

EXHIBIT A: SCOPE OF WORK

The Department of General Services (DGS), Office of Fleet and Asset Management (OFAM), hereinafter referred to as the “State” or “DGS-OFAM” is contracting for a provider of a Fleet Payment System (FPS) to pay, manage, reconcile and report statewide fuel purchases and fleet-related services for the State’s Fleet Card Program.

1. SCOPE OF WORK

- A. The State and WEX Bank (hereinafter referred to as the “Contractor”), hereby agree that Contractor will provide FPS services to State Agencies and Optional Users (also referred to as “Participating Entities”) participating in the State’s Fleet Card Program in accordance with the terms and conditions of this Master Service Agreement (“MSA” or “Contract” or “Agreement”).
- B. Fuel and fleet-related expenses include but are not limited to automotive fuel, oil, fluids, lubricants, parts, repairs and maintenance.

2. TERM

- A. The term of this Agreement is for a five (5) year period from the “Go Live” date. The Agreement is effective upon execution by DGS and approval from the DGS, Office of Legal Services.
- B. The “Go Live” Date shall be July 1, 2021. Implementation, training and payment account set-up tasks may begin upon award or the effective date of the Agreement, whichever is earlier.
- C. The State reserves the right to extend the term for one (1) optional two-year period.
- D. All Subsidiary Agreements executed before the end of the MSA term may continue for up to twelve (12) months following the MSA expiration date.
- E. Should the Contractor fail to commence work at the agreed upon time, the State, upon five (5) days written notice to the Contractor, reserves the right to terminate the Agreement. In addition, the Contractor shall be liable to the State for the actual cost of engaging another contractor to perform the work.
- F. In addition to any other provision of this Agreement, the State may terminate this Agreement or cancel a portion of the service for any reason with thirty (30) days written notice. Participating Entities may terminate subsidiary agreements for any reason with thirty (30) days written notice. In the event of termination, Participating Entities shall remain responsible for payment of all amounts owed to Contractor related to charges incurred up until the effective date of termination.

3. ORDER OF PRECEDENCE

- A. In the event of a discrepancy and/or inconsistency between the articles, attachments, or provision which constitutes this Agreement, the following descending order of precedence shall apply:

- 1) Exhibit A: Scope of Work
- 2) Exhibit B: Budget Detail and Payment Provisions
- 3) Exhibit C: General Terms and Conditions
- 4) Exhibit D: Insurance Requirements
- 5) Exhibit E: Definitions
- 6) Exhibit F: Special Provisions
- 7) Exhibit G: Contractor's Technical response

4. CONTRACT ADMINISTRATORS

- A. All inquiries during the term of this Agreement will be directed to the representatives listed below:

<i>State FPS Program Manager</i>	<i>Contractor Relationship Manager</i>
Eric Mayes 1700 National Drive Sacramento, CA 95834 Phone: (916) 928-2575 Email: Eric.Mayes@dgs.ca.gov	Ryan Kelly 97 Darling Avenue South Portland, MN 04106 Phone: (952) 922-1104 Email: Ryan.Kelly@wexinc.com

- B. Should a representative change, each party will notify the other in writing no later than fourteen (14) calendar days after the date of such change, without amendment to this Agreement.

5. RESPONSIBILITIES

- A. Contractor is responsible for providing a FPS in accordance with this Agreement.
- B. DGS-OFAM is responsible for the statewide administration of FPS services and developing User Instructions for Participating Entities.
- C. Participating Entities are responsible for designating a Program Administrator and compliance with DGS-OFAM User Instructions including the State Fleet Card Program Manual.

6. PAYMENT ACCOUNTS

- A. Contractor shall provide the following Direct Bill Accounts:
 - 1) Card Payment Accounts for fuel and fleet-related services as defined by DGS-OFAM. System will allow assignment of Driver Identification Number (DIN) to driver, vehicle or participating entity.
- B. Participating Entities may cancel payment accounts at any time.
- C. At any time, the State may amend this Agreement to enable Contractor to provide additional payment accounts at no cost to the State.

7. IMPLEMENTATION

- A. Contractor shall set up and implement existing payment accounts by the “Go Live” date in the following order of priority:
 - 1) OFAM Fleet
 - 2) State Agencies
 - 3) Optional Users
- B. A naming convention for set up of accounts will be determined through mutual agreement between the State and the Contractor. The naming convention will be maintained and used for all payment accounts throughout the term of this Agreement.
- C. Within 30 days of award, the Contractor will work with the State to transition current Participating Entities to the new agreement. Contractor and State FPS Program Manager will develop a transition plan specific to the State's Fleet Card Program, including implementation time frame for "go live" date, to ensure that an efficient and effective transition takes place.
- D. Contractor will work with the State FPS Program Manager to meet all elements of the agreed upon implementation plan.
- E. Payment accounts set-up and implementation activities will be provided at no-cost to the State.

8. AUTHORIZATION TO RENDER SERVICES

Unless otherwise provided in this Agreement, Contractor may not decline a California State Agency's request to utilize services offered under this Agreement.

- A. State of California agencies and Optional Users will be allowed to participate under this agreement through a subsidiary agreement process.
- B. Prior to rendering services, Contractor and a California State Agency or Optional User (as applicable) must execute a separate Subsidiary Agreement that incorporates all of the terms of this MSA by reference and may contain additional specific terms and conditions, none of which may alter, rescind, or be in conflict with the terms and conditions of this MSA.
- C. For California State Agencies such agreement shall be in the form of the standard agreement, Std. 213; and for Optional Users shall be in a form specified by DGS-OFAM and the Contractor. The duly executed Std. 213 and appropriate form for Optional Users are herein referred to as the “Subsidiary Agreement.”
- D. Upon execution of a properly completed Subsidiary Agreement the State Agency and/or Optional User will become a "Participating Entity" and the provision of services by the Contractor to such Participating Entity will be governed by the terms of this Agreement.
- E. Each Participating Entity is responsible for their own Subsidiary Agreement.

9. ENROLLMENT

- A. Prior to the “Go Live” date Contractor shall provide procedures to enroll new Participating Entities along with an enrollment package to DGS-OFAM for approval.
- B. The enrollment package will include an application and a Subsidiary Agreement form that stipulates Participating Entities agree to follow the terms and conditions of this Agreement. The application should include the sentence: “The parties agree to comply with the terms and conditions of MSA # 5-19-99-19 which is referenced and made a part of this transaction.”
- C. After mutual review by both parties, DGS-OFAM will approve the final enrollment process including procedures and form for use by Participating Entities.
- D. DGS-OFAM reserves the right to modify the enrollment package at any time.
- E. Contractor will set-up and activate payment accounts within 10 business days of receipt of a completed enrollment package.
- F. Participating Entity’s or any authorized user’s acceptance of any “click-through” terms shall not be binding or have any force or effect.

10. CARD DESIGN

- A. Contractor will be responsible for the embossing and printing of cards. The State will use a basic design as the standard card stock to be used by all State Fleet Card Program participants that will identify the card as a state of California Fleet Card.
- B. State will have the ability to customize standard card stock with verbiage and/or logo embossing.
- C. The final content and design of the cards will be determined by Contractor with approval from the DGS-OFAM. Contractor agrees that the card design will include, at a minimum:
 - 1) State of California designation
 - 2) Statement “Official State Fleet Card”
- D. The State will be responsible for furnishing any necessary artwork (digital file) to the Contractor for changes to the State-approved design during the term of the agreement.
- E. The DGS-OFAM and the Contractor will agree upon any other design features that would assist with card acceptance and fraud prevention.

11. ACCOUNT ISSUANCE

- A. The DGS-OFAM and Participating Entities Program Administrator shall identify the point of contact that is authorized to receive cards and to be issued account numbers by submitting authorized applications, in a format as specified by the Contractor and State.
- B. Contractor will mail cards issued to the DGS-OFAM and/or Participating Entities’ designated point of contact within two business days after the Contractor receives cardholder account set-up information, at no additional cost.

12. RESTRICTIONS AND LIMITS

- A. Contractor agrees to impose and/or set limits and restrictions on payment accounts as specified by the DGS-OFAM or Participating Entities to include but not limited to:
 - 1) Limiting the types of transactions allowed.
 - 2) Limiting the dollar amount of transactions that can be applied to the account within a particular time period.
- B. **Suspension.** Contractor shall have the right to suspend accounts if any part of the payment due is unpaid for 90 days from the Billing Cycle close date. The 90 day period is made up of 45 day payment terms on the contract and another 45 day grace period. Contractor will notify DGS-OFAM and the affected Participating Entity in writing of any suspensions of state accounts.
- C. **Cancellation.** If an account remains unpaid for more than 180 days after the Billing Cycle close date, contractor may “charge-off” the entire outstanding balance and deduct it from the annual rebate. The 180 day period is made up of 45 day payment terms on the contract and another 135 day grace period.
- D. DGS-OFAM and the Contractor may agree upon other restrictions or mechanisms that would assist in account management.

13. ONLINE DATA MANAGEMENT AND REPORTING

- A. The Contractor will provide an online web-based system, WEXOnline®, for:
 - 1) Account management;
 - 2) Transaction data review, collection and management;
 - 3) Administration of accounts; and
 - 4) Reporting output and data transfer.
- B. The web-based system must have permission controls based on hierarchy set up by DGS-OFAM and access to real-time data. DGS-OFAM will define the hierarchy and account information with the Contractor.
- C. Designated authorized personnel from the State and Participating Entities will be provided permissions within Contractor's online (web-based) system.
- D. All Participating Entities shall have access to Contractor's online system and shall have the ability to manage their respective account(s).
- E. Data management and reporting systems will be available 24 hours a day, 7 days a week. Routine system upgrades should be installed during off business hours (e.g., weekends or before 7:00 a.m. and after 6:00 p.m. (PT) Monday through Friday).
- F. Refer to Exhibit F, Section 14 for WEXOnline® special provisions.

14. STATEMENTS AND RECONCILIATION

- A. Contractor shall provide Participating Entity with an itemized billing statement for each Billing Cycle in which the Account has activity. Refer to Exhibit F, Section 5.
- B. Contractor will provide an online data management and reporting system and spend data for reconciliation.

- C. Contractor will provide drill down capabilities for transaction data.
- D. Contractor shall have an established collection process for delinquent accounts.
- E. The DGS-OFAM and the Contractor will agree upon process and procedures.

15. DATA CAPTURE CAPABILITIES AT POINT OF SALE INFORMATION

- A. Contractor must capture Level I-III data specifications as provided by merchants.
- B. The DGS-OFAM and the Contractor may agree to additional data capture and electronic data capabilities.

16. REPORTING

- A. Contractor will provide report generating and archiving capabilities from a centralized web-based system.
- B. Contractor's system will be required to generate the following reports:
 - 1) Transaction detail reports
 - 2) Transaction exception reports
 - 3) Lost/Stolen Cards
 - 4) Disputed Transactions
 - 5) Declined Transaction
 - 6) State Fuel Volume Report (Total Volume of all State Agencies including quantity purchased, amount spent, fuel type purchased by account)
 - 7) Comprehensive All-Inclusive Fuel Volume Report (Total Volume of all Participating Entities including quantity purchased, amount spent, fuel type purchased by account)
 - 8) State Maintenance Volume Report (Total Volume of all State Agencies including maintenance type, service performed, and amount spent)
 - 9) Comprehensive All-Inclusive Maintenance Volume Report (Total Volume of all Participating Entities including maintenance type, service performed, and amount spent by account)
 - 10) Monthly Past Due Status Reports (All past due accounts by Participating Entity)
 - 11) Cardholder Activity (Transaction detail reports by card)
 - 12) Transactions by Vehicles (Transaction detail reports by vehicle)
 - 13) Transactions by Participating Entity (Transaction detail reports by Participating Entity)
 - 14) Vendor Usage (Transaction detail reports by vendor)
 - 15) Electric Vehicle (EV) Transactions
- C. Additional reporting information may be requested during the term of the agreement and Contractor will work with DGS-OFAM and/or Participating Entities to provide requested reports at no cost to the State.

17. USAGE REPORTING

- A. Contractor shall provide an electronic Usage Report to the FPS Program Manager on an annual basis. The report shall provide the calculated incentive share (rebates) by Participating Entity and total incentives to be provided to the

State and each Participating Entity for the calendar year. Report must contain at a minimum, but not limited to, the following data elements:

- Participating Entity Name
 - Annual Total Spend (by Participating Entity)
 - Total number of Transactions (by Participating Entity)
 - Calculated Total Spend Incentive (by Participating Entity)
 - Calculated Prompt Payment Incentive (by Participating Entity)
 - Charge-Offs (by Participating Entity)
 - Actual Total Spend Incentive due to the State.
- B. Report shall be provided in Excel format via email within 60 days following the last day of the calendar year. Within 30 calendar days from agreement execution, the Contractor must submit a preliminary report to DGS-OFAM for review. After mutual review by both parties, DGS-OFAM will approve final usage report format.
- C. Contractor will work with the DGS-OFAM to provide ad hoc reporting during the term of the agreement at no cost to the State.

18. TRAINING

- A. Prior to the “Go Live” date, the Contractor will work with DGS-OFAM on a training plan to be offered for use including training types, schedule, user reference guides and additional training materials.
- B. Throughout the term of the agreement, Contractor will provide ongoing training at no-cost to the Participating Entities including, at a minimum:
- 1) Online web-based training
 - 2) Onsite training
 - 3) Onsite and/or web-based user group forums
 - 4) Written user reference guides and related materials

19. PERSONNEL RESOURCES

- A. Contractor will designate at least one Relationship Manager with a minimum of five years’ experience handling large accounts for support, escalation issues, day-to-day customer service support for DGS-OFAM, to perform the following:
- 1) Be available between 8:00 a.m. – 5:00 p.m. (PT), Monday through Friday.
 - 2) Return calls within two (2) business hours.
 - 3) Meet in Sacramento within seventy-two (72) hours’ notice.
 - 4) Participate in quarterly meetings to review performance, quarterly reports, and customer service issues.
- B. Contractor will designate at least one Account Manager with a minimum of five years’ experience handling large accounts for contract support, escalation issues, day-to-day account management support for all Participating Entities, to perform the following:
- 1) Be available between 8:00 a.m. – 5:00 p.m. (PT), Monday through Friday.
 - 2) Return calls within two (2) business hours.

- C. Contractor will assign staff to handle account settlement inquiries, payment discrepancy resolution, online system access assignment, training and updates for Program Administrators.
- D. Contractor will provide a dedicated customer service team to support DGS-OFAM and Participating Entities throughout the term of the agreement by providing:
 - 1) A designated customer service team for Cardholder support.
 - 2) Technical support for the online data management and reporting system.
 - 3) Qualified personnel familiar with all aspects of the State's program.
 - 4) Dedicated resources as necessary to ensure effective and efficient service.
 - 5) A domestic and international toll-free phone number available to Cardholders 24 hours a day, every day of the year.
 - 6) An established escalation process to resolve issues.
- E. Within 15 days of agreement execution, Contractor shall provide the DGS-OFAM with contact information for assigned personnel including but not limited to:
 - 1) Contractor's Key Account Manager
 - 2) Contractor's additional assigned staff
 - 3) Customer service unit information
- F. The Contractor shall notify the State in writing within fourteen (14) calendar days of an Account Manager change and provide the State with at least one (1) replacement candidate that will meet or exceed the experience and skill level of the Account Manager being replaced.
 - 1) The State shall not compensate the Contractor for any time or effort required to prepare the new Account Manager for work on the project.
 - 2) The State, for cause, reserves the right to require the Contractor to replace an assigned Account Manager at any time. The State will notify the Contractor in writing when exercising that right, providing the Contractor with the cause. The Contractor, within fourteen (14) calendar days of such notification, shall provide a replacement candidate that meets or exceeds the experience and skill level of the Account Manager being replaced.

20. END OF CONTRACT TRANSITION

- A. All initial charge activity under this Agreement shall be completed on or before the expiration date of the Agreement.
- B. If account reconciliation occurs after the Agreement expiration date or if this Agreement is terminated, the Contractor agrees to resolve all credit transaction(s).
- C. Contractor agrees that at the end of the Agreement, should the State conduct another procurement and award a new contract, the Contractor will work with the State to ensure that an efficient and effective transition takes place within nine months or as mutually agreed to by the State and Contractor.

21. SECURITY AND CONFIDENTIAL INFORMATION

- A. Throughout the term of the Agreement, Contractor agrees to meet all applicable Payment Card Industry (PCI) and Data Security Standards (DSS).

- B. Participating Entities will safeguard information regarding cards, accounts numbers, passwords, personal identification numbers and other sensitive information provided by Contractor in a manner that is consistent with those applicable to the Participating Entities' other accounts. Each party will utilize commercially reasonable efforts to maintain an appropriate information security program to prevent the unauthorized disclosure, misuse, alteration, or destruction of confidential information.
- C. Nothing in this section shall be construed to limit or prevent the State or any Participating Entity from disclosing information to the extent required under the California Public Records Act, open records laws or any applicable regulations.
- D. The Contractor agrees to the following provisions regarding the use and disclosure of confidential information:
 - 1) For purposes of this Agreement, "confidential information" means information supplied by one Party ("Disclosing Party") to the other Party ("Recipient") that is expressly or implicitly protected from unrestricted use by persons not associated with Disclosing Party.
 - 2) The Contractor agrees that the FPS services are a unique service involving the exchange of confidential information. Reports, manuals, documentation and related materials shall be provided to Participating Entities. These documents may be circulated only to the extent necessary for the Participating Entities to manage the FPS and/or use such information in connection with the State's regular course of business.
 - 3) Contractor agrees that any non-public financial information of Participating Entities' and any non-public data regarding Participating Entities' accounts, transactions, charges, spending volume or repayment terms is Confidential Information of the Participant and such information shall be circulated by Contractor only to the extent necessary for Contractor to perform services under this agreement.
- E. The Contractor will keep in confidence and safeguard all confidential information obtained during the term of the Agreement. The Contractor agrees that personnel performing work under this Agreement will maintain confidentiality regarding the State's routines, exposed written material or sensitive information, etc. The Contractor has legal and ethical responsibilities to protect the privacy, confidentiality and security of all documents containing personal and confidential information. The Contractor agrees to discuss confidential information only in the workplace and only for job related purposes and will not discuss such information outside of the workplace or within hearing of other people who do not have a need to know about the information. Contractor's responsibility to confidentiality extends to the personnel employed by the Contractor and continues even after the Agreement has ended. In the event of a breach or threatened breach of confidentiality, the State will pursue all available remedies up to and including termination of the Agreement.
- F. Contractor and DGS-OFAM shall work together to minimize and/or prevent fraudulent transactions. In addition, DGS-OFAM strongly encourages all

Participating Entities to work with Contractor to reduce and/or avoid fraudulent transactions.

22. INCENTIVES

- A. Incentives, as identified in Exhibit B, will stay in effect for the entire Agreement term, including the referenced exercised option year(s).
- B. Total Spend Incentives are based on Total Spend for all Participating Entities.
 - 1) The Total Spend Incentive must be provided to the DGS-OFAM annually, within ninety (90) days of the Agreement period of performance anniversary.
 - 2) The incentive will be made payable to: DGS-OFAM.
 - 3) The Total Spend Incentive to be received annually by DGS-OFAM is calculated as: Appropriate BP (percentage) x Total Spend Volume minus 180-day charge-offs.
- C. Prompt Payment Incentives will be calculated annually based on the average speed of pay within a calendar year. The speed of pay is the number of days from the monthly statement date to the time the payment is received by the bank. Contractor shall identify the average speed of pay for the Participating Entity within the calendar year and apply the appropriate BP from Exhibit B.
 - 1) The Prompt Payment Incentive must be provided annually throughout the term of the contract.
 - 2) The Prompt Payment Incentive will be paid directly to Participating Entities within sixty (60) days of the calendar year end.
 - 3) The Prompt Payment Incentive will not be calculated with or affect the Total Spend Incentive and/or the resulting payment.
 - 4) The Prompt Payment Incentive paid to Participating Entities is calculated as: Appropriate BP (percentage) based on individual Participating Entity average speed of pay x Total Spend Volume of individual Participating Entity.

23. TECHNOLOGY INNOVATION

Throughout the term of this Agreement, the State will have the right to add card products and services to the Master Agreement. Contractor may propose additional products or services by submitting a written request to the State for review and approval. Request must include:

- Full description of product/service;
- Full implementation plan, including level of effort and timeline;
- Full communication plan; and
- Full training plan.

Addition of any card product or service to the Master Agreement is at the sole discretion of the State and shall be executed through an amendment to this Agreement. Proposed new card products and services must not impact the Master Agreement rebates or have any additional cost to the State.

24. EV CHARGER INTEGRATION

Contractor's FPS will interact with Electric Vehicle (EV) charging vendors and be used as a payment mechanism at EV charging stations.

Wherever FPS card is accepted, Contractor must capture and provide charging session transaction data, including, but not limited to:

- Transaction location
- Date of transaction
- Charging time/duration, if available
- Total kWh purchased
- Transaction dollar totals

EV transactions will be included in WEX Fleet Card reporting, noted with an EV product code.

25. OPTIONAL SERVICES

The State reserves the right to amend this Agreement to add optional services including, but not limited to, ClearView, Bulk Fuel Services, WEXPay, Driver Dash, and Fuel Guard.

EXHIBIT B: BUDGET DETAIL AND PAYMENT PROVISIONS

1. PAYMENTS

- A. Participating Entities will be financially responsible to the Contractor for direct bill accounts and cardholder accounts that are issued directly to the Participating Entity.

2. INVOICING

- A. Billing statements will be submitted monthly in arrears to each Participating Entity.
- B. The billing statement shall include:
- Agreement Number
 - Participating Entity Name
 - Date of billing statement
 - Time period covered
 - Transactions completed for the period shall be identified
 - Contact information for billing comments or inquiries such as a telephone number, fax number and address
- C. Upon receipt of billing statements and subsequent approval by the Participating Entity's designated representative(s), the Participating Entity will pay the Contractor.
- D. Contractor will indicate chargebacks and adjustments (including credits) to the Participating Entity on their billing statements.
- E. The Participating Entity will notify Contractor of any disputed item on a submitted billing statement.

3. PROMPT PAYMENT CLAUSE

- A. Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. CONTRACTOR OVERPAYMENTS

- A. If the State determines that an overpayment has been made to the Contractor, the State will seek recovery immediately upon discovery of the overpayment by: (a) calling the contractor service center to request a refund of the overpayment amount, or (b) offsetting subsequent Contractor payments by the amount of the overpayment if Contractor repayment or credit is not received within thirty (30) days from the date of notice.
- B. If Contractor discovers they have received an overpayment, Contractor must notify the State and refund the overpayment immediately.

5. FEES

No fees shall apply to this agreement, including but not limited to any fees related to bulk fuel transactions, late payment fees, delivery fees or transaction fees.

6. TOTAL SPEND INCENTIVE

The Basis Points (BP) identified below shall be used to calculate the Total Spend Incentive Contractor agrees to pay DGS-OFAM annually. Refer to Exhibit A, Section 22.

Tier	Total Annual Spend Volume	BPs
A	Under \$50,000,000.00	165
B	\$50,000,000.01 - \$100,000,000.00	170
C	\$100,000,000.01 - \$150,000,000.00	175
D	Over \$150,000,000.00	180

7. PROMPT PAYMENT INCENTIVE

The Basis Points (BP) identified below shall be used to calculate the Prompt Payment Incentive Contractor agrees to pay Participating Entities annually. Refer to Exhibit A, Section 22.

Tier	Annual Average Speed of Pay	BPs
A	26-45 days	15
B	20-25 days	27
C	15-19 days	30
D	0-14 days	33

**EXHIBIT C: GENERAL TERMS AND CONDITIONS
(GTC 04/2017 as modified)**

1. **APPROVAL:** This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. **ASSIGNMENT:** This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. **AUDIT:** Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. **INDEMNIFICATION:** Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies to the extent arising from Contractor's gross negligence or willful misconduct in connection with the performance of this Agreement.
6. **DISPUTES:** Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. **TERMINATION FOR CAUSE:** The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.
8. **INDEPENDENT CONTRACTOR:** Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
9. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of

Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
12. TIMELINESS: Time is of the essence in this Agreement.
13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.
- a. The Government Code Chapter on Antitrust claims contains the following definitions:

- 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
- b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
 - c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
 - d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.
16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:
- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
 - b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.
19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:
- a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
 - b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)
20. LOSS LEADER: If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT D: INSURANCE REQUIREMENTS

1. GENERAL PROVISIONS APPLYING TO ALL POLICIES

- A. Coverage Term – Coverage needs to be in force for the complete term of the Agreement. If insurance expires during the term of the contract, a new certificate must be received by the State at least ten (10) days prior to the expiration of this insurance. Any new insurance must comply with the original Agreement terms.
- B. Policy Cancellation or Termination & Notice of Non-Renewal – Contractor is responsible to notify the State within 5 business days of any cancellation, non-renewal or material change that affects required insurance coverage. New certificates of insurance are subject to the approval of the Department of General Services and the Contractor agrees no work or services will be performed prior to obtaining such approval. In the event Contractor fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event, subject to the provisions of this Contract.
- C. Premiums, Assessments and Deductibles – Contractor is responsible for any premiums, policy assessments, deductibles or self-insured retentions contained within their insurance program.
- D. Primary Clause – Any required insurance contained in this Agreement shall be primary, and not excess or contributory, to any other insurance carried by the State.
- E. Insurance Carrier Required Rating – All insurance companies must carry an AM Best rating of at least “A–” with a financial category rating of no lower than VI. If the Contractor is self-insured for a portion or all of its insurance, review of financial information including a letter of credit may be required.
- F. Endorsements – Any required endorsements requested by the State must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
- G. Inadequate Insurance – Inadequate or lack of insurance does not negate the contractor’s obligations under the contract.
- H. Use of Subcontractors - In the case of Contractor’s utilization of subcontractors to complete the contracted scope of work, contractor shall include all subcontractors as insured’s under Contractor’s insurance or supply evidence of subcontractor’s insurance to the State equal to policies, coverages, and limits required of Contractor.

2. CONTRACT INSURANCE REQUIREMENTS

Contractor shall display evidence of the following on an Acord certificate of insurance evidencing the following coverages:

- A. Commercial General Liability – Contractor shall maintain general liability on an occurrence form with limits not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined with a \$2,000,000 annual policy aggregate. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Contractor's limit of liability.

The policy must name the state of California, its officers, agents, and employees as additional insured, but only with respect to work performed under the contract.

- B. Automobile Liability – Contractor shall maintain business automobile liability insurance for limits not less than \$1,000,000 combined single limit. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. Should the scope of the Agreement involve transportation of hazardous materials, evidence of an MCS-90 endorsement is required.

The policy must name the state of California, its officers, agents, and employees as additional insured, but only with respect to work performed under the contract.

- C. Workers Compensation and Employers Liability – Contractor shall maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Contract. In addition, employer's liability limits of \$1,000,000 are required. By signing this contract, Contractor acknowledges compliance with these regulations.

A Waiver of Subrogation or Right to Recover endorsement in favor of the state of California must be attached to certificate.

- D. Cyber Liability insurance – Contractor shall maintain Cyber Liability with limits of not less than \$1,000,000. for each occurrence and an annual aggregate of \$2,000,000. covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security.

3. SELF-INSURANCE

If a Contractor elects to "self-insure" for any or all of the insurance requirements, the Contractor must obtain approval of its self-insurance from the Office of Risk and

Insurance Management (ORIM). In order to obtain that approval, the following must be submitted to ORIM:

A. Workers' Compensation: Certificate of Consent to Self-Insure from the CA Department of Industrial Relations.

B. All Other Insurance:

- 1) A cover letter from the firm's risk manager, or similar position within the firm, providing a written description of the Contractor's self-insurance plan for the other types of insurance. The description must detail what is covered by the plan and identify the source of funds for financing the plan.
- 2) An audited financial statement from the most recently completed quarter, together with any applicable accounting letters for the report.
- 3) Evidence of the firm's equity of at least \$5,000,000 and a minimum annual net profit of \$500,000 for the last five years. A signed written statement from the firm's CPA stating that the firm's annual net profit for the past five years has been a minimum of \$500,000.
- 4) The State reserves the right to verify the source of funds for financing the self-insurance plan. The State also reserves the right to require subsequent assistance from the firm's risk manager to identify the funds and provide explanations of aspects of the plan which need clarification.

EXHIBIT E: DEFINITIONS

1. DEFINITIONS

The following definitions will be used for this Agreement:

Account: A company billed / company paid carded or card-less account to which charges and payments may be posted.

Account User: Participating Entity or any other individual that the Participating Entity has notified the Contractor as being authorized to use the Account or a Card.

Ad Hoc Reporting: The standard commercial practice of creating customized reports, billing statements and services to meet unique needs of Participating Entities. Provides the ability for DGS-OFAM, at a minimum, to access all data elements of the Participating Entities' transaction records and create reporting in html, Excel, and text (ASCII) formats as defined by DGS-OFAM or Participating Entities.

Agreement: The Master Service Agreement ("MSA") which includes the Std. 213 form, all Exhibits and mutually agreed upon amendments thereto.

Authorization: The process of verifying, at the point of sale, that a purchase being made is allowable given the requirements, prohibitions, and controls established by the Participating Entity or State FPS Program Manager.

Basis Point (BP): A unit that is equal to 1/100th of 1%.

Billing Cycle: A specific recurring time period between the time when statements of account are processed.

Business Day: Any day other than a Saturday, Sunday, or other day on which banking institutions are generally authorized or required by law or executive order to close.

Card: Plastic card provided by Contractor that may be used to access an Account.

Cardholder: An individual or department issued a card at the request of the Participating Entity. The Cardholder holds the primary responsibility for proper usage of the card.

Chargeback: A refund or reversal of charge, made by a credit card company, to a credit Cardholder after the Cardholder successfully disputes an item on their credit card statement.

Charge-Off: Charge amounts not paid by Participating Entities within one-hundred eighty (180) days of statement issuance and written off by Contractor. Charge-offs can be deducted from the Total Spend Incentive to DGS-OFAM.

Controls: Authorization tools designed to assist Participating Entity with managing Transactions.

Credit Limit: Amount of credit assigned to Participating Entity's Account as established by Contractor.

Data Capture: Level of detail that a merchant passes to the credit card processing network.

- **Level I** – Standard commercial transaction data that includes the total purchase amount, the date of purchase, the merchant category code, merchant's name, city/state, debit/credit indicator, date charge/credit was processed by the Contractor, Contractor processing/transaction reference number for each charge/credit, and other data elements as defined by the Associations or similar entity.
- **Level II** – In addition to Level I data, includes transaction amount, date, tax amount, customer code, merchant postal code, tax identification, merchant minority code and merchant state code. And may include additional data regarding sales tax, customer code, purchase order number, invoice/billing statement number captured at the point of sale. In most cases, this information is combined with the merchant's Tax ID number, state, and postal code data and is then passed through during settlement.
- **Level III** – Full line item detail. The data fields required for Level III include those from Level II in addition to other fields, such as fleet card user's name, vendor, billing statement date, UNSPSC code, product code, item cost, description, quantities, unit of measure, product codes, product descriptions, ship to/from zip codes, freight and duty amounts, order date, discount amount, order number, item extended amount, item tax identification and amount.

Direct Bill Account: See Account.

Disputes/Disputed Item: Charges where validity is being questioned or challenged by the Participating Entity (account holder).

Driver Identification Number (DIN): The identification number associated with an Account User or Card.

Fraudulent Charges/Transactions: Charges not initiated, authorized or otherwise requested by a Participating Entity by any means (e.g., electronic, telephonic or written). A term used for theft and fraud committed using a credit card or any similar payment mechanism as a deceptive source of funds in a transaction. The purpose may be to obtain goods without paying, or to obtain unauthorized funds from an account.

Go Live Date: Date when Participating Entities may begin FPS services and charge to payment accounts.

Hierarchy: The organizational structure utilized by the Contractor to delineate multiple account levels, naming conventions, and authorization roles.

Master Service Agreement or “MSA”: See **Agreement**.

Merchant Category Code (MCC): A four-digit code that identifies and classifies goods or services offered by a merchant. The code controls where purchases are allowable. The merchant designates their MCC with the applicable bank/association.

Misuse: Use of an account by an Account user for other than the official government purpose for which it is intended. Any act of corruption or attempt to cheat the State or its agents, including but not limited to, the use of government charge cards to transact business that is not sanctioned or authorized, not in one’s official government capacity, not for the purpose for which the card was issued, or not as part of official government business.

Optional User: Any city, county, district, or other local governmental body or corporation including the California State Universities (CSU) and University of California (UC) systems, K-12 school districts and community colleges empowered to expend public funds. Each Optional User makes its own determination whether or not use of the FPS Agreement is consistent with its procurement policies and regulations.

- **California State University System (CSU), University of California System (UC) and California Community Colleges (CCC):** Persons on official business for higher level education within California that are supported with public funds and are authorized by action of and operated under the oversight of a publicly constituted local or state educational agency. These entities are considered as Non-Executive Branches of California State Government but are currently not required to use this payment system.
- **Local Government Agencies:** Elected officials and other personnel of local agencies within California, to the extent that the travel is undertaken in accordance with the laws governing those agencies; persons employed

by or affiliated with the California League of Cities (CLC), the California State Association of Counties (CSAC), the California State Districts Association (CSDA) or affiliated organizations. Whenever the term “state business” is used in this Agreement, it shall be read to include travel undertaken to perform the official business of local government agencies, CLC, CSAC, CSDA or the affiliated organizations referred to herein.

- **Kindergarten through Grade Twelve (K-12) Public School Districts:** Persons on official business for K-12 educational institutions that are supported with public funds and are authorized by action of and operated under the oversight of a publicly constituted local or state educational agency.
- **Special Districts:** A political subdivision of the state, established to provide a single public service (as water supply or sanitation) within a specific geographic area.

Participating Entities: State Agencies and Optional Users who have executed a Subsidiary Agreement under the MSA.

Party: Contractor or Participating Entity

Parties: Contractor and Participating Entity

Program Administrator: The lead representative of a Participating Entity who coordinates, directs, manages and oversees the fleet card-related business for their agency, is assigned access and authorized use of the Contractor’s online account and data management system, and is a contact between DGS-OFAM, Cardholders and the Contractor.

Real-time: Data is delivered immediately after collection and accessible once it is posted within the system.

State Agency: Any state of California governmental agency, department, bureau, board or commission within the Executive and Non-Executive Branches of California State Government.

- **State Judicial Branch:** Justices, officers, and employees of the Supreme Court of California, the Courts of Appeal, the Judicial Council of California and the State BAR of California.
- **State Legislative Branch:** Members of the State Senate, Members of the State Assembly, and Legislative staff members.

State FPS Program Manager: Individual designated by the DGS-OFAM to serve as the primary point of contact between DGS-OFAM and the Contractor

responsible for managing day-to-day operation of the State's Fleet Card Program.

Subsidiary Agreement: The participating agreement form for State Agencies and Optional Users incorporating all terms and conditions of the MSA and agreeing to participate in the State's Fleet Card Program.

Suspending Accounts: The process by which a specified account is temporarily deactivated due to delinquency or multiple pre-suspension actions.

Total Spend: Annual combined charges of all accounts, less refunds, Fraudulent Charges, and chargebacks.

EXHIBIT F: SPECIAL PROVISIONS

This exhibit identifies additional terms governing the Fleet Payment System (FPS) services provided by Contractor to Participating Entities within the state of California Fleet Card Program.

1. Use of Account.

The Account may be used to make purchases at merchants participating in the WEX network. Participating Entity shall adopt and follow internal policies and controls to ensure that the Accounts and Cards are used strictly for business purposes. Purchases of lottery tickets or other games of chance, gift cards, pre- paid cards or other cash equivalent transactions are prohibited.

2. Account Users.

- A.** Participating Entity shall designate Account Users as well as those contacts authorized to: **(a)** provide Contractor with the information necessary to establish and maintain Account(s), Cards, and DINs; **(b)** provide vehicle, driver and other information; **(c)** receive all Account numbers, Cards or reports; **(d)** receive other Account information; and **(e)** select additional products and/or services that may be offered. Participating Entity will provide notice of any change or removal of any contact or Account User either in writing, by telephoning Contractor's customer service department or through Contractor's online system. Contractor is authorized to take instruction from any Account User or contact with apparent authority to act on Participating Entity's behalf.
- B.** Participating Entity is responsible for notifying Contractor of any revocation of authority of an Account User to use a Card or the Account. An Account User shall be deemed to have authority to use a Card and the Account until Contractor receives notice of revocation of authority from Participating Entity in the manner required by Contractor.
- C.** Participating Entity agrees to keep DINs confidential and ensure that its employees or Account Users do not disclose any DIN, except as needed to utilize the services within this agreement. Participating Entity shall not provide actual, implied or apparent authority to any individual to use a Card or the Account except for an Account User. Non-compliance with this provision may be deemed misuse, in which case Participating Entities may be liable to pay.

3. Credit Limit and Authorizations.

- A.** Contractor will notify Participating Entity of the Credit Limit assigned to the Account. Participating Entity shall ensure that the balance of the Account does not exceed the assigned Credit Limit. Contractor may change the Credit Limit in its sole discretion, except as may be required by applicable law. Contractor must notify the Participating Entity of any decrease in Credit Limit. Contractor may, but is not required to, permit Participating Entity to exceed its Credit Limit.

Participating Entity must comply with the Credit Limit even if Contractor has previously permitted Participating Entity to exceed the Credit Limit.

- B.** Contractor has sole discretion to determine whether to establish an Account and extend credit to Optional Users.

4. Controls.

- A.** Participating Entity may request that Controls be applied to the Account. The availability and effectiveness of Controls is dependent upon each merchant's adoption of Card specifications and the information, including product codes that the merchant transmits to Contractor. The product codes are assigned by each merchant and not by Contractor. In addition, some Controls are not enforceable at island card readers due to equipment restrictions at the merchant location. There are inherent limitations on the ability of Controls to limit the use of Cards.
- B.** Contractor may, in its sole discretion and with prior notice to Participating Entity, modify Controls for the purpose of, among others, the prevention of suspected fraudulent activity. Contractor may apply default Controls on all card accounts under this Agreement with prior notice to DGS-OFAM and all Participating Entities. Contractor may apply default Controls on a Participating Entity's accounts with prior notice to the Participating Entity. Participating Entity shall review and manage the account set-up for all Cards based on Participating Entity's specific purchasing needs. Participating Entity agrees it is responsible for reviewing fraud control data provided by Contractor for the purpose of detecting fraud that may occur within Control parameters.
- C.** Default Control values are modified through the online product. More detailed information and certain limitations regarding Controls is provided online. Only Transactions submitted for authorization are subject to Controls and those Controls can only be enforced when the merchant provides sufficient information as part of the authorization.

5. Billing and Payments.

- A.** Contractor will provide Participating Entity with an itemized billing statement for each Billing Cycle in which the Account has activity. Participating Entities will choose to receive billing statements via US Paper Mail or electronically through the Contractor's online system. If the Participating Entity elects to receive electronic billing statements, the Contractor will provide notification of billing statement availability and suppress paper billing statements. The full amount of each Participating Entity's billing cycle balance, except for disputed or fraudulent transactions, will be due within 45 days from the billing cycle close date, or Participating Entity's receipt of the billing statement, whichever is later. Billing disputes are further outlined in Section 7.
- B.** Participating Entity will pay Contractor for all undisputed transactions under the Account, as provided in this Agreement. Participating Entity may pay the entire balance of the Account or a portion of it, at any time prior to its due date without

penalty.

- C. All payments must be made in United States dollars, using checks or similar payment instruments drawn on financial institutions in the United States or by payment through the Automated Clearing House network in accordance with Contractor's requirements.
- D. By entering a subsidiary agreement, the Participating Entity understands and acknowledges that payments made via paper check should account for mailing and check processing time, so the check arrives in time to be processed and post to the account.
- E. For payments not made by paper check, payments on a Business Day before the cut-off time in this Section 5.5 (the "Cut-off Time") will be posted on that Business Day. Payments after the Cut-off Time on a Business Day, or on a day other than a Business Day, will be posted on the following Business Day. The Cut-off Times for payments not made by check are as follows: a payment transaction made via Contractor's online payment portal must be completed by 3:00 p.m. ET; a payment transaction made via IVR must be completed by 3:00 p.m. ET; and a payment transaction made via ACH must arrive to Contractor by 3:00 p.m. ET.
- F. Regardless of payment method, Participating Entity must ensure that Participating Entity's account number is provided with the payment. Failure to do so may cause processing delays in posting the payment to the Account. Payments that are received at locations other than the address specified on the billing statement, or that do not otherwise comply with instructions on the billing statement or the Agreement, may be delayed in posting.

6. Reports.

Contractor provides Transaction data for the Account to the Participating Entity as transmitted by merchants. Participating Entity is responsible for reconciling that data. Contractor will report the data received from merchants and as such is not liable for the accuracy or completeness of the data received, posted, or contained in any specialty reports, management reports, data services, or other information services provided. In addition, Participating Entity understands that in the event an error is identified in a report, such as an incorrect product code, Participating Entity is still liable for the Transaction, but may follow the dispute process as described in this Agreement.

7. Disputed Amounts.

- A. Participating Entity shall use its best efforts to resolve any disputes regarding Transactions directly with the relevant merchant, including any dispute related to the quality of goods or services that are purchased in a Transaction or any warranty received in connection with a Transaction.
- B. Transactions will be disputed in writing within sixty (60) days from the end of the billing cycle. Participating Entity may dispute any amount reflected on a billing statement, including but not necessarily limited to: (a) the amount if it does not

reflect the face value of the Transaction; (b) the amount being disputed is a fee that is not properly accrued under this Agreement; or (c) Participating Entity does not believe it is liable for that amount. Contractor acknowledges that the state cannot pay for goods and services it has not received and agrees to resolve, on a case-by-case basis, disputes reported outside of 60 days.

- C. Transactions made at an island card reader where Participating Entity or Account User did not obtain a receipt at the time of sale are eligible for dispute. However, the receipt may provide the only opposing record to the Transaction information submitted by the merchant. In addition, island card reader Transactions require both a valid Card and DIN to be authorized, and often disputes regarding such transactions are determined to be misuse, in which case the Participating Entity is liable to pay.
- D. Certain Transactions in dispute may qualify for charge back to the merchant. Contractor will use reasonable efforts to charge the Transaction back to the merchant in accordance with Contractor's procedures under its merchant acceptance agreement with the merchant. Any charge back paid by the merchant to Contractor will be credited to the relevant Account.

8. Misuse.

- A. If Participating Entity or an Account User knows of or suspects the loss or theft of a Card or Account or possible Misuse, or if Participating Entity would like to terminate authority of an Account User to use a Card or Account, Participating Entity will notify Contractor by immediately calling 1-866-544-5796. Participating Entity shall adopt and maintain reasonable security precautions and controls to prevent Misuse.
- B. Participating Entity will use reasonable efforts to recover a Card from any individual whose authority to use Participating Entity's Account has terminated or from any unauthorized individual with possession of or access to a Card. Participating Entity agrees to assist Contractor in determining the facts, circumstances and other pertinent information related to any loss, theft or possible Misuse of Card and to comply with such procedures as may be required by the Contractor in connection with Contractor's investigation.

9. Representations by Participating Entity.

By executing a Subsidiary Agreement, Participating Entity represents and warrants to Contractor that: **(a)** this Agreement constitutes the legal, valid, binding, and enforceable agreement of Participating Entity; and **(b)** that Participating Entity's execution and performance of this Agreement **(i)** does not constitute a breach of any agreement between Participating Entity and an individual other than Contractor, or of any duty arising in law or equity, **(ii)** does not violate any law, rule or regulation applicable to Participating Entity, and **(iii)** if Participating Entity is an organization, is within the organizational powers of Participating Entity and has been authorized by all necessary organizational action of Participating Entity.

10. Other Obligations of Participating Entity.

- A. Participating Entity shall provide information requested by Contractor for purposes of Contractor's compliance with federal law related to Participating Entity identification and verification, including, but not limited to, name, business address, and other application information to identify the Participating Entity and/or Account Users.
- B. Contractor may investigate the financial condition of Participating Entity and its subsidiaries and affiliates at any time. If requested, Optional User agrees to furnish Contractor copies of its official and finalized financial statements or other applicable financial information no later than one hundred twenty (120) days following the end of each of its fiscal years. The financial statements shall have been prepared, consistently year-over-year and shall be in accordance with the books and records of the Optional User. Any financial information submitted shall be kept confidential by Contractor in accordance with Exhibit A, Section 21 (Security and Confidential Information).
- C. Participating Entity agrees to provide written notice (a) immediately if Participating Entity becomes insolvent or the subject of bankruptcy or insolvency proceedings, or (b) immediately after any appointment of a receiver or trustee for the benefit of creditors of Participating Entity.
- D. The state of California will be credit qualified as a single entity upon execution of the Master Agreement. Individual state agencies will not be required to credit qualify on their own. Each local governmental agency must individually credit qualify. Contractor will not require the state of California or local governmental agency to provide financial information that Contractor can obtain on its own.

11. Foreign Transactions.

- A. Cards are issued for use by Participating Entity's operations based in the United States but may be used in Canada. Participating Entity may not distribute a Card to an individual based in a country other than the United States. If a Card is used in any country other than the United States, Participating Entity will: (a) be billed in U.S. Dollars; and (b) receive reporting in English.
- B. Contractor will convert any Transaction made in a foreign currency into a U.S. Dollar amount before the Transaction is posted to the Account. The exchange rate between the Transaction currency (the foreign currency) and the billing currency (U.S. Dollars) used for processing an international Transaction is a rate selected by Contractor using rates available in wholesale currency markets for the date that the Transaction is posted by Contractor, which rate may vary from the rate Contractor itself receives, or the government mandated rate in effect at that time. The conversion rate used on the posting date may differ from the rate applicable on the date of the Transaction.

12. Program Information.

Transaction information related to the Account may be provided to merchants who

accept the Card as payment for goods and services.

13. Miscellaneous.

- A.** Participating Entity may purchase dyed special fuel using its Account or Cards. Participating Entity acknowledges that all dyed special fuel purchases will be used according to all applicable laws governing its use. Contractor is not liable in any way for any misuse or mishandling by Participating Entity of any dyed special fuel. Upon request from applicable governmental authorities, Contractor may provide information regarding Participating Entity's dyed special fuel purchases without prior authorization from Participating Entity. Upon request, Contractor must provide notification of such release of information to the Participating Entity and/or FPS Program Manager, unless prohibited.
- B.** Contractor may monitor telephone communications between its employees and its customers for service quality purposes, if caller is notified at the beginning of the telephone communication.
- C.** Contractor's compliance with this Agreement shall be excused to the extent that any failure or delay in performance by Contractor is attributable, in whole or in part, to causes or circumstances beyond Contractor's reasonable control including, but not limited to, acts of God; civil disturbance; war; acts of government and natural disasters.
- D.** If either Party is notified by a state or federal regulatory body that any aspect of the services provided by the Contractor under this Agreement does not comply with any applicable law, regulation, rule, policy, or order, then the affected Party shall give the other Party prompt written notice of the non-compliance. Following notice, the affected obligations will be suspended so long as the affected Party is unable to perform due to the notice given by the state or federal regulatory body.
- E.** No delay or omission by Contractor to exercise any right under the Agreement shall impair such right or be construed to be a waiver of any default. The authorization of Transactions shall not constitute any waiver, including of Contractor's rights with respect to such Transaction. Any single or partial exercise of any such right by Contractor shall not preclude other or further exercise thereof or the exercise of any other right. No waiver, amendment, or other variation of the terms, conditions, or provisions of the Agreement shall be binding on Contractor unless in writing, and then only to the extent set forth in such writing.
- F.** Except as otherwise provided in this Agreement, all notices will be in writing and deemed effective when personally delivered or mailed, first class postage prepaid to the appropriate Party at the address set forth in the application for credit or at such other address as the Parties may indicate from time to time. In addition to the notice methods provided above, the Contractor and Participating Entities agree that a communication: **(a)** by facsimile to a number identified by the recipient as appropriate for communication under this Agreement; or **(b)** by email to or from an address normally used by an Account User for business

communications, shall be considered to be a "writing" and to be "signed" by the Party transmitting it for all purposes.

- G. Contractor's billing and payment system provides for various billing cycle and payment timing options. In the event Participating Entity desires to change billing cycles Participating Entity must make a request to Fleet Receivables for a billing cycle change. Upon receipt of the request it will be a minimum of thirty (30) business days to change the billing cycle. In addition, any changes to billing cycles will not take effect until after the current cycle has closed. Cycle changes cannot be made mid-month or mid-week from monthly to weekly billing cycles and cycle changes cannot be made mid-week or mid-month from weekly to monthly billing cycles. Cycle changes can only be made once per calendar year for each billing entity.

14. WEXOnline®

A. General

WEX Inc., the parent company of Contractor ("WEX") provides WEXOnline® subject to the following terms of use ("Terms"). WEX owns and operates WEXOnline®. Any Participating Entity's continued use of WEXOnline® constitutes its acceptance of these Terms.

B. Purpose of WEXOnline®

The goal of WEXOnline® is to provide any Participating Entity with access to information about WEX products and services, and certain functionality with respect to the Business Charge Accounts under any Participating Entity's program.

C. Trademarks, Service Marks and Copyrighted Materials

WEX controls and operates WEXOnline®. All content on WEXOnline®, including, but not limited to, text, photographs, images, illustrations, audio clips, and video clips, is protected by copyrights, trademarks, service marks, and/or other intellectual property rights (which are governed by United States and worldwide copyright laws and treaty provisions, privacy and publicity laws, and communication regulations and statutes). The content is owned and controlled by WEX, its affiliates, or by third party content providers, merchants, sponsors and licensors (collectively the "Providers") that have licensed their content or the right to market their products and/or services to users of WEXOnline® using WEXOnline®. Participating Entity agrees to abide by all additional copyright notices, information, or restrictions contained in any content that is presented on WEXOnline®.

Participating Entities may not use any registered or unregistered trademarks, service marks or copyrighted materials appearing on WEXOnline®, including but not limited to any logos or characters, without the express written consent of the owner of the mark or copyright. Participating Entity may not frame, deep link, or otherwise incorporate into another website any of the content or other materials

on this website without WEX's express prior written consent.

Violation of trademark and copyright laws may result in significant civil liability or criminal penalties under United States and/or worldwide copyright and trademark laws.

D. Use of the Site

Participating Entity is accessing WEXOnline® using the Internet and Participating Entity's Internet service provider.

Participating Entity agrees not to use WEXOnline® for any purpose except (a) access to descriptions of WEX products and services and (b) to the extent agreed with WEX, certain specified functionality with respect to the Business Charge Accounts under participating Entity's program. In using WEXOnline® Participating Entity agrees not to disrupt or interfere with the site, its services, system resources, nor to upload, post or otherwise transmit any viruses or other harmful, disruptive, inappropriate, illegal or destructive files. Participating Entity also agrees not to use, attempt to use, or access other accounts, or create or use a false identity on WEXOnline®.

WEX reserves the right to terminate or suspend access to WEXOnline®, in whole or in part, at any time, with prior notice (except in the event that suspension is needed to prevent an imminent security threat, in which case WEX will provide notice promptly following such suspension).

This site and the information provided on this site is provided "AS IS" without any representation or warranty, express or implied, of any kind, including, but not limited to, warranties of merchantability, noninfringement, or fitness for a particular purpose.

E. Governing Law

WEX operates WEXOnline® (excluding linked sites) from our offices within the state of Maine. The website can be accessed from all 50 states, as well as from other countries around the world. These Terms and Participating Entity's use of the web site shall be governed by the laws of the state of California, without regard to conflict of laws provisions and shall not be governed by the United Nations Convention on the International Sale of Goods. WEX makes no representation that materials on this website are appropriate or available for use in other locations and accessing them from territories where the content is illegal is prohibited. Customers who choose to access WEXOnline® from other locations do so at their own risk and are responsible for compliance with local laws, including laws regarding the transmission of technical data exported from the United States or the country in which the user resides.

EXHIBIT G: CONTRACTOR'S TECHNICAL PROPOSAL

The contractor's technical proposal is incorporated by reference in its entirety, only services identified in Exhibit A apply to this agreement.