



Thank you for your interest in a U.S. Bank Multi Service Aviation Card Program. Please complete all items outlined in this checklist before submitting your application.

- Customer Information, page 2:** Complete all sections. Note that the LEGAL company name is required in this section; brand or abbreviated names cannot be accepted.
- Charge Volume of \$25,000.00 OR LESS:** Complete and sign Section 2 (Personal Guaranty) **ONLY** if you anticipate monthly charge volume of **\$25,000.00 OR LESS** on the U.S. Bank Multi Service Aviation Card(s) or accounts. Financial statements are not required in such a situation.
- Charge Volume of MORE THAN \$25,000.00.** If you anticipate monthly charge volume of **GREATER than \$25,000.00** on the U.S. Bank Multi Service Aviation Card(s), do not complete Section 2. Instead, please submit financial statements according to the following table.

ANTICIPATED MONTHLY CHARGE VOLUME	YEARS
\$25,000.01 - \$250,000.00	2
≥ \$250,000.01	3

The financial statements must be Customer's most recent financial statements. If the most recent annual financial statements are more than five months old, please provide the most recent interim financial statements as well. Financial statements must contain a Balance Sheet and an Income Statement/Profit and Loss and, if available, Statement of Cash Flows and Auditor's Opinion.

- The U.S. Bank Multi Service Aviation Card Terms and Conditions (the "Agreement") (pages 4-12):** Read carefully and retain a copy for your records.
- Authorization and Execution, page 11:** Read carefully; **ALL** applicants must sign this section.
- Customer Identification Questionnaire.** Before U.S. Bank can open an Account for any entity, U.S. Bank is required to obtain information to ensure that we know who our customers are and the identity of the entities with whom we are conducting business. Accordingly, please complete the Customer Identification Questionnaire in its entirety and submit the completed, signed, scanned document with your application submission.
- Submit the Application Package:** Send completed applications, financial statements and other required material to your U.S. Bank Representative. If you do not have a U.S. Bank Representative, send completed applications, financial statements and other required material by email to: [cpsnewapplications@usbank.com](mailto:cpsnewapplications@usbank.com), or mail to U.S. Bank Attn: Contract Services, 200 South Sixth Street, EP-MN-L29C, Minneapolis, MN 55402. U.S. Bank may contact Customer to verify information or complete additional documentation.

If you have any questions about the U.S. Bank Multi Service Aviation Card Program, please call your U.S. Bank Sales Representative or if you do not have a Sales Representative, please call 1-877-MSA-CARD or 1-877-672-2273.

# U.S. Bank Multi Service Aviation Card Program Application



The issuer of the U.S. Bank Multi Service Aviation Card is U.S. Bank National Association ("U.S. Bank")

## Section 1 – Customer ("CUSTOMER") Information

Customer's Legal Name \_\_\_\_\_ State of Incorporation \_\_\_\_\_

Customer Name to be embossed on card(s) (Limit to 21 letters and spaces.) \_\_\_\_\_ Federal Tax ID \_\_\_\_\_

Doing Business As ("DBA"), if any. Please list all DBAs of the entity applying. \_\_\_\_\_

Customer Physical Street Address (PO Box not acceptable) \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Postal Code \_\_\_\_\_

Contact Name \_\_\_\_\_ Contact Title \_\_\_\_\_ Contact Phone Number \_\_\_\_\_

Email Address (To contact Customer regarding processing of this Application) \_\_\_\_\_ Website Address \_\_\_\_\_

Billing Address (If Different From Customer Address) \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

Net Annual Sales \_\_\_\_\_ Total Assets \_\_\_\_\_ Anticipated Monthly Charge Volume \_\_\_\_\_

North American Industry Classification System (NAICS) Number \_\_\_\_\_ Official Start Date of Company: \_\_\_\_\_

If the NAICS number is not available, please provide the industry category \_\_\_\_\_

Type of Organization:  Corporation (Public)  Corporation (Private)  Partnership  LLC  LLP  Other \_\_\_\_\_

Non-Profit:  Yes  No

Does Customer have a line of credit with U.S. Bank or any other financial institution?  Yes  No

If yes, please provide the following information:

Name of Financial Institution Providing Line of Credit \_\_\_\_\_ Limit \_\_\_\_\_ Amount Currently Outstanding \_\_\_\_\_

Is Customer rated by Dun and Bradstreet (D&B)?  Yes  No If yes, D&B Number: \_\_\_\_\_

Does Customer conduct business in a foreign country?:  Yes  No

If yes, list countries and nature of business conducted: \_\_\_\_\_

## Section 2 – Personal Guaranty. If you anticipate Monthly Charge Volume of \$25,000.00 or less on the Multi Service Aviation Card(s), please complete the section below and sign.

Printed Name of Authorized Officer \_\_\_\_\_ Printed Title of Authorized Officer \_\_\_\_\_

Home Phone Number \_\_\_\_\_ Date of Birth \_\_\_\_\_ Social Security Number \_\_\_\_\_

Home Physical Address (PO Box Not Acceptable), including City, State and Zip Code \_\_\_\_\_

I, as the above named Authorized Officer, (a) request that U.S. Bank issue Multi Service Aviation Cards ("Card(s)") and Accounts ("Account(s)") as requested by Customer or its Participants in the future; (b) authorize U.S. Bank to verify my employment and income history and all other information I have provided, and to obtain information about me from other creditors, credit bureaus, third parties, and federal or state records for use in assessing my personal credit worthiness in connection with U.S. Bank extension(s) of credit to Customer under the Agreement; (c) acknowledge that U.S. Bank will review this Application and may, at its sole discretion, grant such request, but U.S. Bank is under no obligation to do so; (d) **agree to be jointly and severally liable with Customer to pay for all transactions charged to any and all Accounts, plus fees and/or other charges, according to the terms of the Agreement;** (e) authorize U.S. Bank to share information about its experiences with me with U.S. Bank affiliates and credit bureaus; and (f) agree that Accounts will be used for business purposes only and not personal, family, or household purposes.

In witness whereof, Authorized Officer has executed this Application and agrees to this Section 2.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_\_ :

\_\_\_\_\_  
Signature of Authorized Officer

This U.S. Bank Multi Service Aviation Card Program Agreement (“**Agreement**”) is between the entity signing this Application as “**Customer**” and U.S. Bank National Association (“**U.S. Bank**”). Customer desires to retain U.S. Bank as its provider for commercial charge card and account services for the purchase of aviation fuel and other related products and services (the “**Program**”). If U.S. Bank approves Customer’s creditworthiness and the Application, the “**Effective Date**” of this Agreement will be the date the Application is signed by Customer.

Now, therefore, for and in consideration of the mutual promises contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Customer and U.S. Bank agree to the following:

**1. DEFINITIONS.** “**Account**” means an account under this Agreement consisting of one or more Cards. “**Billing Cycle**” means the period of time from the date a Statement is generated until the date when the next Statement is generated. “**Card**” means a U.S. Bank Multi Service Aviation Card or a commercial account number, regardless of the medium, issued pursuant to this Agreement. “**Charge**” means a monetary transaction with a debit value to an Account processed on the MSA Network. “**Identification Information**” means legal names, physical street addresses, taxpayer identification or business numbers, dates of birth, or other information or documentation required by U.S. Bank to confirm the identity of any entity or person. “**Intellectual Property**” or “**Intellectual Property Rights**” means any patent rights, inventions, design rights, copyrights, database rights, trade secrets, trade names, trademarks, service marks, moral rights, know-how, and any other similar rights or intangible assets recognized under any laws or international conventions, and in any country or jurisdiction in the world, as intellectual creations to which rights of ownership accrue, and all registrations, applications, disclosures, renewals, extensions, continuations or reissues of the foregoing now or hereafter in force. “**MSA Network**” the payment network owned and operated by U.S. Bank under which transactions on Cards and Accounts bearing U.S. Bank’s Multi Service Aviation logo are processed and reported. “**Obligations**” means all Charges, fees, and other activity posted to an Account. “**Participant**” means any entity that Customer authorizes and U.S. Bank approves for participation in the Program that is wholly or majority owned or controlled (which is at least 51% or more of voting rights) by Customer. “**Statement**” means, with respect to one or more Accounts, a periodic listing of all Obligations.

**2. PRODUCTS AND SERVICES.**

**2.1 Provision of Services; Agreement of Payment.** U.S. Bank operates the Program pursuant to which it issues Cards and Accounts at the direction of Customer which can be used at merchants to purchase certain categories of products. Customer desires to participate in the Program and U.S. Bank agrees to allow Customer to participate in the Program in accordance with the terms contained herein. In connection with the Program, U.S. Bank agrees to provide Customer access to its online portal that allows Customer to, among other things, review Statements and obtain various reports. Customer agrees that it is responsible for all of its Obligations or those incurred at a Participant’s direction. Customer agrees to pay the fees set forth on Schedule 1 in connection with the Program in addition to all amounts charged on the Cards and Accounts.

**2.2 Billing and Payment.** Customer will receive an electronic Statement at the end of each Billing Cycle itemizing all Obligations and payments for that Billing Cycle. The balance shown on the Statement is due to U.S. Bank before the end of the next Billing Cycle. Customer shall pay U.S. Bank using a payment method approved by U.S. Bank. If the amount owing under an Account has not been paid in full when due, the Account is delinquent and U.S. Bank may suspend such Account and may charge the late fee set forth in the Fee Schedule. U.S. Bank may close an Account if the Account remains delinquent as of the completion of the second Billing Cycle after the Statement date. Customer shall communicate disputes or alleged errors on Statements within 60 days after the date on the Statement on which a disputed entry first appeared. Such communication of a dispute must contain the specific items in dispute and the basis for such dispute. Failure to provide this notification within the stated time frame may result in Customer being liable for all and any losses incurred. U.S. Bank may recover any reasonable legal fees and other expenses incurred in collecting any delinquent amounts on a closed Account.

**2.3 Card Issuance.** Customer shall only be permitted to request the issuance of Cards in the name of the following parties: (i) in the name of an aircraft owned or leased by Customer or Participant (or assigned “any aircraft”), (ii) in the name of any Customer or Participant employee, (iii) in the name of any individual that is acting directly or indirectly as an independent contractor of Customer or Participant and, (iv) in the name of any other individual provided on a temporary basis and so long as such individual has a bona fide connection to Customer or Participant. Customer shall not request the issuance of Cards for its subsidiaries (or employees of such subsidiaries) that are not Participants. U.S. Bank may refuse to issue a Card to any party that cannot satisfy U.S. Bank’s regulatory requirements referenced in section 14 (Compliance with Applicable Statutes, Regulations and Other Agreements) herein.

**2.4 Liability.** Customer, and if applicable, Authorized Officer as guarantor, is solely liable to U.S. Bank for all Obligations. U.S. Bank is not liable for: (i) misuse of an Account or Card or any related expenses by the cardholder; (ii) any unauthorized or fraudulent Charges prior to Customer reporting a Card as lost, stolen or compromised, as described in 2.5 (Mandatory Notification) or (iii) Charges declined or approved, as a result of inaccurate merchant

category codes used by a merchant. If Customer has at least 10 Cards issued under the Program, it expressly waives any rights it may have under Section 15 U.S.C. §1643 related to fraudulent Charges.

**2.5 Mandatory Notification.** Customer shall immediately notify U.S. Bank, in writing to U.S. Bank's email address for fraud notices: of (i) termination of employment of any employee or removal of an agent or authorized user or Participant from the Program; (ii) lost, stolen, or compromised Cards, Accounts, and any other access device; (iii) suspected or actual breach, or misuse of a Card or Account or information regarding Cards, Accounts, or other sensitive information; and (iv) termination or closure of a Card or Account. Customer shall take all necessary action to terminate the Accounts of any party that would not qualify for the issuance of a Card as set forth in section 2.3 (Card Issuance). Customer is liable for all fraudulent Charges, incurred prior to the time that Customer provides the required mandatory notification and terminates access as stated herein.

**2.6 Trailing Transactions.** Upon cancellation or suspension of an Account, Card, or termination of this Agreement, Customer shall cancel the billing of all reoccurring transactions to an Account. U.S. Bank is not liable for any reoccurring transactions Customer has failed to cancel.

### 3. CREDIT.

**3.1 Financial Information.** Customer shall provide its fiscal year-end financial statements as soon as available, but not later than 120 days following the end of Customer's fiscal year. Customer shall provide additional information, upon request by U.S. Bank, regarding the business, operations, affairs, and financial condition of Customer, including reviews or audits of fiscal year-end financials performed by certified public accountants and Customer prepared quarterly financial statements.

**3.2 Credit Controls.** U.S. Bank, at its sole discretion, may revise any credit limits or controls associated with the Program. Customer shall, within ten days of receiving notice, make a payment to U.S. Bank sufficient to reduce the amount outstanding to an amount equal to or less than any revised credit limit.

### 4. SECURITY AND CONFIDENTIALITY.

**4.1 Security.** "Secured Information" means information regarding Cards, Accounts, passwords, personal identification numbers and other sensitive information or Confidential Information of either party.

(a) Either party may receive or otherwise have access to Secured Information and must implement or maintain an information security program designed to: (i) ensure the security, integrity, and confidentiality of Secured Information; (ii) protect against any anticipated threats or hazards to the security or integrity of such Secured Information; (iii) protect against unauthorized access to or use of such Secured Information that could reasonably result in harm to the person or entity that is the owner, user or subject of the Secured Information; and (iv) ensure the proper disposal of such Secured Information.

(b) U.S. Bank will maintain physical, electronic, and procedural safeguards designed to: (i) maintain the security and confidentiality of Identification Information; (ii) protect Identification Information against anticipated threats or hazards to the security or integrity of Identification Information; and (iii) prevent unauthorized access to or use of such Identification Information that could result in harm or inconvenience to Customer.

(c) Customer will safeguard Secured Information provided by U.S. Bank in a manner that is no less stringent than those applicable to Customer's own proprietary information.

(d) At a minimum, Customer will install and maintain commercially reasonable cybersecurity defenses against any feature, routine, or device that: (i) is intended or designed to disrupt the operation of any software or system, including any timeout functionality; (ii) causes any U.S. Bank owned or licensed materials, software, or system to be destroyed, altered, erased, damaged or otherwise made inoperable; or (iii) permits any person or entity to destroy, alter, erase, damage or otherwise render inoperable any U.S. Bank owned or licensed materials, software, or system, including, but not limited to, any cyber-attacks such as any computer virus, trap door, back door, time bomb, or malicious program. Furthermore, Customer will perform routine hygiene on its systems to ensure appropriate use of software locks, routine password checking and central processing unit serial number checking.

#### 4.2 Confidentiality.

(a) **Confidential Information.** Each party may have access to and each party may provide to the other party information that the owner of such information regards as confidential or proprietary. "Confidential Information" includes information of a commercial, proprietary or technical nature whether now in existence or hereafter created. Confidential Information includes, but is not limited to, the following: (i) information marked as "confidential" or similarly marked, or information that a party should, in the exercise of reasonable judgment, recognize as confidential; (ii) Intellectual Property of each party; (iii) Identification Information (iv) the business, financial or technical information of each party and its respective affiliates; (v) each party's objectives, materials, financial results, technological developments, and other similar proprietary information and materials; and (vi) notes, memoranda, analyses, compilations, studies, and other documents, whether prepared by either party or for either party, which contain or otherwise reflect Confidential Information.

#### (b) Exceptions.

(i) **General Exceptions.** Confidential Information does not include information that: (i) is already rightfully known to the receiving party at the time it obtains Confidential Information from the disclosing party; (ii) is or becomes generally available to the public other than as a result of disclosure in breach of this Agreement or any other confidentiality obligations; (iii) is received on a non-confidential basis from a third

party reasonably believed to be authorized to disclose such information without restriction and without breach of this Agreement; (iv) is contained in, or is capable of being discovered through examination of, publicly available records or materials; or (v) is developed by U.S. Bank or Customer without the use of any proprietary, non-public information provided by the other party.

- (ii) **U.S. Bank Exceptions.** U.S. Bank may: (i) use and disclose Customer's Confidential Information to the extent necessary to maintain compliance with the MSA Network rules established by U.S. Bank related to the Program; or (ii) use and disclose non-identifying data to any entity or third party to the extent that such data is aggregated, summarized, or otherwise presented in a manner that does not directly or indirectly identify such data as attributable to U.S. Bank or its affiliates or Customer, its affiliates, employees, agents or authorized users.
- (iii) **Third Parties.** Portions of Customer's Cards, Accounts, and transaction data are captured by third parties, including, but not limited to, third-party service providers, merchants, and merchant processors during the course of normal business operations and the confidentiality provisions of this Agreement shall not be deemed breached based upon such activities. All such third parties shall not be considered an agent of U.S. Bank for purposes of this section 4.
- (c) **Restriction and Care.** Each party must hold Confidential Information in confidence and disclose Confidential Information only to those employees, agents, or authorized users whose duties reasonably require access to such Confidential Information. Each party must protect Confidential Information using at least the same degree of care it uses to protect its own Confidential Information, but in no event, less than a reasonable degree of care to prevent unauthorized disclosure or duplication (except as required for backup systems) of such Confidential Information. Each party must cause its affiliates, employees, agents, authorized users, independent contractors, and parents to hold and maintain Confidential Information in confidence, and must only use and disclose such Confidential Information for the purpose of performing its obligations, exercising its rights, or enforcing its rights under this Agreement, or as otherwise expressly permitted by this Agreement.
- (d) **Disposition of Confidential Information.** Upon termination of this Agreement, each party must immediately, upon election by the disclosing party, return or destroy all Confidential Information in its direct or indirect possession or control that is the sole property of the disclosing party; provided, that U.S. Bank may retain particular transaction data with respect to the Cards and Accounts as is necessary to perform its billing functions and to maintain compliance with its agreements with merchants under the Program. Upon written request, the recipient will provide the disclosing party written certification of destruction of any Confidential Information. Notwithstanding, U.S. Bank may retain one copy of Confidential Information for archival purposes in accordance with applicable law, rule or regulation. The receiving party must return any Confidential Information maintained in an electronic format to the disclosing party in an industry standard format or, at the option of the owner, deleted and removed from all computers, electronic databases, and any other media.
- (e) **Compelled Disclosure.** Each party must promptly provide to the disclosing party notice of any order by a court or governmental agency having proper jurisdiction to disclose any Confidential Information, so the disclosing party may seek an appropriate protective order. U.S. Bank may be prohibited by a governmental agency from disclosing the governmental agency's request for Confidential Information and under such circumstances U.S. Bank is excused from notifying Customer of any disclosure of Confidential Information thereunder. Each party must disclose Confidential Information only to the extent required by applicable law.
- (f) **Non-Publicity.** Customer shall not make any case study, testimonial, press release, or other public announcement regarding this Agreement or any activities performed hereunder. Customer and its affiliates shall obtain the prior written approval of U.S. Bank's Media Relations department for any press release that Customer seeks to release that contains U.S. Bank's identity. U.S. Bank shall have at least 15 business days to review and respond to any such request for approval.

## 5. DEFAULT.

- 5.1 **Customer Defaults.** Customer will be in default upon the occurrence of any of the following events (each a "**Customer Default**"): (i) any violation of its obligations set forth in section 4 (Security and Confidentiality) or section 7 (Intellectual Property); (ii) any failure to make a payment on any Account when due; (iii) any default of any other agreement between U.S. Bank and any of Customer, a Participant, or Customer's affiliates that has not been cured in the time specified in the applicable agreement; (iv) any of its representations or warranties made in this Agreement fail to be true and correct at any time during this Agreement; (v) the violation of any of its other covenants, conditions, or provisions set forth in this Agreement; (vi) the filing of a bankruptcy or insolvency proceeding, the appointment of a receiver or trustee for benefit of creditors, or the entry into an arrangement with its creditors by Customer, a Participant or any guarantor of Customer's obligations hereunder (a "**Guarantor**"); (vii) a Guarantor, if any, dies or revokes its guaranty of Customer's obligations; or (viii) Customer's merger, amalgamation, sale, or transfer of all or substantially all of its assets that causes a material change to Customer's business or financial condition.
- 5.2 **U.S. Bank Defaults.** U.S. Bank will be in default upon the occurrence of any of the following events (each a "**U.S. Bank Default**"): (i) any of U.S. Bank's representations or warranties made in this Agreement fail to be true and correct at any time during this Agreement; (ii) U.S. Bank materially violates of any covenants, conditions, or

provisions set forth in this Agreement; or (iii) the filing of a bankruptcy or insolvency proceeding, the appointment of a receiver or trustee for benefit of creditors, or the entry into an arrangement with its creditors by U.S. Bank.

**5.3 Cure.** Customer must cure any Customer Default under section 5.1(i)-(iv) within five days of notice of such Customer Default. Customer must cure any Customer Default under section 5.1(v) within 30 days of notice of the Customer Default. Notwithstanding the foregoing, a Customer Default under section 14 and a Customer Default arising under sections 5.1(vi)-(viii) shall not be entitled to notice or the right to cure and U.S. Bank may immediately terminate this Agreement as a result of any such default. U.S. Bank shall cure any U.S. Bank Default arising under section 5.2(i) or (ii) within 30 days after notice of a U.S. Bank Default. U.S. Bank shall not be entitled to cure a U.S. Bank Default under section 5.2(iii).

**5.4 U.S. Bank Remedies.** Upon the occurrence of a Customer Default, after the notice and cure period have run, if any, without cure, in addition to any other remedies at equity or law, U.S. Bank may: (i) immediately terminate this Agreement or suspend or cancel any Cards and Accounts; (ii) retain and will not be required to pay Customer any payables pursuant to this Agreement (other than a return of prefunded amounts not applied to outstanding Obligations); and (iii) collect on demand, and Customer must promptly comply with such demand, any amount directly or indirectly related to any Customer Default, including any fees or losses sustained by U.S. Bank, and any reasonable court and legal costs incurred by U.S. Bank to exercise its rights or remedies under this section 5. If Customer violates its obligations under section 4 (Security and Confidentiality) or section 7 (Intellectual Property), in addition to the foregoing, U.S. Bank shall be entitled to injunctive relief in its favor and to specific performance without proof of actual damages and without the requirement of the posting of any bond or similar security, because U.S. Bank's remedies at law may be inadequate to protect U.S. Bank against immediate and irreparable harm caused by any anticipated or actual breach of Customer's obligations as set forth in section 4 (Security and Confidentiality) or section 7 (Intellectual Property) and because damages resulting from such a breach may be difficult to ascertain. Any delay or failure on the part of U.S. Bank to take action upon the occurrence of a Customer Default shall not constitute a course of dealing on the part of U.S. Bank, shall not constitute a waiver of such Customer Default or prevent U.S. Bank from taking action on such Customer Default or any other Customer Default in the future. For the avoidance of doubt, the adjustment of the credit limits or controls described in Section 3.2 (including requiring security or prefunding) are independent rights and are not dependent upon the existence of a Customer Default.

**5.5 Customer Remedies.** Upon the occurrence of a U.S. Bank Default, after the notice and cure period have run, if any, without cure, in addition to any other remedies at equity or law, Customer may: (i) immediately terminate this Agreement; and (ii) demand and recover payment of any damage amount directly related to any U.S. Bank Default. Any delay or failure on the part of Customer to take action upon the occurrence of a U.S. Bank Default shall not constitute a course of dealing on the part of Customer, shall not constitute a waiver of such U.S. Bank Default or prevent Customer from taking action on such U.S. Bank Default or any other U.S. Bank Default in the future.

## **6. TERM, TERMINATION AND SUSPENSION.**

**6.1 Agreement Term.** This Agreement will remain in effect for five years from the Effective Date (the "**Term**"). This Agreement will automatically extend at the end of the Term for successive one-year periods unless either party provides at least 60 days prior written notice of termination prior to expiration of the current period. During the Term or any successive term thereafter neither Customer nor U.S. Bank may terminate this Agreement, in whole or in part, except by mutual consent or as otherwise provided under this Agreement.

**6.2 U.S. Bank Termination Rights.** U.S. Bank may terminate this Agreement if there has been no activity on Accounts within 12 months of the Effective Date of this Agreement or for any consecutive 12-month period after the Effective Date of this Agreement.

**6.3 Regulatory Suspension or Termination.** U.S. Bank may immediately suspend or terminate: (i) any Card or Account if U.S. Bank is unable to verify the identity of an authorized employee, agent, user of the Card or Account or a Participant based on the Identification Information submitted to U.S. Bank or if U.S. Bank is unable to verify that providing services to an authorized employee, agent, user of the Card or Account, or a Participant does not pose a risk to U.S. Bank of violating any applicable law, statute or regulation; or (ii) this Agreement if U.S. Bank, in its sole discretion, determines provision of services under this Agreement is counter to any existing, new or amended law, regulation, regulatory interpretation, anticipated regulatory interpretation, or any enforcement of existing, new, or amended law, regulation, regulatory interpretation, or anticipated regulatory interpretation.

**6.4 Survival.** The following provisions shall survive termination of this Agreement: Schedule 1 (Fees); section 4 (Security and Confidentiality); section 5 (Default); section 7 (Intellectual Property); section 9 (Indemnification); section 10 (Limitation of Liability); section 11 (Notices); section 13 (Governing Law); section 24 (Set-Off); section 25 (Cumulative Remedies); and section 27 (Jury Trial Waiver). Without limiting or affecting the foregoing, any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall survive termination and shall remain in full force and effect.

## **7. INTELLECTUAL PROPERTY.**

**7.1 Generally.** U.S. Bank or its affiliates, are the owner or licensee of any and all Intellectual Property or other proprietary right associated with U.S. Bank products and services including, but not limited to, the Program, related materials, and derivatives. Except as expressly stated in this Agreement, Customer is not authorized or

allowed to use, copy, redistribute, publish, or retransmit any portion of U.S. Bank products or Intellectual Property without the express written consent of U.S. Bank. Customer is not permitted to change or delete any proprietary notices. Nothing in this provision grants any ownership right to Customer, U.S. Bank remains the sole owner of any and all its Intellectual Property.

**7.2 Use of Name and Marks.** U.S. Bank may use Customer's name or marks in presentations, press releases business cases, product brochures, and financial reports to announce the business relationship between the parties.

**7.3 Software License.**

(a) **License Grant.** Subject to Customer's compliance with this section 7, U.S. Bank grants Customer and Participants a non-exclusive, non-transferrable license to use and access Accounts on U.S. Bank's or U.S. Bank's third party licensor's software accessible under the Program.

(b) **Ownership.** U.S. Bank or U.S. Bank's third party licensor retains all rights, title, and ownership of the Accounts (but not data generated through the use of an Account) and software, any documentation provided with the Accounts or software, and any works derived from the Accounts or software that contain all or part of the Accounts, software, or U.S. Bank's or U.S. Bank's third party licensor's Intellectual Property. U.S. Bank asserts that the Accounts and software are protected by copyright and may be protected by patent, trademark, or other proprietary rights and laws of the United States, Canada, or other jurisdictions. Any rights not granted in this section 7 are reserved by U.S. Bank or its third party licensors.

(c) **Updates.** U.S. Bank or U.S. Bank's third party licensor may, from time to time, provide updates of the software. The updates replace the software initially licensed to Customer, and do not constitute an additional license to use the software.

(d) **Restrictions.** Customer and Participant may not: (i) reverse engineer, decompile, disassemble the software or bypass or disable any copy protection or encryption; (ii) reformat or make derivative works from the software; (iii) transmit all or any part of the software by any means, media, or manner that would present the risk of unauthorized access; (iv) disclose part or all of the software to any third parties except as explicitly authorized by U.S. Bank; (v) use all or part of the software to advise, consult, or otherwise assist any third parties; or (vi) otherwise use the software in any manner that would compete in any way with U.S. Bank's business.

(e) **Audit.** Customer agrees to permit U.S. Bank reasonable access to any records, systems, or operations to ensure that Customer is in compliance with the license granted in this section 7.

**7.4 End User Agreements.** Customer and its employees, agents or authorized users may receive or have access to, and must agree to, any and all applicable end user license or other agreements that govern the use of any U.S. Bank software, services, or Accounts. U.S. Bank may amend such agreements from time to time without notice to Customer.

**8. WARRANTIES.** Each party respectively represents and warrants, at all times during this Agreement, that: (i) this Agreement is valid, binding and enforceable; (ii) execution of this Agreement and the performance of the obligations hereunder (A) are within such party's powers, (B) have been authorized by all necessary organizational action, and (C) do not require action by or approval of any governmental or regulatory body, agency or official; (iv) the execution of this Agreement and the performance of the obligations hereunder do not constitute a breach of any material agreement of such party or of applicable law or regulation; (v) such party possesses the financial capacity to perform all of its obligations under this Agreement. Customer represents and warrants, at all times during this Agreement, that: (i) the material information provided by Customer to U.S. Bank is true, complete and accurate; (ii) Customer will use all Cards and Accounts for business purposes only; (iii) Customer will obtain consent from any authorized user or agent to release any authorized user or agent Identification Information to be used for any purpose under this Agreement including for purposes of obtaining credit reporting agency records; and (iv) Customer will not, in connection with the services contemplated by this Agreement or in connection with any other business transactions involving U.S. Bank, receive compensation, make, offer or promise to make any payment or transfer anything of value, directly or indirectly if such compensation, payment or transfer would have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining business, in breach of any applicable laws, statutes, regulations and codes relating to anti-kickback, anti-bribery and anti-corruption. This paragraph shall not, however, prohibit normal and customary business entertainment of nominal value or the giving of business mementos of nominal value.

**Except as expressly provided herein, U.S. Bank makes no warranties, express or implied, in law or in fact, including, without limitation, the implied warranties of fitness for a particular purpose and of merchantability, either to Customer or to any other party, in connection with this Agreement or with respect to software products provided or made available to Customer for its use by U.S. Bank in connection with this Agreement.**

**9. INDEMNIFICATION.** Customer agrees to indemnify and hold harmless U.S. Bank and its agents, officers, directors, employees, contractors and subcontractors from any third party claims, actions, demands, damages, injuries, injunctions, suits, fines, penalties, costs, and expenses and liability whatsoever (including reasonable legal fees), arising out of: (i) the infringement by Customer or any third party of any Intellectual Property or other property or contract right of any other entity; (ii) the violation of any law, rule, regulation or authority by Customer, Participant, or any third party; (iii) any gross

negligence or intentional act of Customer, Participant or, including, but not limited to, Customer's, Participant's or an transmission of incorrect, illegible, duplicate, or fraudulent data to U.S. Bank; or (iv) any Customer Default. U.S. Bank shall notify Customer of any claim that is asserted and each action or suit that is filed or served, and provide Customer with a copy of any written documentation received in relation with the claim, for which U.S. Bank is seeking indemnification pursuant to this section 9, provided, however, that failure to give such notice shall not relieve Customer of its indemnification obligations. Customer may thereafter assume control of such claim, provided that U.S. Bank shall have the right to participate in the defense or settlement of such claim. U.S. Bank may employ counsel at its own expense to assist with any such claim; however, if such counsel is necessary because of a conflict of interest of either Customer or its counsel or because Customer does not assume control, Customer shall bear the expense of such counsel. Customer may not settle any claim, admit to any liability, or consent to any judgment with respect thereto without the consent of U.S. Bank.

**10. LIMITATION OF LIABILITY.** U.S. Bank and its affiliates are not liable for any consequential, special, indirect, or punitive damages of any nature (including lost profits) regardless of whether such party has been advised of the possibility of such damages. In no event is U.S. Bank liable for any damages under the Program that exceed the fees U.S. Bank collected during the 12 months immediately preceding the alleged liability.

**11. NOTICES.** Any notice required to be given to a party pursuant to this Agreement shall be in writing and will be deemed received either: (i) two days after the date of mailing if sent by overnight, registered, or certified mail, return receipt requested; or (ii) one day after the date of mailing if sent by a national overnight courier service. Notices shall be sent to the following addresses: to U.S. Bank at 200 South Sixth Street, EP-MN-L29C, Minneapolis, MN 55402, U.S.A. Attn: CPS Contract Manager and to Customer at the address stated on the Application. Either party may change its notification address at any time by written notice to the other. Customer service can be contacted at 877-MSA-CARD (877-672-2273).

**12. ASSIGNMENT; TRANSFER; CHANGE IN OWNERSHIP.** Customer shall not assign or otherwise transfer or delegate its rights, obligations, or duties under this Agreement without U.S. Bank's prior written approval at its sole discretion. For the purposes of this provision, "transfer" refers to a merger, acquisition, consolidation, divestiture, change in control, asset transfer, amalgamation, proceeding under bankruptcy laws, or any other transfer, reorganization, or sale (in whole or in part) of Customer. To the fullest extent not prohibited by applicable law, Customer will notify U.S. Bank in advance of any material change (and if prohibited, within 15 days after such change) to any information provided to U.S. Bank at any time concerning Customer's primary business, legal organization (e.g., partnership, corporation, etc.) or any change resulting from a transfer as described above. Customer must promptly provide any information requested by U.S. Bank associated with the request for approval.

**13. GOVERNING LAW AND VENUE.** The laws of the state of Minnesota and applicable federal laws and regulations of the United States, apply to any dispute arising out of this Agreement, its subject matter, or its formation. The parties shall bring any dispute or claim arising out of or related to this Agreement before a state or federal court in the city of Minneapolis, Minnesota.

**14. COMPLIANCE WITH APPLICABLE STATUTES, REGULATIONS AND OTHER AGREEMENTS.** The parties will maintain compliance with all statutes and regulations applicable to the products and services contemplated under this Agreement, including all economic sanctions laws, anti-money laundering laws, and trade restrictions imposed by the United States, United Nations, European Union or Canada and U.S. Bank's policies related thereto. U.S. Bank may require Identification Information for Customer, its affiliates, and its Participants, and any Authorized Officers, authorized signers, Account and Card holders, beneficial owners, authorized user or directors of Customer and its affiliates and Participants. Customer shall promptly provide any such required Identification Information to U.S. Bank. Customer shall comply with, and shall cause its Participants and Account and Card holders to comply with any applicable automated clearinghouse operating rules or regulations, including, without limitation, the National Automated Clearing House Association Operating Rules or any related or successor operating rules or regulations, to the extent applicable to the Program or the products and services provided pursuant to this Agreement.

**15. FORCE MAJEURE AND EXCUSABLE DELAY.**

**15.1** Except for payment obligations under this Agreement, neither party is responsible for performance delays or

failures resulting from acts of God, acts of civil or military authority, fire, flood, strikes, war, epidemics, shortage of power or chips, telecommunications or Internet service interruptions or other acts or causes reasonably beyond the control of that party. The party suffering the force majeure event will: (i) implement its applicable disaster recovery plan to the extent appropriate, and practicable; (ii) give the other party prompt notice of the occurrence of a force majeure event; (iii) use diligent efforts to re-commence performance as promptly as commercially practicable pursuant to its disaster recovery plan; and (iv) provide periodic updates to the other party regarding its efforts to re-commence performance until performance has re-commenced in accordance with this Agreement.

**15.2** Either party may terminate this Agreement upon written notice to the other, if the non-terminating party is unable to perform a material portion of its obligations as a direct result of a force majeure event for more than 30



consecutive days. Delay in either party's performance is excused to the extent its performance is delayed solely due to an act or omission of the other party.

- 16. CHANGE IN TERMS OF THIS AGREEMENT.** U.S. Bank may change the terms and conditions of this Agreement at any time upon written notice to Customer (which notice may be given by email). If permitted by applicable law, the changes will apply to both existing and future transactions and Obligations. If Customer refuses to accept the changes, Customer must notify U.S. Bank in writing within 30 days from the date of the notice that it refuses to accept the changes and elects to terminate this Agreement. Should Customer terminate this Agreement pursuant to this section 16, all Obligations will immediately become due and payable by Customer to U.S. Bank, according to the terms of this Agreement.
- 17. INTERPRETATION.** The parties expressly agree this Agreement will not be construed more strongly against the drafting party. This Agreement constitutes the entire agreement between the parties concerning the matters addressed in this Agreement, and cancels and supersedes any prior agreements, undertakings, declarations or representations, written or verbal, in respect thereof. Headings are inserted for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- 18. SEVERABILITY.** Should any provision of this Agreement be declared invalid for any reason, such declaration will not affect the validity of any other provision of this Agreement, which will remain in full force and effect as if this Agreement had been executed with the invalid provision(s) eliminated. The parties shall use their commercially reasonable efforts to agree upon a valid substitute provision in accordance with the purpose of this Agreement and the parties' intent.
- 19. NO WAIVER.** No failure or delay by either party to insist on specific performance of any term or obligation set forth in this Agreement or exercise any right, power, or privilege provided under this Agreement or by applicable law, will operate as a waiver thereof; nor will any single or partial exercise of any such right, power, or privilege preclude any other or future exercise of any other right, power, or privilege.
- 20. RELATIONSHIP OF THE PARTIES.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement creates an agency, partnership, joint venture, or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party has authority to contract for or bind the other party in any manner whatsoever.
- 21. RELATIONSHIP BETWEEN U.S. BANK AND THIRD PARTY SERVICE PROVIDERS.** Customer may from time to time request that U.S. Bank provide certain of Customer's Confidential Information (including transaction data) to a third party (such request a "Data Release Request"). U.S. Bank's action on any such Data Release Request is subject to the following conditions: (i) the Confidential Information to be transmitted must be clearly identified by Customer (which can include by category), (ii) Customer must provide specific directions regarding the initial personnel at the third party that U.S. Bank will interface with regarding the transmission of such Confidential Information and once identified U.S. Bank may speak generally about such Confidential Information with such third party, (iii) the directions regarding such Confidential Information transmission, including file format, frequency and means for any transmission or delivery, must be acceptable to U.S. Bank, (iv) U.S. Bank will have no liability to the extent it follows the directions of anyone U.S. Bank reasonably believes to be authorized by you or the designated third party to provide directions regarding the delivery of the Confidential Information, (v) Customer is solely liable for the third party's use or disclosure of its Confidential Information and neither U.S. Bank nor any of its affiliates is liable for such third party's use or further release of Customer's Confidential Information, (vi) any Data Release Request will be considered an ongoing direction until affirmatively revoked or disavowed in writing by Customer, and (vii) U.S. Bank may suspend or terminate delivery of the Confidential Information without notice during the continuance of any default under this Agreement or in the event such transmission or delivery to the third party would violate applicable law.
- 22. DELEGATION.** U.S. Bank may delegate duties herein to one or more third parties without Customer approval or consent so long as U.S. Bank remains responsible for the conduct of and payment to such third parties.
- 23. NO THIRD PARTY BENEFICIARIES OR CLAIMS.** Except as stated in this Agreement, and with reference to any successors or assigns, any services provided under this Agreement are for the sole and exclusive benefit of Customer and Participants, if any, and nothing in this Agreement will be deemed to create any third party beneficiary rights in any person or entity not party to this Agreement.
- 24. SET-OFF.** U.S. Bank may set-off any amounts Customer owes to U.S. Bank pursuant to this Agreement or any other agreement between the parties or their affiliates against any amounts due to Customer by U.S. Bank or its affiliates.
- 25. CUMULATIVE REMEDIES.** Except as expressly provided elsewhere in this Agreement, each party's rights and remedies under this Agreement are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that party.
- 26. INCORPORATION.** The following are incorporated into this Agreement by reference as if set out at length:

**26.1** U.S. Bank Multi Service Aviation Card Program Application

**26.2** Schedule 1 – Fees

**27. JURY TRIAL WAIVER. Customer and U.S. Bank hereby waive all rights to trial by jury in any proceeding relating to this Agreement.**

**[Signatures on Following Page]**

**28. AUTHORIZATION AND EXECUTION.** This Agreement may be executed and delivered by Customer electronically, and fully executed electronic versions of this Agreement, or reproductions thereof, will be deemed to be original counterparts.

The signer represents, warrants and agrees that: (i) he or she is authorized by an applicable Bylaw, Article or other organizational authority to enter into all transactions contemplated by this Agreement; (ii) all information provided in the Application is true, complete and accurate to the best of the signer's knowledge and the signer has the authority to provide such information and complete such Application; (iii) if U.S. Bank approves the Application, Customer shall be bound by this Agreement; and (iv) U.S. Bank is authorized to investigate, obtain, and exchange reports and information regarding the Application and any resulting Accounts with credit reporting agencies and other parties with legitimate business needs for such reports or information.

In witness whereof, Customer has executed this Agreement.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Signature of 1<sup>st</sup> Authorized Signer

\_\_\_\_\_  
Signature of 2<sup>nd</sup> Authorized Signer (**ONLY** if required by Customer's organizational guidelines)

\_\_\_\_\_  
Printed Name of 1<sup>st</sup> Authorized Signer

\_\_\_\_\_  
Printed Name of 2<sup>nd</sup> Authorized Signer

\_\_\_\_\_  
Printed Title of 1<sup>st</sup> Authorized Signer

\_\_\_\_\_  
Printed Title of 2<sup>nd</sup> Authorized Signer

### Schedule 1 – Fees

The fees listed below apply to this Agreement. Failure of U.S. Bank to apply any fee outlined in this Agreement, at any time, does not preclude U.S. Bank from ever applying such fee. U.S. Bank reserves the right to change fees upon 30 days prior notice to Customer. Fees identified as recurring monthly are billed on the first statement of the month.

<b>fees</b>	
<b>description</b>	<b>fee, per Account, card, or occurrence, as applicable</b>
expedited Card delivery	\$ 25.00
Card delivery address redirect	\$ 25.00
returned check	\$ 30.00
late charge	3/8 pf 1% per week (19.5% APR) on the unpaid balance
foreign administration fee for transactions outside of the United States (certain Canadian transactions are not be subject to this fee)	7.5%