

RESOLUTION 2014-141

A RESOLUTION AUTHORIZING THE EXECUTION OF A COMMERCIAL CARD SERVICES AGREEMENT BETWEEN THE VILLAGE OF VERNON HILLS AND MB FINANCIAL BANK, INC.

WHEREAS, the Village of Vernon Hills, County of Lake, State of Illinois (*"the Village"*) is a duly organized and existing municipality and unit of local government created under the provisions of the laws of the State of Illinois, and is operating under the provisions of the Illinois Municipal Code; and

WHEREAS, MB Financial Bank, Inc. is a financial institution offering commercial credit services (*"MB Financial"*); and

WHEREAS, the Village desires to contract with MB Financial to provide commercial card services.

NOW THEREFORE BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS, as follows:

SECTION ONE: APPROVAL OF AGREEMENT. The Commercial Card Services Agreement by and between the Village and MB Financial shall be, and it is hereby, in substantially the form attached to this Resolution as **Exhibit A**.

SECTION TWO: EXECUTION OF AGREEMENT. The Village Manager shall be, and is hereby, authorized and directed to execute and attest, on behalf of the Village, the Commercial Card Services Agreement.

SECTION THREE: EFFECTIVE DATE. This Resolution shall be in full force and effect upon its passage and approval by a majority of the members of the Village Board.

Dated this 9th day of September 2014

Adopted by roll call vote as follows:

AYES: 6 – Koch, Schwartz, Hebda, Williams, Schultz, Marquardt

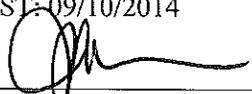
NAYS: 0 - None

ABSENT AND NOT VOTING: 0 - None

PASSED: 09-09-2014

APPROVED: 09-09-2014

ATTEST: 09/10/2014


John Kalmar, Village Clerk

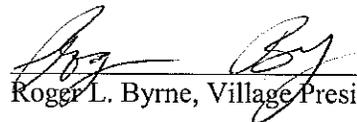

Roger L. Byrne, Village President

EXHIBIT A: COMMERCIAL CARD SERVICES AGREEMENT



Commercial Card Service Agreement

This Commercial Card Service Agreement ("Agreement") is entered into by and between MB Financial Bank, N.A., a national banking association with its principal place of business in Chicago, Illinois ("Bank", "we" or "our") and the undersigned Customer ("Customer", "you" or "your") effective as of the date accepted by Bank as written on the signature page to this Agreement. In consideration of the representations, warranties, covenants and agreements set forth herein, the parties hereby agree as follows:

1. Introduction

(a) Card Programs. The MB Financial Commercial Card is designed to handle all of an organization's purchasing, travel and entertainment, and fleet spending needs through a single card platform. Our Card programs offer a wide array of features and control options including merchant category and velocity controls that limit your Cardholders to or from a particular category of spending. Our Card programs are further defined by additional Internet Online Features that may be implemented upon your request.

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

(c) Information. Before we can make the Service available to you, you are required to complete a set up and implementation process and complete related forms. This process includes the selection of important features and options available with the Service and the designation of persons with authority to act for you ("Authorized Persons"). Some of this information will be entered into forms by one of our representatives. In addition, we may require information or the execution of documents at various times throughout the duration of this Agreement. You agree to provide any information and to execute documents that we reasonably require in connection with the Service, including without limitation any information we may request for each Cardholder. Additional information about and requirements for the Service and various features of the Service may be included in reference guides and other information we provide to you in the set up process and throughout your use of the Service in hard copy or online (as updated from time to time, the "User Guides").

(d) Representatives. We will rely on the information provided to us by an Authorized Person or your other agents, officers, employees and representatives ("Representatives") in providing the Service to you. Any changes in Representatives or to the information you provide us must be promptly communicated to us and given or promptly confirmed in writing although we may, in our sole discretion, act on oral requests for changes. We may request separate documents, certificates or resolutions from you to establish the authority of your Representatives. A change shall be effective only after we receive the proper request for such change and we have had a reasonable opportunity to act on the request. Until then, we may rely on status of your Representatives as previously given to us, and on information that purports to have been authorized by individuals you previously authorized. You agree that we may refuse to comply with requests from any person until we receive documentation reasonably satisfactory to us confirming the person's authority. We shall not be liable or responsible to you for any Authorized Person or Representative who exceeds the limits of his or her authority.

2. Establishment of Account and Issuance of Cards

(a) **The Account.** Upon completion of the set up process, we will establish for you a commercial credit account ("Account") subject to the credit limit we establish, and issue one or more cards (or similar devices) and account numbers associated with your Account (the "Cards") to your designated employees ("Cardholders") in accordance with this Agreement and our Service procedures. Unless we expressly agree otherwise, you must maintain ten (10) or more Cards at all times for you and your Cardholders. At your request, we may in our sole discretion issue Cards in the name of a group or department or as a Nameless Card (as described below), and we can enable you to effect transactions solely with a Card or account number without a physical card or device. All use of such Cards and transactions are considered as effected by a Card on the Account for purposes of this Agreement. We will issue each Card for the original term indicated on the Card. We will honor all transactions unless the Card or the Account has been effectively cancelled as provided in this Agreement. Unless and until a Card has been properly cancelled, the Card is valid and may be used for transactions, and renewal or replacement Cards will be issued for it as appropriate. Once issued as requested by you and subject to the provisions of this Agreement, you are solely responsible for the use of the Card by each Cardholder and for imposing and enforcing any limits or restraints you wish to impose on a Cardholder's use of the Card.

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

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

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

3. **Card Administrator.** In the set up process, you will appoint an individual to serve as your administrator ("Card Administrator") with complete authority to administer and manage the use of the Service on your behalf. Unless restricted by you in the set up process, the Card Administrator has the authority to: designate personnel with access to some or all of the administrative features of the Service; designate persons who will be issued Cards and become Cardholders and establish their individual Card credit limit; cancel a Card and change the credit limit associated with a Card; issue replacement Cards for damaged or lost Cards or to effect a name change on an existing Card; select, create and maintain templates through the Online Features that implement available spending controls; obtain information and reports about, and monitor Account and Card use; and, accept and act on all communications from us regarding the Service. If you choose to utilize any of the Online Features, the Card Administrator will have the additional authority described with that feature. We may, without further inquiry, rely on, deal with and accept instructions related to the Service from any person who identifies himself or herself as the Card Administrator.

4. Promise to Pay

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

(b) **Foreign Currency Transactions.** To convert transactions made in foreign currencies into U.S. dollars, the relevant card association or its affiliate ("Card Association") will use its then-current currency conversion rates and the procedures established by such Card Association in its sole discretion. Currently, the currency conversion rate used to determine the transaction amount in U.S. dollars is generally either a wholesale market rate or a government-mandated rate in effect on the date of the conversion, increased by the applicable conversion charge determined by the Card Association, if any. The currency conversion rate used on the conversion date may differ from the rate in effect on the date the transaction occurred.

(c) **MB Financial Use Liability Policy.**

(i) If you believe that a transaction on your Account was unauthorized, you must notify us as soon as possible but not more than sixty (60) days after the transaction in question appears on your Account Statement (as defined below). You will be required to provide us with reasonable information about the transaction to enable us to investigate the matter, and to reasonably cooperate with us in any investigation. The Card Association may offer a liability protection program; contact the Card Association for additional information. We will provide a copy of the Card Association's program literature upon request.

(ii) If we have issued fewer than ten Cards in connection with the Account, your liability for a series of unauthorized uses cannot exceed either \$50 or the value obtained through the unauthorized use before the card issuer is notified, whichever is less. The term "unauthorized use" means the use of a credit card by a person, other than the Cardholder, who does not have actual, implied, or apparent authority for such use, and from which the Cardholder and you receive no benefit.

(d) **Individual Pay Accounts.** In all cases where Individual Billing is permitted, the Cardholder will be required to consent to the terms and conditions applicable to the Card and the Account.

5. Periodic Account Statements

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

(b) **Discrepancies.** Except for matters subject to Section 4, if there is a discrepancy between your records and the information shown on any Account Statement or other confirmation, or you discover any other

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

(c) Individual Statements. Unless you request and we otherwise agree, we will send or make available an individual statement for each Card issued under your Account at the end of each billing cycle, in an electronic or paper form. For Nameless Cards, we will send or make available an individual card account statement to a Card Administrator. If the Cardholder is not responsible for payment of his or her own outstanding balance, finance charges and fees, we will only provide an individual statement for purposes of informing the Cardholder about his or her use of the Card.

6. Making Payments

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

(b) Payments. You agree to make all payments by check or other negotiable instrument drawn on a U.S. financial institution located in the U.S., money order or by electronic funds transfer as you and we agree in the set up process. Payments must be made in U.S. dollars. All payments must be delivered or transmitted to us in the manner and to the destination agreed in the set up process. Payments not delivered or transmitted to that destination will not be treated as timely received. Payments received after 3:00 p.m., Central Time, on any business day or on a day which is not a business day will be credited on the next business day. Credit to any Card or the Account may be delayed for up to five days if the payment is (i) not made in U.S. dollars drawn on or from a U.S. financial institution located in the U.S. or by money order, or (ii) not accompanied by the proper account number and if not made electronically, not accompanied by the top portion of the Account Statement. Delayed crediting may cause you to incur additional fees and finance charges.

(c) Debit Authorization. If you and we have agreed in the set up process or at any time in writing that payments may be made by direct automated clearinghouse (ACH) debits to your banking account with us or any other financial institution, you authorize us to initiate debit entries to the account with the financial institution you designate for the amount due on the Account Statement until you have properly revoked the authorization. You agree to be bound by the NACHA Operating Rules with respect to these ACH transactions and with respect to any ACH transaction you initiate.

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

(e) Credit Balances. Credits will be applied to the next Account Statement unless you and we otherwise expressly agree.

7. Fee Schedule. Except as we may expressly agree in a written agreement executed by our authorized representative and delivered to you by us, you agree to pay all fees, interest and charges associated with the Account including those set forth in the Account Fees Schedule (the "Fee Schedule") attached to, or accompanying the executed version of this Agreement, which is incorporated into this Agreement by this reference. If a Fee Schedule is not so attached or accompanying the executed version of this Agreement, you agree to pay our standard account fees, interest, penalties and charges. The Fee Schedule may be revised by us as provided in Section 20 of this Agreement. If there is any conflict between this Agreement and the Fee

Schedule, this Agreement shall govern, but only to the extent reasonably necessary to resolve the conflict. Any finance charges, fees and other amounts, including penalties, assessed against the Account will be posted as direct charges to the Account and will count against the applicable credit limit until paid.

8. Account Controls.

(a) Monitoring Obligation. You are responsible for monitoring the use of the Cards, account numbers and the Account, and detecting unauthorized or improper use. We offer online account management tools through the Online Features to assist you in carrying out this responsibility, including access to transaction information and the means to cancel a Card or impose limits on the use of a Card.

(b) Lost or Stolen Cards; Unauthorized Use. You are responsible for cancelling any lost, misused or stolen Cards, Cards or the Account that you suspect may have been the subject of fraud, unauthorized use or misuse, and the Card (and associated authorization) of any Cardholder no longer authorized by you to use a Card, whether as a result of termination of employment or otherwise. You are responsible for retrieving the cancelled Card and destroying it to prevent further use. You may also cancel a Card or terminate a Cardholder's use of a Card by calling our customer service center. All telephone communications by you to us must be made by calling our customer service center at 1-888-701-3067 as soon as the need arises. You understand that we will require a reasonable amount of time to act on any request made by telephone. You will not be liable for unauthorized use that occurs after you notify us of the loss, theft, or possible unauthorized use in writing at MB Financial Bank, Attn: Card Services, P.O. Box 84056, Columbus, GA 31908-4056 or by telephone at the number given above.

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

9. Credit Limit.

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

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

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

10. Representations, Warranties and Undertakings.

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

(b) Yours. You represent and warrant to us that: (i) the financial statements you have delivered or made available to us at any time have been prepared in accordance with U.S. Generally Accepted Accounting Principles and fully and fairly present your financial condition as of the dates of the statements and results of operations for the periods covered by the statements; (ii) all other financial information you have provided is true and correct; (iii) you have not suffered or incurred a material adverse change in your business, financial condition or operating results since the date of the most recent financial statements you provided to us; (iv) you are not subject to any material undisclosed liability; (v) you have the legal right to execute and perform your obligations under this Agreement; (vi) you are duly organized, validly existing and in good standing in the jurisdiction in which you were organized; (vii) the execution and delivery by you of this Agreement and the incurrence of the Obligations have been authorized by all necessary corporate and required governmental action; (viii) each person signing this Agreement on your behalf is an Authorized Person and is duly authorized to do so; (ix) your execution, delivery and performance of this Agreement do not violate any laws, rules or regulations affecting you or your use of the Service, your articles of incorporation, bylaws or similar governing documents, or any material agreement that is binding on you; and (x) you have and shall maintain the full right power and authority to grant the license of the Marks and doing so does not infringe upon or violate any rights or interest held in those Marks by any third party or affiliate.

(c) No Online Gambling. You agree not use the Account in connection with any business of placing, receiving or otherwise knowingly transmitting bets or wagers by any means which involves the use, at least in part, of the Internet, or for any other transaction which is prohibited by Federal Reserve Regulation GG - Unlawful Internet Gambling Enforcement Act of 2006.

(d) Financial Statements. Upon our request, you agree to furnish us with your current financial statements and other information pertaining to your operating results and business or financial condition.

11. Confidentiality, Business Continuity.

(a) Your Obligations. You represent that you have in place, and agree that you will maintain in effect and enforce, reasonable policies and procedures to reduce the incidence of fraud and other unauthorized use of, and access to Cards and your Account and to preserve the confidentiality of your Account numbers and Account access procedures. In addition, you agree to safeguard, keep confidential and not disclose to any third party the payment, pricing terms or fees for the Service and any Security Procedures, and to limit the internal disclosure and distribution of such information to your Representatives who have a need to know such information. You must notify us immediately if there has been a breach of your security, or any Security Procedures have been lost, stolen, compromised or misused.

(b) Business Continuity. Throughout the term of this Agreement, we shall maintain off-site business continuity capabilities designed to permit us to recover from a disaster and continue providing the Service in accordance with our business continuity plan and capabilities. Our business continuity capabilities will permit the recovery from a disaster and resumption of the provision of the Service to you within a commercially reasonable period as dictated by the particular recovery rating of the system or application in question.

12. Disclaimer of Warranties. We disclaim all warranties, express or implied, in connection with the Service, and any such warranties are hereby expressly excluded. We do not warrant that the Service shall be error free or that the use of the Service shall be uninterrupted. YOU WAIVE ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. All SERVICES ARE PROVIDED "AS IS," "WHERE IS" AND WITHOUT RECOURSE TO MB FINANCIAL.

13. Limitation of Liability. YOU AGREE TO THE MAXIMUM EXTENT PERMITTED BY LAW THAT: IN NO EVENT WILL WE BE LIABLE UNDER ANY THEORY AT LAW OR IN EQUITY FOR ANY DAMAGES THAT YOU OR ANY OTHER PERSON MAY INCUR OR SUFFER IN CONNECTION WITH THE SERVICE OR THIS AGREEMENT THAT ARE NOT DIRECT, ACTUAL DAMAGES RESULTING FROM OUR BAD FAITH, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT IN PROVIDING THE SERVICE; AND, WE WILL NOT IN ANY EVENT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL OR SPECULATIVE LOSSES OR DAMAGES (INCLUDING LOST PROFITS, LOST TIME, LOST SAVINGS, GOODWILL AND OPPORTUNITIES) EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES AND REGARDLESS OF THE TYPE OF CLAIM. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, OUR LIABILITY TO YOU FOR ANY LOSS OR DAMAGE ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SERVICE SHALL BE LIMITED TO DIRECT DAMAGES ATTRIBUTABLE TO OUR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND IN NO EVENT SHALL WE BE LIABLE FOR ANY OTHER DAMAGES. BANK'S LIABILITY FOR DAMAGES UNDER THE AGREEMENT WILL IN NO EVENT EXCEED THE FEES AND INTEREST CHARGED BY BANK DURING THE SIX MONTHS PRECEDING THE DATE ON WHICH YOUR CLAIM ACCRUED AGAINST US. UNDER NO CIRCUMSTANCES SHALL WE BE LIABLE FOR LOST DATA. We shall not in any event be liable for (a) any loss, damage or injury caused by any act or omission of any third party, whether or not such third party was chosen by us, (b) any charges imposed by any third party, (c) any loss, damage or injury caused by any failure of the hardware or software used by a third party to provide the Service to you, or (d) lost data or damage to your equipment or systems. In addition, we shall not be responsible for, or incur any liability to you for any failure or delay in carrying out any of our obligations under this Agreement, if such failure or delay was caused by any third party.

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

15. Special Situations.

(a) Nameless Cards. If you request that we issue Cards without the individual Cardholder's name embossed or otherwise noted on the Card (a "Nameless Card"), you acknowledge that we strongly recommend against the use of Nameless Cards. Nameless Cards present, among other risks, the increased risk of loss to you from fraud and unauthorized or improper use. If you nevertheless request that we issue Nameless Cards, you assume all known and unforeseeable risks associated with the use of a Nameless Card and release us and our Representatives from any and all liability for issuing and the use of a Nameless Card. Despite anything stated to the contrary in the Agreement, you agree that you shall be fully liable to us for any and all fees, finance charges and all transactions resulting from use of any Nameless Card and its related Account, regardless of whether any such transactions were unauthorized. You agree to indemnify us from and against any and all liability, judgments, claims, demands, judgments, or other disputes, regardless of merit, together with all costs, charges and expenses imposed in any manner upon or accruing against us, arising out of or associated in any way with the issuance or use of Nameless Cards.

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

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

16. Default

(a) Events. Subject to applicable law, you shall be in default under this Agreement upon the occurrence of any one of the following: (i) you fail to make any payment of any Obligation when due or payments to us are returned or reversed for any reason; (ii) you become generally unable to pay your debts as they become due; (iii) any other creditor tries by legal process to take or foreclose upon any of your assets; (iv) you or any guarantor of the Obligations becomes insolvent, is placed in receivership, is adjudicated bankrupt, or is subject to any voluntary or involuntary bankruptcy or insolvency proceeding or any assignment for the benefit of your creditors; (v) you provide us with any false or misleading material information; (vi) any representation or warranty made by you in this Agreement is untrue or incorrect in any material respect or you breach in any material respect any covenant or undertaking under this Agreement; (vii) you are in default of any other credit, loan, leasing or similar agreement for the extension of credit you have with us or any of our subsidiaries or affiliates; (viii) you violate any applicable law in connection with the Account or use of the Cards; (ix) any guarantor or other third party that has guaranteed or assumed any responsibility for the Obligations is in default of any guaranty or similar agreement with us; (x) we believe in good faith that your ability to pay or perform the Obligations under this Agreement has been materially impaired; or (xi) a significant change occurs in your ownership, organizational structure or type or volume of business. You may incur fees or other charges in connection with a default. The payment of any fee or other charge will not cure the default that triggered the fee or charge.

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

17. Term and Termination.

(a) Term. The term of this Agreement commences on the date it is accepted and executed by us and continues until terminated by us pursuant to this Section 17 or by us or you upon ninety (90) days written notice to the other party.

(b) Termination Rights. We may terminate this Agreement or terminate or suspend the Service if: (a) you are in default as provided in Section 16; (b) any person or group acting in concert that does not on the date of this Agreement control a majority of your outstanding stock acquires, directly or indirectly (whether by merger, stock purchase or issuance, recapitalization, reorganization or otherwise), a majority of your outstanding stock; or (c) the continued provision of the Service in accordance with the terms of this Agreement would, in the good faith opinion of our legal counsel, violate federal, state or local law or any regulation applicable to our business. We will provide notice of the exercise of our termination rights as soon as practical.

(c) Actions. Upon any termination of the Service or this Agreement, you shall: (i) promptly pay to us all sums due or to become due under this Agreement (and we may immediately debit such sums from any account

you have previously authorized us to debit for amounts owed pursuant to this agreement); (ii) have no further right to make use of the Service, Account or any Card; and (iii) surrender to us or destroy all Cards that have been issued to you or to any Cardholder.

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

18. Online Features

(a) General. We offer online access features as part of the Service ("Online Features") to enable you to access information about, and administer and manage the Account via the Internet including through the applicable Card Association or through our online portal, MB Financial Web Express. The use of the Online Features is subject to the limitations and specifications in the User Guide we provide for the Online Features. Some or all of the Online Features may be hosted or provided by the Card Association or another third party and are also subject to any terms of use established by us or that third party. Updates and new features of the Online Features will be described in the User Guide, and any related terms of use will be posted on the applicable website; updates and features offered by us, and the related terms and conditions of use will become part of the Service and this Agreement upon first use by you.

(b) Administration. You have the option to enable the use of the Online Features. If you elect to use one of the Online Features, the Card Administrator will have complete authority to manage the Online Features on your behalf. The Card Administrator has authority with respect to the Online Features to: designate personnel including Cardholders and the Card Administrator ("Users") with access to some or all of the aspects of the Online Features; monitor Card usage and access Account statements through the Online Features; establish the entitlements of Users regarding the use of the Online Features; enable the assignment of Identification Codes described below and initial passwords to Users; issue replacement Cards; determine to utilize new or updated features of the Service and accept any applicable terms and conditions governing such features; and accept and act on all communications from us regarding the Online Features.

(c) User Level Access. The Administrator can enable Users including their managers to access and manage Account-level detail including the ability to categorize and reconcile expenses.

(d) Security Procedures. Access to the Online Features of the Service is subject to "Security Procedures," which may include certain procedures, the use of personal identification numbers, log-on identification, access codes, passwords or other security or authentication measures (collectively, "Identification Codes") that are designed to verify the origin of access to the Online Features. You understand that all access to, and use of the Online Features using such Security Procedures as we mutually agree upon will be considered by us for all purposes and without further investigation to be authorized by you, and that we may act and rely upon all instructions or data transmitted to us using the Security Procedures.

(e) Your Responsibilities. You must ensure that your personnel use the Online Features only as authorized and within the limits of their entitlements or permission. We do not monitor access to the Service or the Online Features and are not responsible if any person exceeds the limits of their entitlements or permission rights. You are responsible for having and maintaining at your expense proper functioning, secure and safe hardware, software (including antivirus and antimalware software) and communication devices, Internet access and service necessary for use with the Online Features. To the extent you select an option available with the Online Features that allows Cardholders to view and enter data about their transactions, you agree to monitor and limit their access to proper business purposes on your behalf.

(f) Legal Compliance. We make no representation or warranty that the Online Features are available or appropriate for use in countries other than the United States. You are solely responsible for compliance with all laws and regulations applicable in jurisdictions where you conduct business.

(g) Intellectual Property. All pages, screens, text, and other materials, and other works of authorship and material appearing on or utilized in connection with the Online Features, the names, trademarks, logos, slogans and service marks used, displayed and found on websites, and all other intellectual property relating to the Online Features (collectively, "Intellectual Property") are owned by and proprietary to us, the applicable Card Association, and our vendors or licensors, except as otherwise specified. No intellectual property may be copied, modified, distributed, used in any way or publicly displayed in any medium of expression without our prior written consent.

(h) Warranty Disclaimer. The Online Features are provided "as is," and "as available." Since the Internet is inherently insecure and since there is a risk that data communications and transfers may be subject to interruption, interception, failure, unavailability, delay or unauthorized access or dissemination ("Failure Events"), we agree to take commercially reasonable steps to maintain the security of such data communications and transfers, including using encryption and other industry standard security features. Except where we fail to take commercially reasonable steps, we shall not be liable for any Failure Events that occur, including any loss of privacy or use by others of such data communications or transfers. Under no circumstances, shall we be liable for any Failure Events that occur prior to you establishing a secure connection to our designated portal or after properly terminating that connection. All material found on the websites is provided "as is."

19. Arbitration.

(a) Submission to Arbitration. The parties hereto agree, upon demand by any party, to submit to binding arbitration all claims, disputes and controversies between or among them (and their respective employees, officers, directors, attorneys, and other agents), whether in tort, contract or otherwise in any way arising out of or relating to (i) the Service, the Account, the Cards, any credit subject hereto, or the Agreement and their respective negotiation, execution, collateralization, administration, repayment, modification, extension, substitution, formation, inducement, enforcement, default or termination; or (ii) requests for additional credit.

(b) Governing Rules. Any arbitration proceeding will (i) proceed in Chicago, Illinois at a location selected by the American Arbitration Association ("AAA"); (ii) be governed by the Federal Arbitration Act (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (iii) be conducted by the AAA, or such other administrator as the parties shall mutually agree upon, in accordance with the AAA's commercial dispute resolution procedures, unless the claim or counterclaim is at least \$1,000,000.00 exclusive of claimed interest, arbitration fees and costs in which case the arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large, complex commercial disputes to be referred to herein, as applicable, as the "Rules"). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any dispute. Nothing contained herein shall be deemed to be a waiver by any party that is a bank of the protections afforded to it under 12 U.S.C. §91 or any similar applicable state law.

(c) No Waiver of Provisional Remedies: Self-Help and Foreclosure. The arbitration requirement does not limit the right of any party to (i) foreclose against real or personal property collateral; (ii) exercise self-help remedies relating to collateral or proceeds of collateral such as setoff or repossession; or (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment or the appointment of a receiver, before during or after the pendency of any arbitration proceeding. This exclusion does not constitute a waiver of the right or obligation of any party to submit any dispute to arbitration or reference hereunder, including those arising from the exercise of the actions detailed in sections (i), (ii) and (iii) of this paragraph.

(d) Arbitrator Qualifications and Powers. Any arbitration proceeding in which the amount in controversy is \$5,000,000.00 or less will be decided by a single arbitrator selected according to the Rules, and who shall not render an award of greater than \$5,000,000.00. Any dispute in which the amount in controversy exceeds \$5,000,000.00 shall be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations. The arbitrator will be a neutral attorney licensed in the State of Illinois or a neutral retired judge of the state or federal judiciary of Illinois, in

either case with a minimum of ten years' experience in the substantive law applicable to the subject matter of the dispute to be arbitrated. The arbitrator will determine whether or not an issue is arbitratable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all disputes in accordance with the substantive law of Illinois and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrator shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Illinois Rules of Civil Procedure or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. Institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

(e) **Discovery.** In any arbitration proceeding, discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the dispute being arbitrated and must be completed no later than 20 days before the hearing date. Any requests for an extension of the discovery periods, or any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

(f) **No Class Proceedings.** No party hereto shall be entitled to join or consolidate disputes by or against others in any arbitration, except parties who have executed this Agreement, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity.

(g) **Payment of Arbitration Costs And Fees.** The arbitrator shall award all costs and expenses of the arbitration proceeding.

(h) **Miscellaneous.** To the maximum extent practicable, the AAA, the arbitrators and the parties shall take all action required to conclude any arbitration proceeding within 180 days of the filing of the dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the parties potentially applies to a dispute, the arbitration provision most directly related to the Agreement or the subject matter of the dispute shall control. This arbitration provision shall survive termination, amendment or expiration of the Agreement or any relationship between the parties.

20. General Provisions

(a) **Merchants.** We have no liability or responsibility for (i) goods or services purchased with a Card or the Account or for any dispute you may have with a merchant over goods or services you purchase, (ii) a merchant's or supplier's failure to accept the Card or the Account, or (iii) any failure of a merchant to seek authorization before honoring a Card. If you have a billing dispute with a merchant, we require that you first attempt to resolve the dispute directly with the merchant. If you are unable to resolve the billing dispute, you may request that we process a chargeback, subject to applicable Card Association rules. If we agree to process the chargeback, you will be required to complete a dispute form provided by us, provide any additional information we request relating to the dispute and cooperate with us. You are in all events responsible for any transactions made with your Cards or the Account.

(b) **Exclusivity.** During the term of this Agreement, you shall not: (a) enter into an agreement with any financial institution other than Bank related to the issuance or use of commercial credit cards or commercial charge cards by your Representatives and Cardholders; (b) enter into an agreement authorizing use of any Marks in connection with any commercial credit cards or commercial charge cards to be used by Representatives and Cardholders; or (c) directly or indirectly endorse, support, participate in, or benefit from any

commercial card program other than the Service, related to the issuance or use of commercial credit cards or commercial charge cards by Representatives and Cardholders.

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

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

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

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

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

(h) Set-off. You agree that we may (1) set off (A) any and all funds in any bank account you have with us or any of our subsidiaries or affiliates (excluding any account expressly titled to clearly demonstrate that the account is held by you in a fiduciary or representative capacity for a third party) or (B) any sums due or payable by us to you, against or to pay any Obligation you have to us under this Agreement, or (2) advance funds to you under any line of credit (committed or uncommitted) made available to you by us and apply such advance to pay any Obligation you have to us under this Agreement. We may exercise our right of set off by debit or other means without recourse to other rights or collateral, if any, we may have and regardless of the effect on your bank account. You waive notice of the exercise of these rights to the extent permitted by applicable law. Our right of set off is limited only to the extent expressly limited by applicable law.

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

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

(k) Compliance with Law. We and you each agree to comply with and be responsible for all applicable state, local and federal statutes, rules, regulations, orders, directives, policies and other laws, and the rules and regulations of any applicable Card Associations or payment clearing system.

(l) Governing Law; Venue. This Agreement and any claims or disputes relating to or arising out of this Agreement or the Service shall exclusively be governed by, and construed in accordance with, the laws of the State of Illinois, without regard to Illinois' conflict of law principles, and with applicable federal laws and regulations. Subject to the arbitration provisions set forth in Section 19, you irrevocably submit to the nonexclusive jurisdiction of the courts of the state and federal courts in Illinois and agree that any legal action or proceeding with respect to this Agreement or the Service may be commenced by us in such courts.

(m) Waiver of Jury Trial. Subject to the arbitration provisions set forth in Section 19, you agree that any suit, action or proceeding, whether as part of a claim or counterclaim, brought or instituted by you on or with respect to this Agreement or any event, transaction or occurrence arising out of or in any way connected with this Agreement shall be tried only by a court and not by a jury. YOU EXPRESSLY, KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION OR PROCEEDING. You acknowledge that we would not have extended credit under this Agreement if this waiver of jury trial were not part this Agreement. Customer and Bank agree, to the fullest extent allowed by law, that: (i) any claims arising hereunder will not under any circumstances be pursued in class action proceedings; (ii) Bank waives the right to bring or to participate in class action proceedings against Customer; and (iii) Customer waives the right to bring or to participate in class action proceedings against Bank. If some other person initiates a class action proceeding against Bank, Customer may not join that proceeding or participate as a member of that class.

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

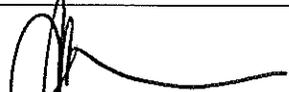
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Fee Schedule
[See Attachment]

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

CUSTOMER:

Village of Vernon Hills



By: John Kalmar

Its: Village Manager

MB FINANCIAL BANK, N.A.



By: Kathy Gneil

Its: VP Commercial