0.0320%	0.1050%	0.1590%	0.2010%	0.2350%	0.2630%	0.2860%	0.3050%	0.3220%	0.3360%	0.3490%	0.3600%	0.3700%	0.3870%	0.4010%
\$42,500,000.00	0.0370%	0.1100%	0.1640%	0.2060%	0.2400%	0.2680%	0.2910%	0.3100%	0.3270%	0.3410%	0.3540%	0.3650%	0.3750%	0.3920%	0.4060%
\$45,000,000.00	0.0430%	0.1160%	0.1700%	0.2120%	0.2460%	0.2740%	0.2970%	0.3160%	0.3330%	0.3470%	0.3600%	0.3710%	0.3810%	0.3980%	0.4120%
\$47,500,000.00	0.0450%	0.1180%	0.1720%	0.2140%	0.2480%	0.2760%	0.2990%	0.3180%	0.3350%	0.3490%	0.3620%	0.3730%	0.3830%	0.4000%	0.4140%
\$50,000,000.00	0.0480%	0.1210%	0.1750%	0.2170%	0.2510%	0.2790%	0.3020%	0.3210%	0.3380%	0.3520%	0.3650%	0.3760%	0.3860%	0.4030%	0.4170%
\$52,500,000.00	0.0510%	0.1240%	0.1780%	0.2200%	0.2540%	0.2820%	0.3050%	0.3240%	0.3410%	0.3550%	0.3680%	0.3790%	0.3890%	0.4060%	0.4200%
\$55,000,000.00	0.0530%	0.1260%	0.1800%	0.2220%	0.2560%	0.2840%	0.3070%	0.3260%	0.3430%	0.3570%	0.3700%	0.3810%	0.3910%	0.4080%	0.4220%
\$57,500,000.00	0.0560%	0.1290%	0.1830%	0.2250%	0.2590%	0.2870%	0.3100%	0.3290%	0.3460%	0.3600%	0.3730%	0.3840%	0.3940%	0.4110%	0.4250%
\$60,000,000.00	0.0590%	0.1320%	0.1860%	0.2280%	0.2620%	0.2900%	0.3130%	0.3320%	0.3490%	0.3630%	0.3760%	0.3870%	0.3970%	0.4140%	0.4280%
\$62,500,000.00	0.0610%	0.1340%	0.1880%	0.2300%	0.2640%	0.2920%	0.3150%	0.3340%	0.3510%	0.3650%	0.3780%	0.3890%	0.3990%	0.4160%	0.4300%
\$65,000,000.00	0.0640%	0.1370%	0.1910%	0.2330%	0.2670%	0.2950%	0.3180%	0.3370%	0.3540%	0.3680%	0.3810%	0.3920%	0.4020%	0.4190%	0.4330%
\$67,500,000.00	0.0670%	0.1400%	0.1940%	0.2360%	0.2700%	0.2980%	0.3210%	0.3400%	0.3570%	0.3710%	0.3840%	0.3950%	0.4050%	0.4220%	0.4360%
\$70,000,000.00	0.0690%	0.1420%	0.1960%	0.2380%	0.2720%	0.3000%	0.3230%	0.3420%	0.3590%	0.3730%	0.3860%	0.3970%	0.4070%	0.4240%	0.4380%

EXHIBIT L

LICENSING AGREEMENT

AccessOnline Terms of Service

1. ACKNOWLEDGMENT AND ACCEPTANCE OF TERMS OF ACCESSONLINE

AccessOnline, owned and operated by U.S. Bank National Association ("U.S. Bank"), is provided to the customer under the terms and conditions of this AccessOnline Terms of Service (ATS) which incorporates by reference any operating rules or policies that may be published by U.S. Bank. The ATS as it may hereafter be amended or modified without notice, comprises the entire agreement between Customer and U.S. Bank and supersedes all prior agreements between the parties regarding the subject matter contained herein. By logging on to AccessOnline and clicking the "I Accept" button, you are indicating Customer's agreement to be bound by all of the terms and conditions of the ATS and that you have the authority to so agree on behalf of Customer.

In consideration for access to AccessOnline, Customer agrees to: (1) provide certain current, complete, and accurate information about Customer as prompted to do so by AccessOnline; and (2) maintain and update this information as required to keep it current, complete and accurate. All information requested on original sign up shall be referred to as registration data ("Registration Data"). Furthermore, Customer grants U.S. Bank the right to disclose to third parties certain Registration Data about Customer in the aggregate; however, such disclosures will exclude Customer's name, mailing address, e-mail address, account and phone number, unless: (1) Customer expressly directs U.S. Bank, or any other person Customer may specifically designate to disclose such information or (2) U.S. Bank is required to disclose such information by any applicable law or legal process served on U.S. Bank.

If any information provided by Customer is inaccurate, U.S. Bank retains the right to terminate Customer's rights to use AccessOnline without notice.

2. DESCRIPTION OF ACCESSONLINE

U.S. Bank is providing Customer with a capability to send and receive electronic data ("Data") via the World Wide Web and on U.S. Bank's own system. Customer must: (1) provide all equipment, including a computer and modem compatible with AccessOnline, necessary to establish a connection to the World Wide Web; and (2) provide for its own access to the World Wide Web and pay any telephone service fees associated with such access to AccessOnline.

3. MODIFICATIONS TO TERMS OF ACCESSONLINE

U.S. Bank may change the terms and conditions of the ATS from time to time without notice to Customer. U.S. Bank will indicate the date of last revision of ATS on the screen accompanying the "I Accept" button. If Customer agrees to be bound by the changes, you must again click the "I Accept" button. If you do not click the "I Accept" button, you may terminate your use of AccessOnline at that time. Customer's continued use of AccessOnline constitutes an affirmative: (1) acknowledgment by Customer of the ATS and its modifications; and (2) agreement by Customer to abide and be bound by the ATS and its modifications.

4. MODIFICATIONS TO ACCESSONLINE

U.S. Bank reserves the right to modify or discontinue AccessOnline with or without notice to Customer.

U.S. Bank shall not be liable to Customer or any third party should U.S. Bank exercise its right to modify or discontinue AccessOnline.

5. CUSTOMER ACCOUNT, PASSWORD, AND SECURITY

When U.S. Bank authorizes Customer to use AccessOnline, you shall receive a user identification and a password. You and Customer are entirely responsible if you do not maintain the confidentiality of your user identification and the password. Furthermore, you are entirely responsible for any and all activities which occur under your account.

Customer agrees to immediately notify U.S. Bank of any unauthorized use of Customer's account or any other breach of security known to Customer.

6. DISCLAIMER OF WARRANTIES

Customer expressly agrees that use of AccessOnline is at Customer's sole risk. AccessOnline is provided on an "As Is" and "As Available" basis. U.S. Bank expressly disclaims all warranties of any kind, whether express or implied, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement.

U.S. Bank makes no warranty that AccessOnline will meet your requirements, or that AccessOnline will be uninterrupted, timely, secure, or error free; nor does U.S. Bank make any warranty as to the results that may be obtained from the use of AccessOnline or as to the accuracy or reliability of any information obtained through AccessOnline or that defects in the software will be corrected.

Customer understands and agrees that any information obtained through the use of AccessOnline is done at Customer's own discretion and risk and that Customer will be solely responsible for any damage to Customer's computer system or loss of data that results from access to AccessOnline.

No advice or information, whether oral or written, obtained by Customer from U.S. Bank regarding AccessOnline shall create any warranty not expressly made herein.

Some jurisdictions do not allow the exclusion of certain warranties, so some of the above exclusions may not apply to you.

7. LIMITATION OF LIABILITY

U.S. Bank shall not be liable for any direct, indirect, incidental, special or consequential damages, resulting from the use or the inability to use AccessOnline or resulting from unauthorized access to or alteration of Customer's transmissions or data, including but not limited to, damages for loss of profits, use, data or other intangible, even if U.S. Bank has been advised of the possibility of such damages.

Some jurisdictions do not allow the limitation or exclusion of liability for incidental or consequential damages so some of the above limitations may not apply to you.

8. NO RESALE OR COMMERCIAL USE OF ACCESSONLINE

Customer's right to use AccessOnline is exclusive to Customer. Customer may only be a corporation or other business entity. Customer agrees not to resell or make any commercial use of AccessOnline, without the express consent of U.S. Bank.

9. OTHER LIMITATIONS

U.S. Bank may, at its sole discretion, with or without notice, terminate or suspend Customer's access to AccessOnline at any time for any reason, including for Customer's conduct failing to conform with these terms and conditions of the ATS.

Customer agrees: (1) not to use AccessOnline for illegal purposes; (2) not to interfere or disrupt networks connected to AccessOnline; (3) to comply with all regulations, policies and procedures of networks connected to AccessOnline; (4) not to attempt to gain unauthorized access to other computer systems; (5) not to interfere with another Customer's use and enjoyment of AccessOnline.

10. INDEMNIFICATION

Customer is solely responsible for all consequences arising from use of AccessOnline by Customer, or permitted use by Customer's parents, subsidiaries, affiliates, officers, employees or agents. Customer agrees to indemnify and hold U.S. Bank, its parents, subsidiaries, affiliates, officers and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of any use of AccessOnline in violation of this ATS or infringement of any intellectual property or other right of any person or entity by Customer or its parents, subsidiaries, affiliates, officers, employees, agents, or other user of AccessOnline using Customer's computer.

11. TERMINATION

Either Customer or U.S. Bank may terminate Customer's access to AccessOnline with or without cause at any time and effective immediately. Termination shall be accompanied by a written notice to the other party. U.S. Bank shall not be liable to Customer or any third party for termination of AccessOnline.

Should Customer object to any terms and conditions of the ATS or any subsequent modifications thereto or become dissatisfied with AccessOnline in any way, Customer's only recourse is to immediately: (1) discontinue use of AccessOnline; (2) terminate AccessOnline relationship; and (3) notify U.S. Bank of termination.

Upon termination of Customer's access to AccessOnline, Customer's right to use AccessOnline immediately ceases. Customer shall have no rights and U.S. Bank will have no obligations thereafter.

12. NOTICE

All notices to U.S. Bank by Customer shall be in writing and shall be made either via express or conventional mail at the following address:

US Bank
1010 South Seventh Street
FBTT0112
Minneapolis, MN 55415

U.S. Bank may broadcast notices or messages through AccessOnline to inform Customer of changes to the ATS, AccessOnline, or other matters of importance; such broadcasts shall constitute notice to Customer. At the sole discretion of U.S. Bank, U.S. Bank may elect to provide any notice, message or information concerning AccessOnline to Customer in writing via express or conventional mail.

13. PROPRIETARY RIGHTS TO CONTENT

Customer acknowledges that content, including but not limited to text, software, music, sound, photographs, video, graphics or other material contained in information presented to Customer by AccessOnline ("Content") is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws; therefore, Customer is only permitted to use this Content as expressly authorized by the ATS. Customer may not copy, reproduce, distribute, or create derivative works from this Content without expressly being authorized to do so by AccessOnline or U.S. Bank.

14. LAWS

The ATS shall be governed by and construed in accordance with the laws of the state of North Dakota, excluding its conflict of law provisions.

Customer and U.S. Bank agree to submit to the exclusive jurisdiction of the courts of the state of North Dakota.

If any provision(s) of the ATS is held by a court of competent jurisdiction to be contrary to law, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the parties with the other provisions remaining in full force and effect.

U.S. Bank's failure to exercise or enforce any right or provision of the ATS shall not constitute a waiver of such right or provision unless acknowledged and agreed to by U.S. Bank in writing.

Customer and U.S. Bank agree that any cause of action arising out of or related to this AccessOnline must commence within one (1) year after the cause of action arose; otherwise, such cause of action is permanently barred.

The section titles in the ATS are solely used for the convenience of the parties and have no legal or contractual significance.

EXHIBIT M
AGREEMENT BETWEEN
COMMERCIAL
CARDHOLDER AND
U.S. BANK
(REVISED JULY 1, 2004)
INDIVIDUAL CARDHOLDER AGREEMENT

IMPORTANT: The enclosed U.S. Bank Commercial Card was issued to you at the request of your Employer. Before you sign or use the Commercial Card, please read this Agreement thoroughly, since it governs use of the Commercial Card.

1. DEFINITIONS

In this Commercial Card Cardholder Agreement ("**Agreement**"), the following definitions apply:

"**Account**" means the Account established in connection with the Commercial Card to which Charges are made.

"**Annual Fee**" means the fee charged for use of the Commercial Card during a one-year time period and is listed on the Statement as a "Corporate Card Annual Fee". The applicable Annual Fee, if any, will be listed on the card carrier after the word "Annual".

"**Association**" shall mean, the Visa or MasterCard entity that governs commercial card issuance and processing of transactions. The Association entity applicable to this Cardholder Agreement is determined by the respective Visa or MasterCard logo on the Commercial Card issued to you on behalf of your Employer.

"**Billing Cycle**" means the period of time covered by the Statement.

"**Cardholder**", "**You**" and "**Your**" refer to the individual named on the Commercial Card who has been authorized by Employer to be issued a Commercial Card, make Purchases and incur Charges to the Account of such Commercial Card on behalf of the Employer in accordance with the terms of this Agreement.

"**Cash Advance**" means an advance of cash that, if permitted by the Employer, is charged to the Account with or in connection with a Commercial Card and/or Convenience Check.

"**Cash Advance Fee**" means the fee referenced on the Statement and charged by U.S. Bank for a Cash Advance, which may be represented as a fixed dollar amount or a percentage of the total cash withdrawn. The Cash Advance Fee, in terms of a fixed dollar amount or percentage of the total cash withdrawn, will be listed on the card carrier after the word "Cash".

"**Charge**" is any Account activity that has a debit value.

"**Commercial Card**" means the business purpose charge card designed for use by Cardholder to charge purchases of Employer-defined goods and services that are primarily for or incidental to the business of Employer, and which is issued by U.S. Bank to Cardholder on behalf of Employer in accordance with the terms of this Agreement. The term "Commercial Card" includes the enclosed U.S. Bank Corporate Card, U.S. Bank Purchasing Card, U.S. Bank One Card, U.S. Bank Relocation Card, or U.S. Bank Executive Card (as indicated on the front of the card). "**Convenience Check**" means a draft drawn against an Account by the Cardholder for Purchases (if permitted by the Employer).

"**Due Date**" means the date that payment is due for Debt on an Account as referenced on the Statement (the date printed on the Statement after the words "Please Mail By").

"**Debt**" means all amounts charged to an Account, including without limitation, Purchases, Charges and Fees, that are due and owing to U.S. Bank.

"**Employer**" means the organization that authorized U.S. Bank to issue the Commercial Card to you on behalf of the organization.

"Fees" means all fees that are posted to an Account and due and payable to U.S. Bank which are associated with any Commercial Card, including but not limited to Annual Fee, Cash Advance Fee, Foreign Currency Fee, Late Payment Fee, Overlimit Fee and Returned Check Fee.

"Foreign Currency Fee" means the one-half of one percent (0.5%) fee that U.S. Bank charges in addition to its foreign currency conversion costs on the amount of any Debt or other Transaction posted to an Account that is not in the same currency in which the Account is billed and which must be converted to the currency used for billing purposes.

"Late Payment Fee" means the fee U.S. Bank charges to Cardholder on a Past Due Amount. U.S. Bank may assess a Late Payment Fee to the Account in terms of a fixed dollar amount or a percentage of the Past Due Amount and the Late Payment Fee will depend on whether the payment delinquency associated with the Account is 30 or 60 days (or more) late. This fixed dollar amount or percentage is given on the card carrier after the words "30-day" or "60-day". Any Late Payment Fee is listed on the Statement as a "Late Payment Charge".

"Legitimate Business Charge" is any Charge that directly or indirectly

"MasterCard" means MasterCard USA and/or MasterCard International.

"Overlimit Fee" means the fee charged to the Account on any Statement closing date that the New Balance exceeds the Credit Limit.

"Past Due Amount" means the total amount of Debt that remains unpaid on an Account to U.S. Bank after the Due Date specified on the Statement.

"Purchase" means a purchase of goods or services (or both) that is charged to the Account with or in connection with a Card or Central Account.

"Returned Check Fee" means the fifteen-dollar (\$15.00) fee U.S. Bank charges to Cardholder for any item or Check presented for payment that can not be processed or is not otherwise honored by U.S. Bank.

"Statement" means a periodic billing statement listing all Purchases, Charges, Fees and any other transactions to each Account that is sent by U.S. Bank to the Cardholder as provided under this Agreement.

"U.S. Bank", "we", "us", "our", and "Bank" mean, U.S. Bank National Association ND, the creditor and issuer of Commercial Cards and related Accounts.

"Visa" means Visa USA, Inc. and/or Visa International Service Association, Inc.

2.YOUR ACCEPTANCE OF THE AGREEMENT

By accepting, signing or using the Commercial Card or the Account established in connection with it, you are agreeing to the terms of this Agreement. If you do not agree to the terms of the Agreement, you agree to cut the Commercial Card in half and return the pieces to U.S. Bank.

3. OWNERSHIP OF THE COMMERCIAL CARD

The Commercial Card remains the property of U.S. Bank. U.S. Bank can revoke your right to use the Commercial Card at any time. U.S. Bank can do this with or without cause and without giving you notice. You must surrender the Commercial Card to your Employer or to U.S. Bank at their request.

4. USE OF THE COMMERCIAL CARD

U.S. Bank provides charging privileges on the Commercial Card pursuant to a contract with your Employer. Your Employer has authorized the issuance of the Commercial Card to you, which is to be used only by you and only for Legitimate Business Charges, as defined to you by your Employer. Charging privileges will be withdrawn upon: (i) abuse of Charge privileges by you (including, but not limited to, the failure of your obligation to use the Commercial Card for Legitimate Business Charges, making illegal Purchases, failure of your obligation to make immediate payment to U.S. Bank, and failure of any other obligation as provided in this Agreement); (ii) termination of your employment or affiliation with your Employer; or (iii) termination or suspension of the contract between U.S. Bank and your Employer.

5. BILLING STATEMENT

U.S. Bank will provide you with a Statement showing Purchases, Charges, Fees and any other transactions that occurred in the previous important communications about your Commercial Card or

Account to the last address you have given U.S. Bank in writing. You are responsible for Statements and other information mailed to such address. You agree to promptly notify U.S. Bank of any change to your address in writing to the address indicated below.

Because the Commercial Card is a charge card, not a credit card, the amount indicated as owing to U.S. Bank on the Statement is due upon receipt and must be paid in full by the Due Date for each Billing Cycle. The Statement lists all Charges made to the Account during the previous Billing Cycle. These Charges include, but are not limited to, Purchases, Cash Advances and Fees associated with use of the Commercial Card.

Certain rates for Fees, such as Annual Fees, Cash Advance Fees, and Late Payment Fees, are disclosed on the card carrier. **Some of these Fees may not be applicable to your Statement.**

6. YOUR RESPONSIBILITY TO MAKE IMMEDIATE PAYMENT

Your obligation to make payment to U.S. Bank is due and payable in full upon the Due Date referenced on your Statement. You are liable to U.S. Bank for full payment of all Charges and Fees incurred on the Account or otherwise authorized by you, independent of any agreement or program for reimbursement that may exist between you and your Employer. You agree to pay U.S. Bank in U.S. dollars and if you pay by check, your check must be drawn on a financial institution located in the United States. The payment must be sent to U.S. Bank at the address shown on your Statement. If U.S. Bank returns a check tendered for payment, U.S. Bank will assess a Returned Check Fee to the Account associated with the returned check.

In certain circumstances, unless prohibited by law, your Employer may decide to pay U.S. Bank directly for business-related Charges made to your Commercial Card, but you are still liable for all Debt associated with the Account. Certain Charges may be billed directly to your Employer and will appear on your Statement as a memorandum item only. In the event that your Employer refuses to pay these Charges and/or Debt and they are later billed to your Account, you agree to pay such Debt in full.

If you fail to make payment of the amount due as referenced on the Statement to U.S. Bank by the Due Date, any unpaid portion of the outstanding balance will be shown on subsequent Statements as a Past Due Amount.

A 30-day Late Payment Fee, as a fixed dollar amount or a percentage of the Past Due Amount, may be assessed to the Account.

If you fail to pay the Past Due Amount, U.S. Bank may assess a 60-day Late Payment Fee to the Account on each Statement until full payment is made on the Account.

7. CASH ADVANCES

If your Employer consents, you may be able to use your Commercial Card to obtain a Cash Advance by one of the following means and each means shall be considered a Cash Advance: (i) presenting the Commercial Card at a bank or other financial institution that accepts the Commercial Card for that purpose; (ii) making a withdrawal of cash at an automatic teller machine; or (iii) use of a Convenience Check if permitted by your Employer for legitimate business purposes. The amount of the Cash Advance, plus a Cash Advance Fee, will be

8. CHARGES MADE IN FOREIGN CURRENCIES

With the consent of your Employer, you may use your Commercial Card at foreign merchants and ATMs. If you use your Commercial Card at a merchant (except commercial airlines) or an ATM that bears the logo of the governing Association that is referenced on the Commercial Card issued to you on behalf of your Employer, the Charge will be converted into U.S. dollars at the exchange rate established, from time to time, under applicable bylaws and rules of the Association. Commercial airline foreign exchange rates are set by the airline. You understand that the exchange rate in effect when the Charge is processed may differ from the rate in effect on the date of the transaction or posting to your Account. The cost to U.S. Bank for a foreign currency transaction will be the sum of 8(a) and 8(b) as follows:

- a.) The amount in the foreign currency times an exchange rate in effect one day prior to the processing date that is:
 - i) the government-mandated rate (if there is one), or

- ii) a wholesale market rate (if there is no government-mandated rate), or
 - iii) the rate established by the commercial airline for airline tickets issued by them; **plus**
- b.) One percent (1%) times the resulting dollar amount.

The amount U.S. Bank will charge to your Account for the foreign currency conversion for each transaction; will be our cost (8(a) plus 8(b)) for the transaction **plus** our Foreign Currency Conversion Fee of one-half of one percent (0.5%) times the converted transaction amount.

9. DEFAULT

You are in default if you fail to comply with any of the terms of this Agreement, fail to meet any of your other obligations when due, or upon your death or insolvency. If you are in default, U.S. Bank may restrict further Account activity. U.S. Bank also may demand immediate payment of the full balance and take any available legal action. If you are in default and fail to pay any amount that you owe, then you will be liable for U.S. Bank's collection costs and, if the claim is referred to legal counsel for collection, then you may be held liable for any reasonable collection costs and attorneys' fees which are incurred, plus the costs and expenses of legal action. U.S. Bank may sell or otherwise transfer the Account and any amounts owed by you to another creditor at any time. If U.S. Bank does this, the Agreement will still be in effect.

10. CANCELLATION OF COMMERCIAL CARD

You may cancel your Commercial Card at any time by notifying U.S. Bank in writing at U.S. Bank, P.O. Box 6343, Fargo, ND 58125-6343. Your Employer or U.S. Bank may suspend or cancel your Commercial Card at any time for any reason. You agree to surrender the Commercial Card upon request to your Employer or to any authorized representative of U.S. Bank. Use of the Commercial Card or Account after notification of its cancellation may be fraudulent and may result in U.S. Bank taking legal action against you. Even after the Account is closed, you remain responsible for payment of any Debt, according to the terms of this Agreement.

11. TRAILING TRANSACTIONS

In the event the Commercial Card is canceled, you agree to cancel all services billed on a recurring basis to your Account and arrange for alternate payment methods or cancel such services prior to cancellation of the Commercial Card for any reason.

12. ILLEGAL PURCHASES

You agree that the Commercial Card and Accounts shall not be used for gambling, online gaming, illicit drug transactions, or any unlawful purposes including without limitation other illegal purchases of goods or services, regardless of whether such transaction violates the laws applicable in the territory where the transaction was initiated or merchant is located, or that are prohibited by local law or the law governing this Agreement. Cardholder acknowledges and agrees that the Commercial Card and Accounts will be used for legitimate business purposes and that the Cardholder will have neither consumer law rights nor remedies associated with any illegal Purchases, Charges or other activity associated with the Commercial Card or Accounts.

13. RENEWAL AND REPLACEMENT CARDS

Unless canceled, the Commercial Card will be valid until the expiration date that is printed on the Commercial Card. U.S. Bank will continue to issue renewal or replacement Commercial Cards until you or your Employer tells U.S. Bank to cancel the Account.

14. EXCHANGE OF INFORMATION BETWEEN U.S. BANK AND YOUR EMPLOYER

U.S. Bank may furnish information concerning your use of the Commercial Card, including any delinquency, to your Employer, which may include your direct supervisor. Your Employer may furnish information about your use of the Commercial Card and the Account, and pertinent information about any reimbursement of Charges received by you from your Employer, Cardholder delinquency information, Cardholder employment status and location, and any other related Cardholder tracking information to U.S. Bank. By participating in international programs or transactions, you and your Employer agree that U.S. Bank may transfer and use such transaction information to process international transaction requests by the Employer or Cardholder to merchants, processors and service providers. You consent to such use and transfer of such information.

15. INQUIRIES ABOUT YOUR CREDIT HISTORY

U.S. Bank may have issued the Commercial Card to you without any investigation of your credit history. U.S. Bank has the right to request a credit report about you in connection with issuance and your use of the Commercial Card. Information concerning your credit history with U.S. Bank may be furnished to consumer reporting agencies or others who may properly receive that information and you consent to the foregoing.

16. LOST OR STOLEN CARDS

You agree to notify U.S. Bank immediately of any loss, theft or unauthorized use of the Commercial Card or Account. You will notify U.S. Bank by calling 1-800-344-5696 or by writing to U.S. Bank, P.O. Box 6343, Fargo, ND 58125-6343. Also, you agree to notify your Employer in accordance with your Employer's instructions. If your Commercial Card is returned to you after you have notified U.S. Bank as provided above, you agree not to use the Commercial Card and return it, cut in half, to U.S. Bank. You understand you may be liable if an unauthorized person uses your Commercial Card or Account. You will not be liable for unauthorized charges that occur after you notify U.S. Bank of the loss, theft or possible unauthorized use of your Commercial Card. In any case, your liability will not exceed U.S. \$50 or the amount of the Charges, whichever is less.

17. MERCHANT REFUSAL TO ACCEPT COMMERCIAL CARD

U.S. Bank cannot be held responsible for a merchant's refusal to honor the Commercial Card. U.S. Bank also reserves the right to deny authorization of any Charge.

18. BILLING INQUIRIES

If you think your bill is wrong, or if you need more information about a Charge on your Statement, you must notify U.S. Bank in writing or by telephone within 60 days of the billing date on the Statement on which the error or problem appeared. YOU MUST WRITE TO: U.S. Bank, P.O. Box 6344, Fargo, ND 58125-6344. You may telephone us, but doing so will not preserve your rights.

Your letter must include the following information:

- (1) Name and Account number
- (2) The dollar amount of the Charge in question
- (3) An explanation, if possible, why you believe that there is an error.

After U.S. Bank receives your letter, U.S. Bank will not try to collect the amount you questioned or report the amount you questioned as past due.

U.S. Bank must acknowledge your letter within 30 days unless the error has been corrected by then. U.S. Bank must either correct the error or explain why the Charge was correct. If there is a correction, it will be shown on your Statement.

If you fail to pay the amount that we think you owe, we may report you as delinquent. If however, our explanation does not satisfy you and you write to us within 10 days telling us that you still refuse to pay, we must tell anyone to whom we report you that you have a question about your bill. Also, we must tell you the names of these entities to whom we report you, and we must inform these entities when we have settled matters between us.

If you have a problem with the quality of goods or services that you purchased with the Commercial Card, and you have tried in good faith to correct the amount with the merchant, you may have the right not to pay the remaining amount due on the property or services.

19. THIRD PARTY OFFERS

From time to time, cardholder benefits may be offered through programs sponsored by third parties. These benefits may be subject to certain terms, conditions and exclusions. U.S. Bank and/or third party may add, change or delete entirely these benefits without notice or liability to you.

20. AMENDMENT OF AGREEMENT

U.S. Bank has the right to amend or change this Agreement at any time. If required by the State of North Dakota or federal law, U.S. Bank will notify you in writing of the effective date of the change. If you do not accept the changes, you must notify U.S. Bank in writing within twenty-five (25) days after the effective date of the changes. You also must pay U.S. Bank in full, according to the terms of the

existing Agreement, and return the Commercial Card to U.S. Bank cut in half. Use of the Commercial Card after the effective date of the change constitutes acceptance of the change, even if the twenty-five (25) days have not passed.

21. ACCORD AND SATISFACTION/DELAY IN ENFORCEMENT

U.S. Bank may accept late payments, partial payments or other financial payments marked as being payment in full or as a settlement of a dispute without losing any of its rights under this Agreement or under the law. A payment less than the amount due but intended to settle an account in full (accord and satisfaction) should be mailed to U.S. Bank National Association ND, Corporate Payment Systems, P.O. Box 6344, Fargo, ND 58125-6344. Accepting such payments does not change this Agreement in any way. U.S. Bank may delay in enforcing this Agreement or fail to enforce any of its rights under this Agreement without losing them.

22. GOVERNING LAW

The laws of the State of North Dakota and federal laws of the United States applicable therein govern this Agreement.

23. REGULATORY ACKNOWLEDGEMENTS

In addition to the Governing Law referenced in Section 22 above, for Commercial Cards issued in the United States, the applicable Association Rules and Regulations associated with the Commercial Card issued to you on behalf of your Employer shall govern such transactions.

24. REGULATION O DISCLOSURE TO U.S. BANK OFFICERS.

If you are a Regulation O officer of U.S. Bank or any of its affiliates, pursuant to federal law, and notwithstanding any other provision of this Agreement, at our option, the Account will terminate, all Card or Account privileges will terminate and all outstanding amounts will become due and payable at our option if you become indebted to any and all other banks in an aggregate amount greater than the amount you would be permitted to borrow under the provisions in the federal statutes governing loans to insiders.

EXHIBIT N

U.S. BANK TRAINING MATERIALS LICENSE AGREEMENT

This License Agreement ("Agreement") is entered into, by and between U.S. Bancorp Card Services, Inc. ("USBCS") and its Customer.

Customer agrees that U.S. Bank Training materials, including FirstView, C.A.R.E., Encompass and other related materials available on this site (the "Materials") are provided to Customer subject to the terms and conditions of this Agreement. The parties, intending to be legally bound hereby, agree as follows:

1. **GRANT OF LICENSE.** USBCS hereby grants to Customer a license to use the Materials, which license is non-exclusive, nontransferable, terminable and limited. Customer agrees to use the Materials only during the term of this Agreement, only according to manuals, guidelines, policies and instructions provided by USBCS from time to time (which, when issued to Customer, become part of this Agreement), and only so long as Customer's Payment System Agreement are in effect. This Agreement is not and shall not be construed to be, a license for either party to use the name of the other party, or any of the logos, trademarks, trade names or service marks of the other party. The Materials shall be used by Customer only in connection with Customer's own U.S. Bank Payment System Program.

2. **OWNERSHIP.** Exclusive title to and ownership of the Materials (including all patents and copyrights) shall at all times be and remain in USBCS; Customer shall acquire no title thereto. Except as provided in Section 3, below, the Materials shall not be copied, duplicated, reproduced, manufactured, disclosed, modified, revised, or enhanced in any form or by any media, for/by Customer for/to any other person or entity without the prior written consent of USBCS. Customer has no right to sublicense the use of the Materials. If Customer elects to download the Materials on its intranet, Customer agrees to always include at the beginning of such Materials the proper copyright notice (e.g., © 2001 U.S. Bancorp). Whenever and however (whether hardcopy, LAN or intranet) the Materials is used, Customer agrees to indicate that the Materials and all of its components are owned by USBCS. Customer is expressly prohibited from uploading the Materials to the Internet or, in any other manner, making it available on the Internet for other persons or entities to download, copy and/or use.

3. **DELIVERABLES.** Pursuant to this Agreement, USBCS agrees to deliver to Customer a password to the client-only web site. This site will contain software demos, software training materials, downloadable software, program training materials, and Encompass implementation materials. Customer may make a reasonable number of copies of the Materials for Customer's program requirements, and/or may download the Materials into Customer's intranet and/or may upload it onto Customer's intranet bulletin board. All such copies and iterations are subject to the provisions of this Agreement.

4. **TERM.** This Agreement shall become effective upon execution by both USBCS and Customer, and the term shall continue until the expiration or termination of (a) this Agreement; and/or (b) USBCS' Payment Systems Agreement with Customer. Upon the termination for any reason (or for no reason) or the expiration of this Agreement, Customer agrees to immediately return or destroy all copies of the Materials, and all other confidential and/or proprietary materials of USBCS then in Customer's possession, and to delete the Materials from all of its computer systems and/or storage devices.

5. **CONFIDENTIALITY.** The Materials are trade secrets of USBCS and are copyrighted. Customer agrees to maintain in confidence the Materials (including, but not limited to, the forms and the Materials) and all other trade secrets, confidential and proprietary information of USBCS ("Confidential Information"), and agrees not to reverse assemble or decompile the Materials. Customer agrees to keep the Confidential Information in a secure place, and at a minimum, under access and use restrictions for its employees, agents and representatives which are no less stringent than those applicable to Customer's own confidential information, and to adopt and enforce such policies and procedures as are necessary to safeguard USBCS' Confidential Information.

6. UNAUTHORIZED USE. Customer shall prevent all unauthorized operation and use of the Materials. Any unauthorized disclosure or use of the Materials made by Customer or its employees, agents or representatives other than pursuant to this Agreement shall constitute a material breach of this Agreement, and Customer shall be liable to USBCS for monetary damages caused by such disclosure, including any impairment of USBCS' ownership of and exclusive right to use the trade secrets and the confidential and proprietary information embodied in the Materials. In the event that monetary damages are inadequate to compensate USBCS and protect its/their trade secrets, confidential and proprietary information, Customer stipulates and agrees that a preliminary and/or permanent injunction may be entered against it to provide for such protection (instead of or in addition to an award of monetary damages).

7. WARRANTIES. USBCS represents and warrants that at the time of the execution of this Agreement: (a) it is the owner of the Materials, and (b) it will use reasonable efforts for a period of ninety (90) days after the password is delivered.

EXCEPT AS STATED ABOVE, USBCS MAKES NO OTHER EXPRESS OR IMPLIED WARRANTY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE WITH RESPECT TO THE SOFTWARE.

8. INDEMNITY.

8.1 By USBCS. In the event a court of competent jurisdiction determines that USBCS does not have the right to license the Materials to Customer, or that the USBCS components of the Materials infringe any U.S. patent, copyright, trade secret or other proprietary right of any third party, USBCS (at its sole option and at no cost to Customer) will: (a) procure for Customer the right to continue to use the Materials, or (b) obtain and license to Customer the right to use a substitute Materials. Provided that Customer promptly notifies USBCS of all claims, cooperates with USBCS in providing information and assistance, and grants USBCS all necessary authority to defend or settle such claims, USBCS agrees to defend and/or settle any suit involving claims of USBCS' lack of right to license, or infringement by, the Materials, and will indemnify Customer against all such claims, including Customer's costs and attorneys fees.

8.2 By Customer. Customer hereby agrees to indemnify and hold harmless USBCS against any loss or damages to USBCS by any unauthorized disclosure or use by Customer, its employees, agents or representatives; and/or by any act or omission of Customer, its employees, agents or representatives including (but not limited to) modification of the Materials (even if done with USBCS' consent).

9. LIMITATION OF REMEDIES. Customer's sole and exclusive remedy for a breach of the warranty set forth in 7.(a), above, shall be limited to USBCS providing comparable materials which it does have the right to license; and Customer's sole and exclusive remedy for breach of the warranty set forth in 7.(b), above, shall be limited to USBCS replacing Customer's copy of the Materials with a new copy of the Materials which meets the published specifications. Customer agrees that it shall not look outside of this Agreement to create or impose any other duty, obligation, warranty or remedy for the benefit of Customer related to the Materials, not against USBCS.

10. LIMITATION OF DAMAGES. Other than as provided herein, Customer waives and releases USBCS from any and all liabilities and all rights, claims and remedies against USBCS, whether expressed or implied, and whether arising by law or otherwise, due to any defects, errors, malfunctions or inadequacies of the Materials, including any claim or remedy for loss of revenue or profit, or for any other direct, indirect, incidental, special, punitive or consequential damages based on breach of contract, breach of warranty, tort, strict liability or otherwise.

11. GENERAL PROVISIONS.

11.1 Assignment. USBCS may assign this Agreement or its rights and obligations hereunder to an affiliated entity, without prior notice to or consent from Customer. Otherwise, neither party shall assign this Agreement or any right or obligation hereunder without the prior written consent of the

other. Each party hereto agrees that as a part of any merger with, acquisition by, or conveyance of all, or substantially all, of its assets or of a controlling interest to another entity, the party hereto shall require such other entity to assume and agree to perform all of the party's obligations pursuant to this Agreement. Any purported assignment of this Agreement without such written assumption shall be void, and shall grant no rights to the purported assignee; and the other party may deem this Agreement terminated upon such purported assignment.

11.2 Breach. In the event that either party files a voluntary petition in bankruptcy, makes an assignment for the benefits of creditors of substantially all of its assets; petitions for reorganization, liquidation or dissolution; or is in default of any material obligation owed the other party hereunder (including any subsequent amendments), then that party shall be in default of this Agreement. If the defaulting party fails to cure said default within fifteen (15) days after written notice from the other party, then the other party may, at its discretion, terminate this Agreement.

11.3 Entire Agreement; Governing Law. This Agreement (together with the Payment Systems Agreement) constitutes the entire understanding of the parties hereto and shall be governed by and interpreted pursuant to the laws of the State of Minnesota (except for the conflict of laws provisions of Minnesota law).

11.4 Modification of Materials. Without USBCS' prior written approval (which shall not unreasonably be withheld), Customer may not modify, alter, or enhance the Materials.

11.5 No Other Services. This Agreement does not require USBCS to provide any support, maintenance, installation services or training to Customer. Provided, however, that USBCS may provide telephone consultation and/or other support services during regular USBCS business hours as provided in Materials material or manual as such materials or manuals may, from time to time, be reviewed or amended.

11.6 Amendment. Any agreement to waive, modify or amend any provision hereof (including Schedule 1 to the FirstView License Agreement) shall be in writing and signed by the parties hereto.

In witness whereof, the parties hereto have, by their duly authorized representatives, executed this Agreement.

Date Issued: February 10, 2003