



State of New Hampshire  
DEPARTMENT OF ADMINISTRATIVE SERVICES  
OFFICE OF THE COMMISSIONER  
25 Capitol Street – Room 120  
Concord, New Hampshire 03301

CHARLES M. ARLINGHAUS  
Commissioner  
(603)-271-3201

JOSEPH B. BOUCHARD  
Assistant Commissioner  
(603)-271-3204

April 25, 2018

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Administrative Services to amend the State Contract with Bank of America, N.A. for procurement card services, originally approved by the Governor and Executive Council on July 10, 2013 (item #16), amended by the First Amendment on October 7, 2015 (item #77), and amended by the Second Amendment on April 20, 2016 (Item #5B), to extend the contract for an additional term of thirteen months. Effective upon Governor and Council approval for the period of June 1, 2018 to June 30, 2019.

There is no cost to the State associated with the use of this Contract. An annual rebate is distributed back to the State based on volume of spend. For procurements made using the associated credit cards funding is provided through individual agency expenditures, none of which shall be permitted unless there are sufficient appropriated funds in a specific Accounting Unit to cover the expenditure. Agencies' use of procurement cards shall be subject to the limitations of the amounts appropriated by the legislature.

**EXPLANATION**

On July 10, 2013, Item #16, Governor and Executive Council approved a three-year contract with Bank of America, N.A. for procurement card services to the State, amended by the First Amendment on October 7, 2015, and amended by the Second Amendment on April 20, 2016, which expires on May 31, 2018. An extension of thirteen months is being requested. The State has seen a significant increase in use of procurement cards throughout the agencies. With the increase in spend volume, the State has seen significant savings from invoice processing and efficiencies realized from the procurement card program. RFP 1979-18 was posted for solicitation on March 2, 2018 with proposals due by March 29, 2018. The extension is being requested in order to give the State more time to evaluate the three responses, award a new contract, and if a new vendor is selected give time to test, implement, and train staff on the new system. Additionally, by extending the expiration to the close of the State's fiscal year end the rebate, approximately \$264,000 from October 2016 through September 2017, can more efficiently be allocated back to the utilizing agencies.

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
April 25, 2018  
Page 2 of 2

Based on the foregoing, I am respectfully recommending approval of the amendment to the contract with Bank of America, N.A.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ch. Arlinghaus', with a long horizontal flourish extending to the right.

Charles M. Arlinghaus  
Commissioner

**THIRD AMENDMENT TO THE CONTRACT  
BY AND BETWEEN THE STATE OF NEW HAMPSHIRE  
THROUGH THE DEPARTMENT OF ADMINISTRATIVE SERVICES  
AND  
BANK OF AMERICA, N.A.  
FOR PROCUREMENT CARD SERVICES  
CONTRACT #8001691**

This Third Amendment (hereinafter referred to as the "Amendment"), dated this 16<sup>th</sup> day of April, 2018 by and between the State of New Hampshire acting through the Department of Administrative Services (hereinafter referred to as "the State") and Bank of America, N.A. (hereinafter referred to as "the Contractor") for Procurement Card Services;

WHEREAS, pursuant to an agreement approved by NH Governor and Executive Council on July 10, 2013, item #16, amended by the First Amendment dated October 7, 2015, item #77, and amended by the Second Amendment dated April 20, 2016, item #5B, and set to expire on May 31, 2018 (hereinafter referred to as "the Agreement"), the Contractor agreed to provide procurement card services to the State upon the terms and conditions specified in the Agreement; and

WHEREAS, pursuant to Section 18 of the Agreement, the Agreement may be amended by an instrument in writing executed by both parties thereto and only after approval of such amendment by the Governor and Executive Council; and

NOW, THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties hereto do hereby agree as follows:

1. Delete in its entirety Form Number P-37, item 1.7 Completion Date and substitute the following:  
1.7 June 30, 2019
2. Except as specifically amended herein, all other provisions of the Agreement, approved by the Governor and Executive Council on July 10, 2013, Item #16, as amended on October 7, 2015, Item # 77, and amended on April 20, 2016, item #5B, shall remain in full force and effect.

BANK OF AMERICA, N.A.

By: Tina Schwartz  
Tina Schwartz  
(Print Name)

Title: Senior Vice President

Date: 4/16/18

NOTARY PUBLIC/JUSTICE OF THE PEACE

On the 16<sup>th</sup> day of April, 2018,  
~~2016~~,

There appeared before me, the state and  
county foresaid a person who satisfactorily  
identified himself as

Tina Schwartz

And acknowledge that he executed this  
document indicated above.

In witness thereof, I hereunto set my hand  
and official seal.

[Signature]  
(Notary Public/Justice of the Peace)

My commission expires:

April 4, 2021  
(Date)

STATE OF NEW HAMPSHIRE

By: [Signature]  
Charles M. Arlinghaus  
(Print Name)

Title: Commissioner  
Department of Administrative Services

Date: 4/30/18

OFFICE OF THE ATTORNEY GENERAL

By: [Signature]  
John J. Conforti  
(Print Name)

Title: Assistant Attorney General

Date: 5/2/18

The foregoing contract was approved by  
the Governor and Council of New  
Hampshire on

\_\_\_\_\_.

Signed: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

Title: \_\_\_\_\_

ASSISTANT SECRETARY'S CERTIFICATE  
OF  
BANK OF AMERICA, NATIONAL ASSOCIATION

The undersigned, Carlese E. Linker, an Assistant Secretary of Bank of America, National Association (the "Association"), a national banking association organized and existing under the laws of the United States of America and having its principal place of business in the City of Charlotte, County of Mecklenburg, State of North Carolina, does hereby certify that:

1. The following person has been duly elected or appointed to the office in the Association as indicated; and that such person holds such office at this time.

Name

Title

Tina Schwartz

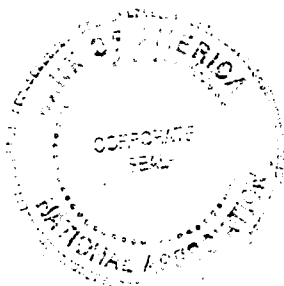
Director

2. The following is a true and complete copy of an excerpt from the Bylaws of said Association, and the same is in full force and effect as of the date hereof.

**Section 5.2. Execution of Instruments.** All indentures, mortgages, deeds, conveyances, contracts, notes, loan documents, letters of credit, master agreements, swap agreements, guarantees, discharges, releases, satisfactions, settlements, affidavits, bonds, undertakings, powers of attorney, and other instruments or contracts may be signed, executed, acknowledged, verified, attested, delivered or accepted on behalf of the Association by the Chairman of the Board, the Chief Executive Officer, the President, any Vice Chairman of the Board, any Division President, any Managing Director, any Director (as described in Section 4.7 of these Bylaws), any Principal, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Officer, or any individual who is listed on the Association's personnel records in a position equal to any of the aforementioned officer positions, or such other officers, employees or agents as the Board of Directors, the Chief Executive Officer or any officer reporting directly to the Chief Executive Officer may direct in a written delegation kept in the minute book of the Association. The provisions of this Section 5.2 are supplementary to any other provision of these Bylaws and shall not be construed to authorize execution of instruments otherwise dictated by law.

IN WITNESS WHEREOF, I have hereupon set my hand and affixed the seal of said Association this 16<sup>th</sup> day of April, 2018.

(SEAL)



Carlese E. Linker  
Assistant Secretary



Office of the Comptroller of the Currency

Washington, DC 20219

## CERTIFICATE OF CORPORATE EXISTENCE

I, Joseph Otting, Comptroller of the Currency, do hereby certify that:

1. The Comptroller of the Currency, pursuant to Revised Statutes 324, et seq, as amended, and 12 USC 1, et seq, as amended, has possession, custody, and control of all records pertaining to the chartering, regulation, and supervision of all national banking associations.

2. "Bank of America, National Association," Charlotte, North Carolina (Charter No. 13044), is a national banking association formed under the laws of the United States and is authorized thereunder to transact the business of banking on the date of this certificate.

IN TESTIMONY WHEREOF, today,

April 3, 2018, I have hereunto subscribed

my name and caused my seal of office to

be affixed to these presents at the U.S.

Department of the Treasury, in the City

of Washington, District of Columbia



*Joseph Otting*

Comptroller of the Currency



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
04/24/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Marsh USA Inc. 100 North Tryon Street, Suite 3600 Charlotte, NC 28202		<b>CONTACT NAME:</b> <b>PHONE (A/C, No, Ext):</b> <b>FAX (A/C, No):</b> <b>E-MAIL ADDRESS:</b>	
055943-A.-II.-17-18 RFP RFP CASUA		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Greenwich Insurance Company <b>INSURER B:</b> N/A <b>INSURER C:</b> (See Page 2) <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	
<b>INSURED</b> Bank of America Corporation and any and all subsidiaries Mail Code: NC1-028-16-01 One Bank of America Center 150 North College Street Charlotte, NC 28255-0001		<b>NAIC #</b> 22322 N/A	

**COVERAGES** **CERTIFICATE NUMBER:** ATL-004363811-04 **REVISION NUMBER:** 6

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:		RGD3001365  * This coverage applies only if required by written contract.	08/01/2017	08/01/2018	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ Excluded MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 2,000,000* GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000* \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE  DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A	See Page 2	08/01/2017	08/01/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
RFP No: 1510-13 Procurement Card Services

<b>CERTIFICATE HOLDER</b> State of New Hampshire Purchasing Agent 25 Capitol Street Room 102 Concord, NH 03301	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Marilyn F Burns <i>Marilyn F. Burns</i>
--	--

AGENCY CUSTOMER ID: 055943

LOC #: Charlotte

**ADDITIONAL REMARKS SCHEDULE**

Page 2 of 2

AGENCY Marsh USA Inc.		NAMED INSURED Bank of America Corporation and any and all subsidiaries Mail Code: NC1-028-16-01 One Bank of America Center 150 North College Street Charlotte, NC 28255-0001
POLICY NUMBER		
CARRIER	NAIC CODE	
EFFECTIVE DATE:		

**ADDITIONAL REMARKS****THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance

The General Liability limit shall not exceed the amount stated in the contract between Bank of America Corporation and the certificate holder.

The certificate holder is an additional insured under General Liability as their interest may appear, but only if required by written contract with the named insured.

Workers Compensation and Employers Liability (continued from page 1)

Carriers and Policy Numbers:

Policy # RWD943546103 (08/01/2017 - 08/01/2018) XL Insurance America, Inc.

Including the following state(s): AL AR AZ CA CO CT DE FL GA HI IA ID IL IN KS KY LA MA MD ME MI MN MO MS MT NC NE NH NJ NM NV NY OK OR PA RI SC SD TN TX  
UT VA VT WV

Policy #RWR943546203 (08/01/2017 - 08/01/2018) XL Specialty Insurance Company

Including the following state(s): AK, WI

Policy #RWG3001366 (08/01/2017 - 08/01/2018) XL Insurance America, Inc.

Policy No. #RWE943546303 (08/01/2017 - 08/01/2018) XL Specialty Insurance Company

Including the following state(s): OH WA

This policy is subject to a Self-Insured Retention of \$1,000,000 per accident.





5B *DM*

**State of New Hampshire**  
**DEPARTMENT OF ADMINISTRATIVE SERVICES**  
**OFFICE OF THE COMMISSIONER**  
25 Capitol Street – Room 120  
Concord, New Hampshire 03301

VICKI V. QUIRAM  
Commissioner  
(603)-271-3201

JOSEPH B. BOUCHARD  
Assistant Commissioner  
(603)-271-3204

March 17, 2016

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Administrative Services to enter into an amendment to the current contract with Bank of America, N.A., Charlotte NC, vendor # 203997, for procurement card services originally approved by Governor and Executive Council on July 10, 2013 (item #16), and amended on October 7, 2015 (item #77), to add a no cost new enhancement that allows the use of Bank of America's Receipt Imaging Service, and to extend the existing contract for an additional term of two years. Effective upon Governor and Council approval for the period of June 1, 2016 through May 31, 2018.

Funding is provided through individual agency expenditures, none of which shall be permitted unless there are sufficient appropriated funds in a specific Accounting Unit to cover the expenditure. Agencies' use of procurement cards shall be subject to the limitations of the amounts appropriated by the legislature.

**EXPLANATION**

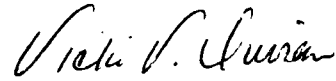
On July 10, 2013, Item #16, Governor and Executive Council approved a three-year contract with Bank of America, N.A. for procurement card services to the State which expires on May 31, 2016. The State has seen a significant increase in use of procurement cards throughout the State. With the increase in spend volume, the State has seen significant savings from invoice processing and efficiencies realized from the procurement card program. There are close to 600 procurement cards in use throughout the State, and more procurement cards will be issued as this program continues to be implemented. To switch contractors at this time would cause a significant decrease in productivity and savings. Additional time is needed to fully evaluate the program.

The receipt imaging system offered by Bank of America is a useful tool to help make the procurement card program more efficient. Cardholders will have the ability to upload receipts and attach the receipts directly to each transaction in the Bank of America's online system. This will enable supervisory users of the system to more efficiently process each transaction. There is no charge for this service.

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
March 17, 2016  
Page 2 of 2

Based on the foregoing, I am respectfully recommending approval of the amendment to the contract with Bank of America, N.A.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Vicki V. Quiram". The signature is fluid and cursive, with the first name "Vicki" and last name "Quiram" clearly distinguishable.

Vicki V. Quiram  
Commissioner

**SECOND AMENDMENT TO THE CONTRACT  
BY AND BETWEEN THE STATE OF NEW HAMPSHIRE  
THROUGH THE DEPARTMENT OF ADMINISTRATIVE SERVICES  
AND  
BANK OF AMERICA, N.A.  
FOR PROCUREMENT CARD SERVICES  
CONTRACT #8001691**

This Second Amendment (hereinafter referred to as the "Amendment"), dated this 1<sup>st</sup> day of March, 2016 by and between the State of New Hampshire acting through the Department of Administrative Services (hereinafter referred to as "the State") and Bank of America, N.A. (hereinafter referred to as "the Contractor") for Procurement Card Services;

WHEREAS, pursuant to an agreement approved by NH Governor and Executive Council on July 10, 2013, item #16 and set to expire May 31, 2016, as amended by the First Amendment dated October 7, 2015 (hereinafter referred to as "the Agreement"), the Contractor agreed to provide procurement card services to the State upon the terms and conditions specified in the Agreement; and

WHEREAS, pursuant to Section 18 of the Agreement, the Agreement may be amended by an instrument in writing executed by both parties thereto and only after approval of such amendment by the Governor and Executive Council; and

NOW, THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties hereto do hereby agree as follows:

1. Delete in its entirety Form Number P-37, item 1.7 Completion Date and substitute the following:

1.7 May 31, 2018

2. Amend **EXHIBIT A**, Paragraph **3. SERVICES, 3.9 Software/Technology** to include the following:

**m. Receipt Imaging Service.** The State may elect to use Contractor's receipts imaging service whereby the State submits copies or images of Transaction receipts, which the Contractor will electronically store in its online website application. It is the State's obligation to send the Contractor legible copies of the Transaction receipts. The State acknowledges and agrees that the Contractor will not review the Transaction receipts and that the State agencies are responsible for retaining the original receipts. Notwithstanding the Limitation of Liability of the Agreement, the Contractor will not be liable for damages if the images are illegible or blank or for failure to provide copies by a given time or for failure to provide copies the Contractor is not reasonably able to provide. Images will be made available to the State by the Contractor's online website application at such times as may be set forth in the applicable User Documentation or as otherwise established by the Contractor. This Service shall be provided at no charge to the State.

3. Amend **EXHIBIT B, II. ELECTRONIC PRODUCTS SCHEDULE OF FEES AND CHARGES**, to read:

Works Receipts Imaging:

Available

Fee Waived

4. Except as specifically amended herein, all other provisions of the Agreement, approved by the Governor and Executive Council on July 10, 2013, Item #16, as amended on October 7, 2015, Item # 77, shall remain in full force and effect.

BANK OF AMERICA, N.A.

By: Tina Schwartz

Tina Schwartz  
(Print Name)

Title: Senior Vice President

Date: 3/1/16

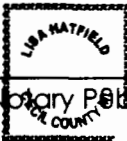
NOTARY PUBLIC/JUSTICE OF THE PEACE

On the 1 day of March, 2016,  
There appeared before me, the state and  
county foresaid a person who satisfactorily  
identified himself as

Tina Schwartz

And acknowledge that he executed this  
document indicated above.

In witness thereof, I hereunto set my hand  
and official seal.



(Notary Public, Carroll County, Maine)

My commission expires:

9/29/17

(Date)

Lisa Hatfield

STATE OF NEW HAMPSHIRE

By: Vicki Quiram

Vicki Quiram  
(Print Name)

Title: Commissioner

Department of Administrative Services

Date: 3/29/16

OFFICE OF THE ATTORNEY GENERAL

By: Jill Desrochers

Jill Desrochers  
(Print Name)

Title: Asst. Attorney General

Date: 3/30/16

The foregoing contract was approved by  
the Governor and Council of New  
Hampshire on

Signed: \_\_\_\_\_

(Print Name)

Title: \_\_\_\_\_

ASSISTANT SECRETARY'S CERTIFICATE  
OF  
BANK OF AMERICA, NATIONAL ASSOCIATION

The undersigned, Allison L. Gilliam, an Assistant Secretary of Bank of America, National Association (the "Association"), a national banking association organized and existing under the laws of the United States of America and having its principal place of business in the City of Charlotte, County of Mecklenburg, State of North Carolina, does hereby certify that:

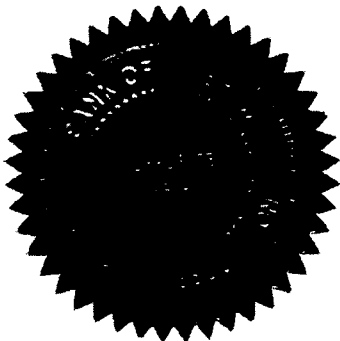
1. The following person has been duly elected or appointed to the office in the Association as indicated; and that such person holds such office at this time.

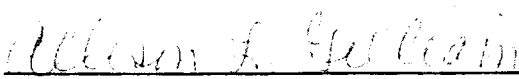
<u>Name</u>	<u>Title</u>
Tina Schwartz	Director

2. The following is a true and complete copy of an excerpt from the Bylaws of said Association, and the same is in full force and effect as of the date hereof.

**Section 5.2. Execution of Instruments.** All indentures, mortgages, deeds, conveyances, contracts, notes, loan documents, letters of credit, master agreements, swap agreements, guarantees, discharges, releases, satisfactions, settlements, affidavits, bonds, undertakings, powers of attorney, and other instruments or contracts may be signed, executed, acknowledged, verified, attested, delivered or accepted on behalf of the Association by the Chairman of the Board, the Chief Executive Officer, the President, any Vice Chairman of the Board, any Division President, any Managing Director, any Director (as described in Section 4.7 of these Bylaws), any Principal, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Officer, or any individual who is listed on the Association's personnel records in a position equal to any of the aforementioned officer positions, or such other officers, employees or agents as the Board of Directors, the Chief Executive Officer or any officer reporting directly to the Chief Executive Officer may direct in a written delegation kept in the minute book of the Association. The provisions of this Section 5.2 are supplementary to any other provision of these Bylaws and shall not be construed to authorize execution of instruments otherwise dictated by law.

IN WITNESS WHEREOF, I have hereupon set my hand and affixed the seal of said Association this 1<sup>st</sup> day of March, 2016.



  
Allison L. Gilliam  
Assistant Secretary



## CERTIFICATE OF CORPORATE EXISTENCE

I, Thomas J. Curry, Comptroller of the Currency, do hereby certify that:

1. The Comptroller of the Currency, pursuant to Revised Statutes 324, et seq, as amended, and 12 USC 1, et seq, as amended, has possession, custody, and control of all records pertaining to the chartering, regulation, and supervision of all national banking associations.
2. "Bank of America, National Association," Charlotte, North Carolina (Charter No. 13044), is a national banking association formed under the laws of the United States and is authorized thereunder to transact the business of banking on the date of this certificate.

IN TESTIMONY WHEREOF, today,

August 6, 2015, I have hereunto

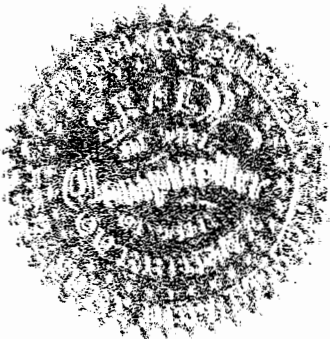
subscribed my name and caused my seal


of office to be affixed to these presents at

the U.S. Department of the Treasury, in

the City of Washington, District of

Columbia.



  
Comptroller of the Currency

**Section 4.7. Managing Directors, Principals, Vice Presidents and Officers.** The Board of Directors may appoint one or more Managing Directors, one or more Principals, and one or more Vice Presidents. Categories of Vice Presidents may include, but are not limited to, Group Executive Vice Presidents, Executive Vice Presidents, Senior Vice Presidents, and Assistant Vice Presidents. Categories of Managing Directors may include, but are not limited to the officer title of Director. The Board of Directors may also create categories of Principals and Officers. Each Managing Director, each Principal, each Vice President and each Officer shall have such duties and authorities as may be prescribed by the Board of Directors or by the officer to whom such Managing Director, Principal, Vice President or Officer reports.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
09/14/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Marsh USA Inc. 100 North Tryon Street, Suite 3600 Charlotte, NC 28202		<b>CONTACT</b> NAME: PHONE: (A/C, No, Ext): E-MAIL: ADDRESS:	
055943-A -II-15-16 RFP RFP CASUA		<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> Bank of America Corporation and any and all subsidiaries Mail Code: NC1-028-16-01 One Bank of America Center 150 North College Street Charlotte, NC 28255-0001		<b>NAIC #</b> INSURER A : Old Republic Insurance Co 24147 INSURER B : N/A N/A INSURER C : (See Page 2) INSURER D : INSURER E : INSURER F :	

## COVERAGES

CERTIFICATE NUMBER:

ATL-003472625-03

REVISION NUMBER: 5

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			MWZY305315  * This coverage applies only if required by written contract.	08/01/2015	08/01/2016	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ Excluded MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 2,000,000* GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000* \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <b>EXCESS LIAB</b> <b>DED</b> <b>RETENTION \$</b>						EACH OCCURRENCE \$ AGGREGATE \$ \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	See Page 2	08/01/2015	08/01/2016	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
RFP No: 1510-13 Procurement Card Services

## CERTIFICATE HOLDER

## CANCELLATION

State of New Hampshire Purchasing Agent 25 Capitol Street Room 102 Concord, NH 03301	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Marilyn F Burns <i>Marilyn F. Burns</i>
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77 *dm*

**State of New Hampshire**  
**DEPARTMENT OF ADMINISTRATIVE SERVICES**  
OFFICE OF THE COMMISSIONER  
25 Capitol Street – Room 120  
Concord, New Hampshire 03301

VICKI V. QUIRAM  
Commissioner  
(603)-271-3201

JOSEPH B. BOUCHARD  
Assistant Commissioner  
(603)-271-3204

September 14, 2015

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Administrative Services to amend the State Contract with Bank of America, N.A., originally approved by the Governor and Executive Council on July 10, 2013 (item #16), to allow participation in the contract by the legislative and judicial branches or any city, town or other non-state entity which is an employer as defined by RSA 100-A:1, IV.

Funding is provided through individual agency expenditures, none of which shall be permitted unless there are sufficient appropriated funds in a specific Accounting Unit to cover the expenditure. Agencies' use of procurement cards shall be subject to the limitations of the amounts appropriated by the legislature.

**EXPLANATION**

On July 10, 2013, Item #16, Governor and Executive Council approved a three-year contract with Bank of America, N.A. for procurement card services to the State which expires on May 31, 2016. On September 11, 2015 Chapter Law 253, Senate Bill 191, took effect modifying RSA 21-I:17 to include provisions to allow the use of the State's procurement card contract by the legislative and judicial branches or any city, town or other non-state entity which is an employer as defined by RSA 100-A:1, IV. The provision allows the State to combine procurement card spend volumes with participating entities in order to realize a higher tier of rebate percentages.

Each participant will be required to complete its own participating addendum; however, participants are solely responsible for their association with the Contractor and the State assumes no liability between the Contractor and these entities.

Based on the foregoing, I am respectfully recommending approval of the amendment to the contract with Bank of America, N.A.

Respectfully submitted,

Vicki V. Quiram  
Commissioner

**FIRST AMENDMENT TO THE CONTRACT  
BY AND BETWEEN THE STATE OF NEW HAMPSHIRE  
THROUGH THE DEPARTMENT OF ADMINISTRATIVE SERVICES  
AND  
BANK OF AMERICA, N.A.  
CONTRACT #8001691**

This First Amendment (hereafter called the "Amendment") dated this 8<sup>th</sup> day of September 2015 by and between the State of New Hampshire acting through the Department of Administrative Services (hereinafter referred to as the "State") and Bank of America, N.A.;

WHEREAS, pursuant to an agreement (hereinafter called the "Agreement") which was approved by NH Governor and Executive Council on July 10, 2013, item #16, and set to expire May 31, 2016, FIA Card Services, N.A. a Bank of America Company agreed to provide procurement card services to the State of New Hampshire upon the terms and conditions specified in the Agreement; and

WHEREAS, pursuant to a consent to assignment approved by the Commissioner of Administrative Services on July 29, 2014, which took effect October 1, 2014, such assignment of the Agreement from FIA Card Services, N.A. to Bank of America, N.A. (hereinafter referred to as the "Contractor") was conditioned upon Contractor having assumed full responsibility for the performance of the entire aforementioned Agreement, including but not limited to, any and all obligations and liabilities under the Agreement for the full term of said Agreement; and

WHEREAS, pursuant to Section 18 of the Agreement, the Agreement may be amended only by a written instrument executed by the parties thereto and only after approval of such amendment by the Governor and Executive Council; and

WHEREAS, the Contractor and the State wish to amend the Agreement to allow the use of the contract by the legislative and judicial branches or any city, town or other non-state entity which is an employer as defined by RSA 100-A:1, IV; and

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties hereto do hereby agree as follows:

1. Delete in its entirety Form Number P-37, item 1.3 Contractor Name and substitute the following:  
  
1.3 Bank of America, N.A.
2. Amend Exhibit A, **AGREEMENT FOR PROCUREMENT CARD SERVICES**, 3. **SERVICES** to include:

**3.11 Eligible Participants.** The legislative and judicial branches or any city, town or other non-state entity which is an employer as defined by RSA 100-A:1, IV, are eligible to participate under this contract whenever aforementioned entities so desire, subject to the approval of the Division of Procurement and Support Services. These entities are autonomous and may participate at their sole discretion. In doing so, they

are entitled to the terms and conditions established under the contract. Furthermore, any aforementioned entity shall have its purchase volume combined with that of State to increase the overall benefit of rebates for the State and eligible participants. However, participants are solely responsible for their association with the Contractor. The State of New Hampshire assumes no liability between the Contractor and any of these entities.

**3.12 Participating Addendum.** Each participant will complete a participating addendum supplied by the Contractor. A copy of said addendum, after being executed by the participant and the Contractor, will be maintained with the State.

- A participating addendum shall be executed by the Contractor and the individual participant desiring to use the contract.
- A participating addendum allows for each participant to add terms and conditions that may be unique to their entity. For example, payment grace days and billing cycle days may vary with each participant.
- The participant and the Contractor shall negotiate and agree upon any additional terms and conditions prior to the signing and execution of the participating addendum.

**3.13 Participant Reports.** Contractor shall send the State semi-annual (by June 30<sup>th</sup> and December 31<sup>st</sup>) reports containing the following information:

- A list of entities participating in the State contract; and
- The volume of purchases of each participant; and
- The annual rebate for each participant; and
- The added rebate benefit amount that each participant receives as a result of participating in the State contract.

3. Amend Exhibit B, **PRICING AND PAYMENT**, III. US SCHEDULE OF REBATES, REBATE Calculation and PAYMENT to include:

Eligible participant and State annual purchasing volumes shall be combined to determine rebate tier. The annual rebate amount for each participant shall be calculated based off each individual entity's purchasing volume multiplied by the rebate basis points that corresponds to the rebate tier of the combined purchasing volume of the State and all participants. Rebate basis points are determined, not only according to combined purchasing volume of all participants and the State, but also according to the number of billing cycle days and payment grace days (see contract rebate table) agreed upon by Contractor and participant. Cycle days and payment grace days may vary for each participating entity according to participating addenda between Contractor and eligible participant. Participants shall receive 100% of the added rebate benefit of participating in the State contract.

4. Except as specifically amended herein, all other provisions of the Agreement, approved by Governor and Executive Council on July 10, 2013, Item #16, shall remain in full force and effect.

**BANK OF AMERICA, N.A.**

By: Tina Schwartz  
Tina Schwartz  
(Print Name)

Title: Senior Vice President

Date: 9/8/15

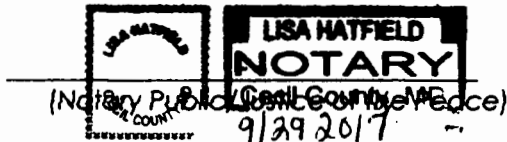
**NOTARY PUBLIC/JUSTICE OF THE PEACE**

On the 8<sup>th</sup> day of September, 2015  
There appeared before me, the state and  
county foresaid a person who satisfactorily  
identified himself as

Lisa Hatfield  
Lisa Hatfield

And acknowledge that he executed this  
document indicated above.

In witness thereof, I hereunto set my hand  
and official seal.



My commission expires:

Sept 29, 2017  
(Date)

**STATE OF NEW HAMPSHIRE**

By: Vicki V. Quiram  
Vicki V. Quiram  
(Print Name)

Title: Commissioner  
Department of Administrative Services

Date: 9-25-15

**OFFICE OF THE ATTORNEY GENERAL**

By: Nancy J. Smith  
Nancy J. Smith  
(Print Name)

Title: S. Asst. Attorney General

Date: 9/25/2015

The foregoing contract amendment was  
approved by the Governor and Executive  
Council of New Hampshire on

Signed: \_\_\_\_\_

(Print Name)

Title: \_\_\_\_\_

16 DM



# State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES

OFFICE OF THE COMMISSIONER

25 Capitol Street - Room 120

Concord, New Hampshire 03301

LINDA M. HODGSON  
Commissioner  
(603) 271-3201

JOSEPH B. BOUCHARD  
Assistant Commissioner  
(603) 271-3204

June 19, 2013

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

## **REQUESTED ACTION**

Authorize the Department of Administrative Services, Bureau of Purchase and Property, to enter into a contract with FIA Card Services, N.A., a Bank of America Company (Vendor No. 203997), for a three year contract, for the administration of a Procurement Card (P-Card) program in the capacity of an intermediary and administrator for the purchase and financial processing of low dollar purchases. The contract term shall be effective upon Governor and Council approval through May 31, 2016.

Payment for this contract is derived from proceeds from the service, funded provided through individual agency expenditures, for the direct low dollar purchases, none of which shall be permitted unless there are sufficient appropriated funds in a specific Accounting Unit to cover the expenditure.

## **EXPLANATION**

State agencies are currently utilizing field purchase orders (FPOs) to make low dollar purchases of \$500.00 or less. This contract was sought in order to achieve efficiencies related to centralizing financial monitoring of low dollar purchases, and to take advantage of cost savings in the form of sale volume rebates.

On February 6, 2013, the Bureau of Purchase and Property issued a request for proposal for Procurement Card services. Twenty three firms received direct notification of this solicitation, public notice was provided through the New Hampshire Union Leader and the request for proposal was posted on the Bureau of Purchase and Property website. On March 5, 2013, four compliant proposals were received from the FIA Card Services, N.A., RDS Citizens, TD Bank, and US Bank.

The scoring was based upon the areas of: Price Schedule (65%), Qualifications, Experience and Resources (20%), and Technical (15%). Based on the foregoing, the proposal submitted by FIA Card Services, N.A. received the highest ranking score and was accepted by unanimous vote of the evaluation team members. The evaluation scoring sheet and biographies of the evaluation team are attached.

This will be the first contract the State has established for P-cards. As a result, the P-card program will initially be piloted through the Department of Transportation. Upon the successful completion of the pilot, the program will be implemented statewide. It is envisioned that the P-card program will provide significant benefits for all state agencies and will improve the efficiency and effectiveness of processing and monitoring low dollar expenses for the State of New Hampshire.

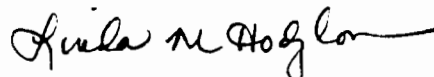
The State shall also receive semi-annual individual rebate checks based on the expenditures of the using agencies. The rebates shall be based on the following schedule. During the pilot stage, it is anticipated the annual spend to be between \$2 mil - \$2,999,999 with a 30 day payment cycle of transactions and 20 day grace period after the cycle has ended. As a result throughout the pilot phase the State foresees receiving a 1.04% rebate, as circled below. As the State moves forth with this contract, we expect to decrease the cycle and grace days to enhance the rebates.

State of New Hampshire		Cycle days Grace days	7	14	14	30	30	30	30
Annual USD Card Volume Tiers			3	3	7	3	7	14	20
Excludes Large Ticket			REBATE BASIS POINTS						
\$2,000,000	\$2,999,999		123	121	118	115	113	108	104
\$3,000,000	\$4,999,999		133	131	128	125	123	118	114
\$5,000,000	\$9,999,999		143	141	138	135	133	128	124
\$10,000,000	\$14,999,999		153	151	148	145	143	138	134

The vendor's income, and incentive for performing the above referenced services, is derived from proceeds received by the investment of funds they receive from their customers and invest prior to the processing of payments; Bank of America is one of the largest Banks in the United States and as such said proceeds can be significant.

The Department of Administrative Services requests the approval of this contract.

Respectfully submitted,



Linda M. Hodgdon  
 Commissioner


Subject:

## AGREEMENT FOR PROCUREMENT CARD SERVICES

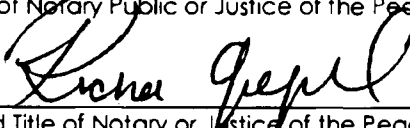

The State of New Hampshire and the Contractor hereby mutually agree as follows:

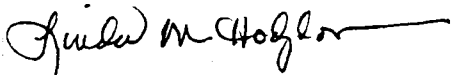
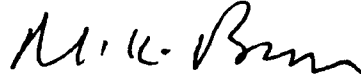
### GENERAL PROVISIONS

#### 1. IDENTIFICATION.

1.1 State Agency Name State of New Hampshire Administrative Services		1.2 State Agency Address State House Annex, Room 102 25 Capitol Street Concord, NH 03301	
1.3 Contractor Name FIA Card Services, N.A., a Bank of America company		1.4 Contractor Address 10 Mall Road, Burlington, MA 01803	
1.5 Contractor Phone Number: 781-238-0469	1.6 Account Number Account depends on using agency	1.7 Completion Date 5/31/2016	1.8 Price Limitation \$0.00 See exhibit B
1.9 Contracting Officer for State Agency Michael Connor		1.10 State Agency Telephone Number (603)-271-6899	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Francis J. Dinnane, Senior Vice President	
1.13 Acknowledgement: State of <b>MA</b> , County of <b>Middlesex</b>			

On **JUN 3, 2013**, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.

1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]	
1.13.2 Name and Title of Notary or Justice of the Peace <b>RICHA GOYAL NOTARY PUBLIC</b>	

1.14 State Agency Signature 	1.15 Name and Title of State Agency Signatory Linda M. Hodgdon, Commissioner
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____	
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <b>6/21/13</b>	
1.18 Approval by the Governor and Executive Council By: _____ On: _____	

**2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block

Contractors Initials   
Date **6/21/13**

1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached AGREEMENT FOR PROCUREMENT CARD SERVICES, which is incorporated herein by reference and attached as Exhibit A ("Services").

### **3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.** Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

### **5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

### **6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

Contractors Initials  
Date

7/25/25  
6/3/13



## **7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

## **8. EVENT OF DEFAULT/REMEDIES.**

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.3 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

## **9. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.**

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

**10. TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

Contractors Initials *AS* 3 of 25  
Date *6/3/13*

**12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

**13. INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

**14. INSURANCE.**

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("Workers' Compensation").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

Contractors Initials  
Date

4 of 25  
JST  
6/5/13

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.** This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent and no rule of construction shall be applied against or in favor of any party.

**20. THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

**21. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**22. SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

**23. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**24. ENTIRE AGREEMENT.** This Agreement and its corresponding attachments, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

Contractors Initials

Date

5 of 35  
12/1/22

EXHIBIT A

AGREEMENT FOR PROCUREMENT CARD SERVICES

**1. PARTIES:**

This Contract is entered into by and between the State of New Hampshire, Department of Administrative Services, (hereinafter referred to as "the State"), whose address is 25 Capitol Street, Concord, NH 03301, and FIA Card Services, N.A., a Bank of America company, (hereinafter referred to as the "Contractor"), whose address is:

FIA Card Services, N.A., a Bank of America company  
10 Mall Road  
Burlington, MA 01803

**THE PARTIES AGREE AS FOLLOWS:**

**2. EFFECTIVE DATE, DURATION**

This Contract shall take effect on May 15, 2013, or upon Governor and Council Approval of said contract, whichever is later (the "effective date"). This contract shall terminate May 31, 2016, unless terminated earlier in accordance with the terms of this contract, see Section 6 below.

**3. SERVICES**

In addition to the requirements set forth within those documents referenced in Section 15 below, and hereby incorporated by reference, the Contractor agrees to provide to the State the following services, at no cost, in support of its Procurement Card Program (the "P-Card Program"):

**3.1 Implementation plans.** The Contractor shall provide an implementation plan inclusive of dates and times for the major milestones enabling a successful implementation of the initial P-Card Program, within ten (10) business days of the effective date of the contract, for the start of the pilot on or before July 15, 2013. Such deliverables shall include:

- Develop and test Interface files
- Set up accounts and State hierarchy structure
- Training program
- Go Live

The Contractor shall also assist in the design of the roll out plan for the remaining of the agencies.

**3.2 Account Management.** The Contractor shall provide administrative account management in support of the P-Card Program by appointing an account(s) manager who shall assume overall responsibility for the coordination of all contract issues.

**3.3 Customer Support.** The Contractor shall provide customer support service to all P-Card Program accounts and users to resolve problems, answer questions, deal with lost or stolen cards, and support in general all aspects of the Program. At a minimum, the customer support service must be provided by skilled technicians who are proficient in

Contractors Initials

Date

6 of 75  
12/1/12

the English language and include a toll free telephone line for assistance on a 24-hour-a-day, 7-day-a-week basis. In addition, Contractor shall provide direct telephone access to account representatives for inquiries involving accounts, billings, and all technical support questions that arise during the course of a regular business day between the hours of 8 a.m. to 5 p.m., Monday through Friday.

**3.4 Training.** The Contractor shall provide training and associated materials for State staff that details the use of P-Card Program and/or account controls and assists the relevant staff and/or agencies in developing P-Card Program restrictions and controls. This training must be provided upon request by the State, and, at a minimum, at contract implementation and then annually during the entire term of the contract. In addition, Contractor shall notify the State and provide training any time there is a major software upgrade.

At a minimum training shall include:

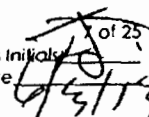
- How to build an account (or accounts) to meet the State of New Hampshire's needs;
- Basic card functionality;
- How to use the card at the point of sale device (provide instructions and pictures);
- Card maintenance: a) add a card, b) edit a card, c) replace a card;
- Report builder: a) reporting options and functionality, b) reporting issues with merchants;
- Real-time transaction history: a) real-time authorizations and declines, b) decline reasons in real-time to assist with cardholders issues; and
- Understanding invoicing and billing.

The Contractor shall provide all training via webinars, however other methodologies and delivery channels shall also be available to the State, upon request:

- Instructor Led Training (ILT) – via onsite and/or web-based conference with live facilitators. All live training shall be conducted in locations designated by the State.
- Printed (hard-copy) training materials; and

**3.5 Management Reports.** The Contractor shall provide the State with the capability to, through utilization of the Contractor's website, generate reports throughout the duration of the contract. These reports shall be available in an electronic format compatible with Microsoft Office products and accessible to state agencies from the Contractor's software system. The Contractor shall make representatives available over the phone or in person to work with the State in tailoring reports to meet its needs. At a minimum reports shall be capable of conveying the following data:

- Transaction dates
- Customer ID or Cardholder Name
- Card #
- Total transaction amount
- Merchant
- Disputed items;
- Past due items;
- Total dollars purchased;
- Total transactions;
- Total number of cards;
- Total number of active cards;

Contractors Initials:  of 25  
Date: 6/5/13

- Average dollars for all transactions;
- Rebates;

Reports shall also be sorted and secured at roll up capabilities at all levels, for at least the following entities:

- Cardholder
- Cardholder's Bureau Level;
- Cardholder's Division Level;
- Agency Level;
- Agency P-Card Program Administrator Level;
- State Contract Manager Level;

**3.6 Online Account Management.** The Contractor shall provide the State with the ability to perform the following account management functions through the Contractor's website:

- Ability to add, activate or delete Personal Identification Numbers ("PINs") in real-time
- Ability to easily add or delete/cancel/deny cards
- Ability to control the limits as well as set restrictions on purchases
- Ability to access transaction data as it posts in real time

**3.7 Card Services.** The Contractor shall provide the following services at a minimum:

- a. Toll-Free Telephone.** The Contractor shall provide a toll-free telephone number for cardholder/account support with 24-hour availability;
- b. Website.** The Contractor shall provide a website for problem technical issues and problem solving;
- c. Off-site Storage of Data.** The Contractor shall provide, at its location, complete and secure data storage for all State card and transaction information. The Contractor shall provide electronic archival data for each account as requested. The Contractor shall maintain a comprehensive backup and disaster recovery plan for State card data;
- d. IT Support.** The Contractor shall provide information technology (IT) support by trained and experienced IT personnel;
- e. On Demand Data Access.** The Contractor shall provide, as requested, complete and separate card and transaction information. In addition, the Contractor shall provide complete documentation of table structure, relationships, etc., of database so that the data can be uploaded to a local database to allow for ad hoc queries in order to satisfy internal and external audit requirements;
- f. Fraud/Loss Provisions and Fraud Security Notification System.** The Contractor shall monitor and identify suspect cardholder transactions, including reports of declined transactions by account and shall provide a fraud security notification system that mitigates unauthorized or irregular card use;
- g. Third Party Services.** The Contractor shall provide documentation detailing all third party dependencies, including processes that are used by its system.

**3.8 Technical Support.** The Contractor shall provide all necessary technical support to implement the P-Card Program within a mutually agreed to timeframe. The Contractor shall provide all necessary technical support over the course of the contract to resolve problems or make any P-Card Program adjustments that become necessary due to any information technology changes or advances, etc. Technical support

Contractors Initials  
Date

8 of 25  
6/3/13

personnel must be adequately trained in their area of support and be proficient in the English language.

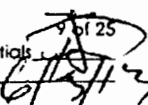
**3.9 Software/Technology.** The Contractor's proposed software must be browser-based, robust, functional, easily navigable, and secure. It shall allow for functional and easy management of cardholder accounts and comprehensive reporting. The Contractor's system shall be able to provide the interfaces and electronically feed all charges/information into the State of New Hampshire's Enterprise resource planning system, Info/Lawson and/or agency specific softwares as requested. In addition, the Contractor's software must be capable of adapting to any changes to the State's systems so that the P-card interface can continue to generate transactions and provide data feeds in any new system adopted by the State. The Contractor's software and technology, at a minimum, must provide the following features:

- a. **Browser-based Access** to Contractor's purchasing card software must be through a standard browser (IE5 or greater) with a minimum of downloaded additions;
- b. **Security Features** to ensure secure data transfer as well as secure storage of cardholder, card number, and transaction information on file servers. Software shall provide means for users to establish and change their own passwords;
- c. **Security of Transaction Data, Card Numbers and Process Flow;**
- d. **Support for Real Time Access and Changes**, including account and hierarchy changes;
- e. **Archiving Features;**
- f. **Management Capabilities for Flat File Transfer** to the various state systems;
- g. **Process to Feed/Provide Access** to the card data;
- h. **Global Program Defaults, Defaults by Agency**, and the process of overriding these defaults for individual cards;
- i. **Standard Reporting Capabilities;**
- j. **Month-End and Customer Reporting Capabilities** as described in section 3.4
- k. **Standard Output Format for Reports**, e.g., pdf, Excel, Access, WORD, or other text formats; and
- l. **Documentation** to the Contractor's technology and services provided, including, but not limited to, the database structures, data dictionary, and online availability.

**3.10 P-Card Product.** Contractor shall produce, customize, emboss and distribute via regular mail (or overnight upon request) the cards for the P-Card Program per the State's requirements. Plastic card protectors must also be provided with the request of a card. P-cards shall be furnished at no cost to the State. Within thirty (30) days of contract execution the State's Liaison shall provide an initial list of the cards needed to support the program. Over the course of the contract the State Liaison shall have authority to order additional/replacement cards on an as needed cost-free basis.

At minimum cards shall meet the following requirements:

- a. **Security and Controls.** The Contractor shall have in place security precautions, such as electronic pins and other controls that shall ensure the security of the purchasing card transactions. Contractor shall provide adequate security within the software package to mitigate fraud and misuse.
- b. **Spending and Transaction Limits.** The P-card shall provide spending limits by individual purchase, daily and cycle limits, and transaction count and have the provision to block by merchant category codes as determined by the State's program administrator or their designee(s). Both the Contractor and the State shall monitor the limits.

Contractors Initials   
Date 6/15/11

- c. **No Annual Fee/No Transaction Fee.** The Contractor shall not charge an annual fee for cards issued under the contract; there shall be no transaction costs charged to the State.
- d. **No Cash Advances.** The Contractor shall not allow cash advances from Automatic Teller Machines ("ATMs") or from any financial institution.
- e. **No List Sale or Distribution.** The Contractor shall not sell or distribute a list of participating agencies/institution addresses, cardholder names and addresses, or any other information to any person, firm, or other entity for any purpose; excluding, but not limited to, the associations, third-party service providers, merchants, and merchant processors, during the course of normal business operations.
- f. **Guaranteed Time for Issuance of Card by New Cardholder.** The Contractor must issue a card within seventy two (72) hours to a new cardholder after a valid and properly completed application is received by the Contractor. Requests/issuances of new cards are to be handled through the State's Liaison.
- g. **Process and Time Required for Issuance of Renewal/Replacement Cards.** The Contractor shall promptly issue renewal cards, at no cost, prior to a card's expiration date. Replacement cards for lost or stolen cards shall be issued at no cost and shall be issued within seventy-two (72) hours of notification of the lost/stolen card. Requests/issuances of replacement cards are to be handled through the State's Liaison.

#### **4. ACCESS AND RETENTION OF RECORDS**

**4.1 Access to Records.** The Contractor shall provide the State, or any authorized agents, access to any records necessary to determine contract compliance.

**4.2 Retention Period.** The Contractor shall create and retain records supporting the P-Card Program for a rolling period of seven years from the date of transaction or the conclusion of any claim, litigation or exception relating to this contract taken by the State or a third party."

#### **5. SUBCONTRACTING**

In addition to the provisions of Section 12 of the P-37 related to assignment and subcontracting of contractual rights and obligations, the Contractor shall be responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. No contractual relationships exist between any subcontractor and the State.

#### **6. CONTRACT TERMINATION**

**6.1 Bankruptcy or Receivership.** Voluntary or involuntary bankruptcy or receivership by the Contractor may be cause for termination at the election of the State.

**6.2 Material Breach.** The non-breaching party may terminate this contract in whole or in part after thirty (30) days' written notice, as described in the Form P-37 General Terms and Conditions Section 8, in the event of the breaching party's failure to perform a material obligation of this contract.

Contractors Initials  
Date

of 25  
6/21/13



**6.3 Written Notice by State.** The State may terminate this contract in whole or in part at any time by giving the Contractor thirty (30) days' written notice.

## **7. LIAISON AND SERVICE OF NOTICES**

All project management and coordination on behalf of the State shall be through a single point of contact designated as the State's liaison. Contractor shall designate a liaison that shall provide the single point of contact for management and coordination of Contractor's work. All work performed pursuant to this contract shall be coordinated between the State's liaison and the Contractor's liaison.

Melanie Carraher shall be the liaison for the State:

Melanie Carraher, Purchasing Agent, Department of Administrative Services  
(P) 603-271-3146  
(F) 603-271-7564  
E-mail Address: [Melanie.Carraher@nh.gov](mailto:Melanie.Carraher@nh.gov)

Jay Dinneen shall be the liaison for the Contractor (FIA Card Services, N.A., a Bank of America company).  
10 Mall Road  
Burlington, MA 01803  
781-238-0469  
[Francis.J.Dinneen@baml.com](mailto:Francis.J.Dinneen@baml.com)

The State's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints shall first be directed to the liaison.

## **8. MEETINGS AND REPORTS**

**8.1 Technical or Contractual Problems.** The Contractor is required to meet with the State's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the contract, at no additional cost to the State. Meetings shall occur as problems arise and shall be coordinated by the State. Failure to participate in problem resolution meetings or failure to make a good faith effort to resolve problems shall result in termination of the contract.

**8.2 Progress Meetings.** During the term of the contract, the State shall plan and schedule progress meetings with the Contractor to discuss the progress made by the Contractor and the State in the performance of their respective obligations. These progress meetings shall include any personnel involved in the performance of the contract, as required. At each such meeting, the Contractor shall provide the State with a written status report that identifies any problem or circumstance encountered by Contractor, or of which Contractor gained knowledge during the period since the last such status report.

## **9. TRANSITION ASSISTANCE**

If this contract is not renewed at the end of this term, or is terminated prior to the completion of a project, or if the work on a project is terminated, for any reason, the Contractor shall provide, subject to section 15, for a period up to ninety (90) days after the expiration or termination of this project or contract, all reasonable transition

Contractors Initials  
Date

of 25  
6/21/13

assistance requested by the State, to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees ("transition services"). The State shall notify Contractor of any request for transition services, including any request to permit cards or accounts to be used for a limited transition period and the State shall be liable for the funds charged to said cards or accounts, provided said total does not exceed the Price Limitation set forth in Section 1.8 of the Form P-37 above, incurred during such transition period in accordance with the terms of this contract. Such transition services shall be deemed by the parties to be governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition services. The State shall pay the Contractor for any resources utilized in performing such transition services at the most current rates provided by the contract. If there are no established contract rates, then the rate shall be mutually agreed upon.

#### **10. CONTRACTOR PERFORMANCE ASSESSMENTS**

The State shall conduct assessments of the Contractor's performance. The Contractor shall have the opportunity to respond to any poor performance assessments. One or more poor performance assessments may be considered an event of default subject to the provisions of the Form P-37 General Terms and Conditions, Section 8.

#### **11. TRANSACTION DISPUTE PROCESS**

The State shall contact the Contractor in the event of any erroneous charges and other disputed items immediately upon discovery of the potential error(s). Disputed items shall be documented in writing to the Contractor; the State shall submit disputed charges by completing/submitting the Contractor's Dispute Processing form which can be accessed on the Contractor's website. Upon notification of a dispute, the Contractor shall investigate the dispute and process such dispute through Visa in accordance with the Visa rules, as this may be changed from time to time. Pending the outcome of the investigation, in accordance with the Visa rules, the State is not liable for the disputed charge pursuant to the Visa rules. If the item is found to be a valid charge, however, the State shall be notified in writing and payment shall be due on the next statement. If the item is found to be an invalid charge pursuant to the Visa rules and the State has already processed payment, the Contractor shall credit the agency's account. All charges have to be disputed within sixty (60) days of the date on the Statement on which the disputed or allegedly incorrect transaction first appeared.

#### **12. LOST/STOLEN CARD PROCESS**

**12.1 Notification.** If a Card is lost, stolen or remains in the possession of a person who has ceased to be an authorized cardholder, the State, through its liaison or its individual cardholders, must immediately notify Contractor's 24 hour a day 7 day a week customer service by phone at 800-822-5985 option 2 and within 48 hours must confirm such initial notification in writing by fax to 704-719-5423, or via the Assigned Team Servicing Advisor's email address.

**12.2 Confirmation of Notification.** Contractor shall issue a written notice to the State by either by fax or e-mail to confirm the date and time of the State's initial notification regarding the card loss, theft or potential misuse by an unauthorized user.

**12.3 Return of Cards if Found.** All cards reported under 12.1 must be returned to Contractor if they are subsequently found by, or returned to, the State.

Contractors Initials

Date

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for the card transactions made with that card after the date and time of the initial notification set forth in the Contractor's confirmation.

**12.5 Requests for Information/Replacement of Cards.** The State shall give Contractor all the information in its possession as to the circumstances surrounding the loss, theft or misuse of the reported card and take all reasonable steps to assist Contractor to recover any missing or stolen card. Contractor shall issue replacement cards in accordance with Section 3.9(h) above.

### **13. DISPUTE RESOLUTION**

Prior to the filing of any formal proceedings with respect to a dispute (other than an action seeking injunctive relief with respect to intellectual property rights or Confidential Information), the party believing itself aggrieved (the "Invoking Party") shall call for progressive management involvement in the dispute negotiation by written notice to the other party. Such notice shall be without prejudice to the invoking party's right to any other remedy permitted by this Contract.

The following table sets forth the responsible parties for each level of the dispute resolution and the corresponding time allotment for resolution at each level.

Level	The Contractor	The State	Cumulative Time Allotted
Primary	Tina Schwartz	Robert Stowell	5 business days
Secondary	Lawrence Address	Michael Connor	10 Business days

The allotted time for the first level negotiations shall begin on the date the invoking party's notice is received by the other party.

The foregoing dispute process shall not apply to disputes involving Card transactions or merchant disputes. All Card transaction disputes and merchant disputes shall be governed by and subject to Section 11.

### **14. CREDIT LIMIT, DEFAULT BY STATE**

Contractor will establish a credit limit for the Account which is subject to periodic review and adjustment by Contractor in its sole discretion. State shall repay Contractor for all credit extended by Contractor and shall not allow its unpaid balance, including unbilled transactions, fees and other charges on the Account, to exceed its credit limit at any time. In the event of State's failure to comply with the credit limit and payment terms provisions hereof, Contractor shall have the right to immediately suspend the Account until such breach is cured.

### **15. SCOPE, AMENDMENT AND INTERPRETATION**

**15.1 Contract.** This Contract consists of the following documents ("Contract Documents") in order of precedence:

- a. State of New Hampshire Terms and Conditions, General Provisions Form P-37
- b. Exhibit A Agreement for Procurement Card Services
- c. Exhibit B Pricing and Payment Schedule
- d. Exhibit C Special Provisions
- e. Exhibit D State of NH RFP number 1510-13

Contractors Initials  
Date

10/25  
[Signature]

f. Exhibit E Treasury Services Terms and Conditions

**15.2 Entire Agreement.** The documents referenced in 15.1 above contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties, subject to New Hampshire Governor and Council Approval.

Contractors Initials  
Date

11/25  
[Signature]

## EXHIBIT B

### PRICING AND PAYMENT

Payment shall be remitted to the address set forth in Section 1.4 of the Form P-37 unless otherwise directed by the Invoice.

**1. Billing and Payment.** The Contractor shall be required to furnish the State a complete itemized electronic invoice for all P-Card transactions for each of the billing accounts established within an agency and include the following minimum requirements on a monthly basis:

- P-Card number;
- Item detail, if available from merchant;
- Merchant;
- Transaction date;
- Charge; and
- Transaction number.

The invoices shall be sent promptly after the end of each billing cycle. The Contractor may receive separate payment(s) from each billing unit or a consolidated payment. The Contractor shall also be required to receive their payment(s) electronically. The State shall pay, within the agreed payment terms, from receipt of properly documented invoices and charged any fees for the processing of transactions.

The State, by law, cannot be obligated to pay for goods and services which have not been received and accepted, and therefore cannot be penalized for deferred payment of transaction that fall within these categories. Under these circumstances, interest, late charges, and number of days past due shall not apply.

Any statement that cannot be substantiated by documentation shall not be paid until sufficient documentation has been provided to support the charges being billed.

**2. Fees.** The State shall not pay the following fees or charges:

- Annual membership fee;
- Annual card fee;
- Transaction fee;
- Implementation fee;
- Training fee;
- Electronic delivery;
- Reporting (standard or customized, paper or electronic);
- Consulting fee;
- IT software and hardware costs;
- Penalty cost for failure to achieve dollar threshold on annual basis; and
- Any other fees/charges not previously mention that may apply to the card program.

**3. Billing Disputes.** Billing disputes concerning particular transactions must be communicated to the Contractor in accordance with Section 11.

**4. Trailing Transactions.** Upon cancellation of an account, the State and/or cardholder need to cancel the billing of all reoccurring transactions to the account.

**5. Liability.** State is solely liable to Contractor for all authorized and properly billed transactions. The State shall not be liable, however, for charges (for a card or account) that occur after the State notifies Contractor of the loss, theft or possible unauthorized use of a card in accordance with Section 12.

**6. Rebates.** The rebates earned by the State shall be based on the total combined P-Card spend from all State government branches (Executive, Legislative, and Judicial). The rebate schedule shall reflect the

Contractors Initials  
Date

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6/3/19

leveraged power of the combined entities, while at the same time accounting for, reporting on, and providing rebates to each State government branch (Executive, Legislative, and Judicial).

For the purpose of calculating its earned rebate, the State reserves the right and intends to combine any and all eligible spend from any State entity, Executive, Judicial, Legislative. Any variables necessary for rebate calculation shall be clearly defined. The rebate period shall be clearly defined with beginning and ending period dates identified as either contract, calendar, or fiscal year dates.

Relevant rebate variables shall be verifiable, accurate, and reproducible by the vendors reporting system at a point in time (cut-off time) agreed to by the State and the Contractor.

The Contractor shall notify the State at least 30 days in advance of the date of the rebate calculation.

The Contractor shall provide the State with a mid-year rebate check based on the spend to date and with the rebate calculation analysis. The Contractor must provide a final year-end rebate check and calculation analysis based on actual total combined spend.

The 'Schedule of Fees, Charges, and Rebates' shall be in accordance with the following tables:

Contractors Initials  
Date

10 of 26  
[Signature]

# 1 GENERAL PRODUCT FEES AND CHARGES

General Fees	
Annual Card Fee	Waived
Logo Fee: (Choose one color from the following six colors: 1) black; 2) white; 3) blue; 4) red; 5) green; 6) burgundy).	Fee Waived
Unique Custom Design Fee	As quoted
Executive Cards (Travel and Corporate One Card only)	Fee Waived (maximum of 10 Cards)
Travel Rewards (Travel and Corporate One Card only)	Not Available
Return Payment Fee	Waived
International Transaction Fee	Up to 1% of USD amount
Expedited Card Delivery Fee	<ul style="list-style-type: none"> <li>&gt; U.S. Mail/Bulk Mail (Default) = No Fee</li> <li>&gt; Overnight = NA</li> <li>&gt; 2-day = NA</li> </ul>
Over limit Fee.	Waived

## Corporate Billed Fees and Finance Charges – LCNAC515

The State will choose the billing cycle and the date of payment after the bill is issued. The State will set up the Bank's vendor code payment terms in NH First (Lawson) to 'due upon receipt', therefore making late payments an extremely unlikely event. In the event of a late payment, all cards will be suspended. The Contractor shall provide five business days notice to the Contract Manager before any card suspension. Additionally the Contractor will have the option to receive the monthly payment via ACH in order to expedite receipt of payment.

Late Fee (assessed 3 days after cycle date when account is past due 1 - 30 days) (Assessed as a % of the past due amount for the current month's charges and any unpaid balances when the account is past due 1-30 days)	NA
Periodic Finance Charge Fee (Accrue on all balances that remain unpaid for 30 or more days from initial billing)	NA
Cash Advance Fee	Not Available

If you make a Transaction in currency other than U.S. dollars, Visa or MasterCard will convert the charge or credit into a U.S. dollar amount. The conversion rate on the processing date may differ from the rate on the date of your Transaction.

The exchange rate used by Visa will either be (i) a rate selected by Visa from a range of rates available in wholesale currency markets for the applicable central processing date, which rate may differ from the rate Visa receives, or (ii) the government-manipulated rate in effect for the central processing date. MasterCard will use an exchange rate of either (i) a wholesale market rate or (ii) a government-manipulated rate. We may add a 1% fee to the U.S. dollar amount of any Transaction that is made in foreign currency or that is made outside the United States even if you pay in U.S. dollars (the "International Transaction Fee").

Contractors Initials *[Signature]*

Date *6/3/13*

## II. ELECTRONIC PRODUCTS SCHEDULE OF FEES AND CHARGES

Reporting and Data	
Works	Fee Waived
Payment Center	Fee Waived
Data File Feeds to Customers/Third Parties	
➤ Statement Billing File	
➤ EDI 811	
➤ Travel Agency File	Fee Waived
➤ Visa Commercial Format (VCF)	
➤ MC Commercial Data Format (CDF)	
Custom Reports	
Custom Development and/or Maintenance	N/A
Works Receipts Imaging	
Not Available	

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Contractors Initials:                       
Date: 6/3/13



### III. US SCHEDULE OF REBATES

(Cycle and Grace Days)

#### REBATE DEFINITIONS

Capitalized terms, which are not defined in this Section III have the meanings ascribed in the applicable Card Agreement.

"Calculation Period" means, initially, the fourteen (14) month period commencing on the first day of the month after Bank of America receives a fully executed original of the Agreement and thereafter, each subsequent twelve (12) month period.

"Credit Losses" means any balances which remain unpaid by Company, Participant or a Cardholder six (6) billing periods after the closing date on the Billing Statement in which the Transactions, fees and charges appeared for the reporting period.

"Cycle Days" means the number of days from the start of the billing period to the Billing Statement date.

"Grace Days" means the number of days after the Billing Statement closing date within which payment is due.

"Large Ticket Interchange Transactions" means certain transactions which, based upon the type of merchant and/or transaction dollar amount, are subject to a Visa or MasterCard large ticket interchange program, as determined by and amended by Visa and MasterCard from time to time.

"Rebate Multiplier" means the multiplier corresponding to the Standard Transactions volume, Cycle Days and Grace Days as set forth in the Standard Transactions Rebate Multiplier Table below.

"Standard Transactions" means the Transaction Volume not meeting the criteria for Large Ticket Interchange Transactions.

"Total Credit Losses" means, for any Calculation Period, the sum of (i) Bank of America's Credit Losses on the Card Accounts for the Calculation Period and (ii) Bank of America's Credit Losses on the Card Accounts for any previous Calculation Period which have not been applied against any rebate payable under the Agreement.

"Transaction Volume" means, for any Calculation Period, the total dollar amount of purchase Transactions made with the Cards during the Calculation Period, less the total dollar amount of: returned purchases, credit adjustments, Transactions resulting from Unauthorized Use, and disputed charges. Cash advances and Convenience Checks are not included in Transaction Volume.

#### REBATE CONDITIONS

During the Calculation Period, the program must meet all of the following conditions in order to qualify for a rebate:

- i. Company and Participant pay Bank of America the total amount of the new balance shown as due on each Billing Statement on or before the Payment Due Date; and
- ii. Neither Company nor Participant has breached any obligation, covenant, representation or warranty contained in this Agreement; and
- iii. Calculation Period Transaction Volume meets the minimum volume requirement as set out in the Standard Transactions Rebate Multiplier Table; and
- iv. The Agreement has not been terminated by either party prior to the completion of a rebate calculation period.

Contractors Initials AT 10 of 26  
Date 6/10/13

### REBATE CALCULATION AND PAYMENT

In the event that all of the above Rebate Conditions are met with respect to the Calculation Period, Bank of America will pay a rebate to Company, which shall be calculated at the end of the Calculation Period in accordance with the Standard Transactions Rebate Multiplier Table and using the following equation:

$$((\text{Transaction Volume for Standard Transactions} \times \text{Rebate Multiplier}) + (\text{Transaction Volume for Large Ticket Interchange Transactions} \times \text{forty basis points (0.40\% or 0.004)}) - \text{Total Credit Losses})$$

The Standard Transactions rebate multiplier will be determined based on the Calculation Period cumulative total of all Standard Transactions volume, including Standard Transactions volume from travel rewards participants, however, Standard Transactions volume that is applied to travel rewards points will not be included in the rebate payout calculation. This paragraph is applicable for products with Travel Rewards only.

Payment of any rebate will be made by ACH credit or other means determined by Bank of America, within ninety (90) days following the end of the Calculation Period. No rebate will be paid to any Participant.

Should one or more of the above Rebate Conditions not be met, Bank of America will be under no obligation to pay any rebate, although Bank of America may, in its sole discretion, determine to pay a rebate in an amount determined by Bank of America. Bank of America's payment of a rebate in such circumstance will in no way obligate Bank of America to pay a rebate with respect to any subsequent Calculation Period.

State of New Hampshire		Cycle days Grace days	7	14	14	30	30	30	30	30
Annual USD Card Volume Tiers			3	3	7	3	7	14	20	25
Excludes Large Ticket			REBATE BASIS POINTS							
\$2,000,000	\$2,999,999		123	121	118	115	113	108	104	100
\$3,000,000	\$4,999,999		133	131	128	125	123	118	114	110
\$5,000,000	\$9,999,999		143	141	138	135	133	128	124	120
\$10,000,000	\$14,999,999		153	151	148	145	143	138	134	130
\$15,000,000	\$19,999,999		163	161	158	155	153	148	144	140
\$20,000,000	\$24,999,999		168	166	163	160	158	153	149	145
\$25,000,000	\$34,999,999		178	176	173	170	168	163	159	155
\$35,000,000	\$49,999,999		182	180	177	174	172	167	163	159
\$50,000,000	\$74,999,999		185	183	180	177	175	170	166	162
\$75,000,000	\$99,999,999		187	185	182	179	177	172	168	164
\$100,000,000	+	198	196	193	190	188	183	179	175	

### SIGNING BONUS INCENTIVE

Bank will pay Company a signing bonus incentive as set out below, within ninety (90) days of the end of the three year contractual term of the Card program. This signing bonus is in addition to the rebates noted above. This signing bonus incentive is contingent on achievement of Year 1 Transaction Volume set out below. If the program fails to achieve the Transaction Volume target, then Company's signing bonus will be reduced a proportional amount. For example, if the Year 1 Transaction Volume is 10% below the Year 1 target Transaction Volume, then 10% of the signing bonus incentive will be deducted from the signing bonus amount when paid at the end of the three year term.

5  
10 of 26  
Contractors Initials  
Date  
6/15/13

Signing Bonus Incentive	Year One Volume Requirement	Three Year Cumulative Volume Requirement
Thirty Five Thousand Dollars (\$35,000)	Five Million Six Hundred Twenty Five Thousand Dollars (\$5,625,000)	Sixteen Million Eight Hundred Seventy Five Thousand Dollars (\$16,875,000)

If Company terminates the Agreement for convenience in accordance with the Agreement, or Bank of America terminates the Agreement for cause in accordance with the Agreement within three (3) years from the effective date of the Agreement, Company agrees that it will be paid a pro rata portion of the signing bonus incentive in accordance with the following calculation: Company will be paid one third of the signing bonus incentive for each completed year of the Agreement.

If the program fails to achieve the three year cumulative Transaction Volume requirement, then Company's signing bonus incentive will be reduced a proportional amount. For example, if the three year cumulative Transaction Volume is 10% below the cumulative Transaction Volume requirement, then 10% of the bonus incentive from the signing bonus paid by Bank of America at the end of the three year term.

Nothing in this Schedule of Fees and Charges is intended to state a term for the Agreement. For the avoidance of doubt, any period of time set forth in the Schedule of Fees and Charges applies solely to pricing terms, but only to the extent the Agreement has not been terminated as set forth in the Agreement.

Notwithstanding anything to the contrary in the Agreement or this Schedule of Fees and Charges, all fees and charges are subject to change upon 30 days prior written notice to you if an event external to Bank of America increases the cost or decreases the revenue to Bank of America (e.g., decreases to interchange revenue paid to Bank of America by a card association, increases to funding costs due to interest rate changes or deterioration in your financial condition) in connection with providing this card program to you.

Contractors Initials  
Date

2/25  
6/25/13

EXHIBIT C

SPECIAL PROVISIONS

1. Delete paragraph 4. CONDITIONAL NATURE OF AGREEMENT and replace with the following:

CONDITIONAL NATURE OF AGREEMENT. Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable. Notwithstanding the foregoing, as to charges already incurred, the State is obligated to provide payment under this contract.

2. Delete paragraph 6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY and replace with the following:

COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to review any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement. In the event that the State is undertaking such a review, the State will provide prior notice to Contractor. Any review by the State will occur during Contractor's regular business hours and will be related to the State and its transactions.

3. Delete paragraph 9. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION and replace with the following:

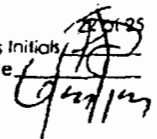
The term "Data" shall refer to all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement. The Contractor agrees to comply with all applicable state and federal laws regarding the use and disclosure of Data. Disclosure of Data, excluding cardholder data and transaction data which is disclosed in accordance with State and Federal banking regulations or other operation of applicable law, requires prior notice to the State.

4. Delete paragraph 12. ASSIGNED/DELEGATION/SUBCONTRACTS and replace with the following:

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; said consent shall not be unreasonably withheld.

5. Delete paragraph 13. SEMNIFICATION and replace with the following:

Contractors Initials \_\_\_\_\_  
Date \_\_\_\_\_

2007-25  


The Contractor shall be liable for any and all claims or penalties asserted against the Contractor, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor.

The State shall be liable for any and all claims or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the State.

Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

6. DELETE paragraph 14.3 INSURANCE and replace with the following:

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

7. There are no other special provisions.

Contractors Initials  
Date

23 of 25  
6/5/13

EXHIBIT D

STATE OF NEW HAMPSHIRE RFP 1510-13

RFP 1510-13 issued February 6, 2013 by the Department of Administrative Services, Bureau of Purchase and Property, is incorporated herein by reference.

Contractors Initials 6/15/13  
Date 6/15/13

EXHIBIT E

TREASURY SERVICES TERMS AND CONDITIONS

The Treasury Services Terms and Conditions booklet signed by the parties and dated April 7, 2007 (including user documentation and set-up forms) is herein incorporated by reference.

Contractors Initials  
Date

25 of 25  
6/5/17