



**BANK OF THE WEST**  
**BNP PARIBAS**

## **COMMERCIAL CARD AGREEMENT**

This Commercial Card Agreement (this "Agreement"), effective as of October 1, 2019 (the "Effective Date") is entered into between Bank of the West ("Bank"), a BNP Paribas Company, and Laramie County ("Company").

WHEREAS, Bank is a California chartered bank engaged in the business of providing credit cards and related services and whose principal credit card office is located at 13505 California Street, Omaha, NE 68154.

WHEREAS, Company is a government entity, duly organized and validly existing under the laws of Wyoming whose principal place of business is located at

WHEREAS, in connection with the payment of certain business expenses of Company, Company has requested that Bank issue Cards to Company and certain Employees for the purpose of business related purchases and expenses, Company and such Employees will apply for Cards, and applicable Cardholder Agreements will govern the Cards (the "Program").

NOW, THEREFORE, in consideration of their mutual promises and obligations and intending to be legally bound hereby, the parties agree as follows:

### **ARTICLE I - DEFINITIONS**

The terms below shall have the meanings set forth in this Agreement.

"Bank Manager" means an individual designated by Bank, from time to time, to be the primary contact with the Company Manager.

"Card" means a Credit Card or a Virtual Card Number issued by Bank to Company and/or an Employee.

"Cardholder" means an Employee to whom a Card is issued by Bank, regardless of whether the Employee or Company is liable on the Card.

"Cardholder Agreement" means an agreement pursuant to which a Card is issued to a Cardholder which includes without limitation the terms and conditions for obtaining credit through the use of a Card.

"Cash Advance" means a cash loan or similar transaction under a Credit Card.

"Company Credit Limit" means the maximum indebtedness that Company and all Employees may borrow under all Cards (including Cash Advances).

"Company Manager" means an individual designated by Company, from time to time, to be the primary contact with the Bank Manager.

"Corporate Billing" means Bank provides periodic billing statements for Cards to Company for Company to remit payments to Bank.

"Credit Card" means any card, plate, or other single credit device that may be used from time to time to obtain credit.

"Data Rate III Transaction" (also known as level 3 transaction) means a Transaction that is subject to enhanced data requirements defined by the applicable card network (e.g., Mastercard) where Bank receives a diminished merchant interchange rate from the applicable card network.

"Employee" means any director, officer, or employee of Company who is designated by Company to be a Cardholder.

"Employee Credit Limit" means the maximum indebtedness that an Employee may borrow under a Card (including Cash Advances).



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"Individual Billing" means Bank provides periodic billing statements for Cards to Cardholders for Cardholders to remit payments to Bank.

"Large Ticket Transaction" means a Transaction whose Transaction amount is greater than the minimum threshold defined by the applicable card network (e.g., Mastercard) where Bank receives a diminished merchant interchange rate from the applicable card network.

"Merchant Partner Program" means a program of a card network (e.g., Mastercard) in which a merchant negotiates reduced interchange for Transactions with the card network.

"Net Purchasing Volume" means the total amount of all transactions net of credits and fees posted to the Card account during the applicable measuring period minus Cash Advances on the Card account.

"Transaction" means a credit transaction under a Card and includes a Cash Advance.

"Virtual Card Number" means a value created and stored via software and linked to a number embossed and/or encoded on a Credit Card. Virtual Card Numbers will identify Bank and a Cardholder account and consist of a major industry identifier, a Bank identifier, an individual account identifier, and a check digit and that can be used in place of a Credit Card in relation to so-called "Cardholder not present" transactions, such as transactions initiated through ecommerce, telephone, mobile telephone, or mail order and any other transactions for which a tangible plastic Credit Card is not being physically swiped or dipped.

## **ARTICLE II - ISSUANCE OF THE CARDS**

**II.A.** The Program. Subject to Bank's then normal and customary underwriting criteria based on a credit evaluation of Company, upon receipt of a card request from a Company Manager, Bank will issue a Card subject to the terms and conditions of the Cardholder Agreement delivered by Bank. In all cases, Bank shall have the sole and absolute discretion on underwriting decisions. Company shall be liable on all Cards and obligations arising under or in connection with all Cards regardless of whether Company selects Corporate Billing or Individual Billing.

**II.B.** Security Interest. This section intentionally left blank.

**II.C.** Credit Limits.

**II.C.a** The Employee Credit Limit for each Card and Company Credit Limit shall be established from time to time by Bank in Bank's sole and absolute discretion based on Bank's then normal and customary underwriting criteria and Company's request. All indebtedness under all Cards shall be deemed to be indebtedness under the Company Credit Limit. Bank may, in Bank's sole discretion, increase the Company Credit Limit or an Employee Credit Limit at the request of Company, subject to Bank's then normal and customary underwriting criteria. The Employee may not request an increase in the Employee Credit Limit.

**II.C.b** If Bank reasonably believes that the prospects for performance by Company of Company's obligations under this Agreement, all Cards and Cardholder Agreements are impaired, Bank may, in Bank's sole discretion, reduce the Company Credit Limit by written notice delivered thirty (30) days prior to the effective date of the reduction in the Company Credit Limit.

**II.C.c** If, on the effective date of the reduction in the Company Credit Limit, the total outstanding liabilities owed to Bank under all Cards exceeds the new Company Credit Limit, Company will immediately pay (or cause to be paid) Bank an amount sufficient to reduce the total outstanding obligation owed to Bank under the Cards to a sum at least equal to the new Company Credit Limit, and if usage of the Cards will cause Company to exceed the new Company Credit Limit, Company shall not use the Cards and shall cause the Cardholders to cease using the Cards until such time that credit is available under the new Company Credit Limit. Nothing herein shall be construed to prohibit Bank from charging any applicable over limit fee.



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- II.C.d Notwithstanding anything to the contrary, if the approval of an application for a Card, or increase in an Employee Credit Limit, would cause the then Company Credit Limit to be exceeded, Bank shall not be obligated to issue such Card or grant the application to increase the Employee Credit Limit even if Bank's then applicable customary and normal underwriting criteria is satisfied.

### **ARTICLE III - LIMITATION OF LIABILITIES ASSUMED**

Limitation of Liabilities. Except in the case of gross negligence of Bank, or if applicable law, Cardholder Agreement, or this Agreement excuses liability on the part of Company or the Cardholder, Company, or the Cardholder, as the case may be, shall be fully liable for all Transactions and obligations arising under a Card or applicable Cardholder Agreement regardless of whether the Transaction is for business or consumer purposes. Bank shall be under no duty to investigate or inquire whether a Transaction is authorized by Company or whether the Transaction was for consumer purposes.

In the event of possible loss, theft or Unauthorized Use of a Card, Company agrees to notify Bank immediately. Company agrees to assist Bank in determining the facts and circumstances relating to any Unauthorized Use of a Card. Company will not be liable for (1) Unauthorized Use that occurs after Company notifies Bank of loss, theft, or possible Unauthorized Use; (2) a Transaction that the applicable card network determines is not the responsibility of Company or Bank pursuant to the applicable card network's chargeback program, as amended from time to time; (3) a Transaction that occurs after Company requests, during normal business hours and in accordance with the terms of this Agreement, that the Card account be closed; (4) Unauthorized Use of a stolen Card if Company reports the Card stolen via facsimile, electronic mail, or telephone as provided in this Agreement within twenty-four (24) hours after Company or any Cardholder discovers, or using reasonable care should have discovered, the theft of such Card; provided that if the Card is not reported stolen within such time frame, Company shall be liable for all charges associated with the stolen Card until the date that Company or any Cardholder notifies Bank of the theft of such Card. Notwithstanding the foregoing, any Company for which Bank issues less than ten (10) Cards shall not be liable for Unauthorized Use occurring before Company notifies Bank that exceeds the lesser of \$50 or the amount of money, property, labor, or services obtained by the Unauthorized Use. "Unauthorized Use" in this Agreement is use that did not benefit either the Company or the Cardholder and was incurred by someone who is not the Cardholder or who did not have actual, implied or apparent authority to use the Card or Card account.

For Cards not issued with the name of an individual on the Card, (a) some merchants may not accept the Card as a form of payment, and (b) Company loses charge-back rights on any fraudulent Transactions pursuant to Card association rules and policies. Therefore, Company may not prevail in any Transaction dispute process.

### **ARTICLE IV - COVENANTS OF BANK**

Bank covenants with Company as follows:

- IV.A. Bank Manager. Bank will appoint a Bank Manager who shall meet with the Company Manager as frequently as mutually agreeable but at least quarterly to discuss matters related to the Cards, Cardholder Agreements, and this Agreement. Such meetings may be conducted telephonically.
- IV.B. Employee Information. Bank shall: (a) provide to the Company Manager a copy of each of the Cardholder's periodic statement, and (b) notify the Company Manager of Bank's termination of a Card account.

### **ARTICLE V - COVENANTS OF COMPANY**

Company covenants with Bank as follows:





- V.A. Company Manager. Company will appoint a Company Manager who shall meet with Bank Manager as frequently as mutually agreeable to discuss matters related to the issuance of the Cards, Cardholder Agreements, and this Agreement. Such meetings may be conducted telephonically.
- V.B. Company's Revocation of Authority. Company must revoke the authority of any Cardholder who is no longer an Employee of Company. If Company revokes the authority of any Cardholder to use a Card, the Company Manager shall promptly notify Bank, and after a reasonable time to act on such notice, Bank shall terminate the Card account and post no Transactions to such Card account, provided that the use of the Card shall not be considered unauthorized by the Company until Bank has had a reasonable time to act upon Company's notice. The notice may be provided in writing or orally, telephonically, facsimile transmission or electronic mail. The Company shall use best efforts to recover the unauthorized Card from such Cardholder and deliver the Card to Bank promptly after recovery of the Card.
- V.C. Cooperation with Investigation. Company will cooperate, execute, acknowledge and deliver such instruments and take such other actions as Bank may reasonably require in connection with any unauthorized or fraudulent use of a Card, loss or theft of a Card, including without limitation executing an affidavit in a form satisfactory to Bank and providing to Bank a copy of a police report.
- V.D. Reliance. For purposes of this Agreement, any Employee shall be deemed authorized to act and give instruction and notice to Bank (except for a request to increase the Employee Credit Limit) for the Card issued to such Employee. Bank shall be entitled to act upon such notice from such Employee without liability or obligation to Company or the Cardholder, and shall be under no obligation or duty to inquire into or investigate the authenticity, validity, or accuracy of such notice or information, notwithstanding any knowledge that Bank may have to the contrary. The Company Manager shall be deemed authorized to act for and bind Company and give instruction and notice to Bank.
- V.E. Use of Employee Information. Company agrees that Company shall use any information about an Employee provided to Company under or in connection with this Agreement only in connection with the Program and for no other purpose.
- V.F. Individual Billing Payments. If Company selects Individual Billing, Company will provide Employees with a mechanism by which to claim or report business expenses incurred through the use of Cards. Company agrees to pay to the Bank, within thirty (30) days of written notice, all amounts due and owing under or in connection with each Card not paid by either a Cardholder or Company's reimbursement process above within 120 days of the payment due date on the periodic billing statement.
- V.G. OFAC. Company represents and warrants to Bank that neither Company nor any of Company's Employees are listed on the United States Office of Foreign Assets Control's ("OFAC") Specially Designation Nationals ("SDN") list or the European Union Consolidated List. Bank may impose federally required OFAC restrictions on Card use for any SDN or in OFAC designated major sanctioned countries.
- V.H. Exclusivity. From the Effective Date and continuing until the Agreement is terminated, Bank shall be the exclusive provider to Company of Cards and Company shall not obtain commercial cards issued by a third party.

## **ARTICLE VI - CONFIDENTIALITY**

- VI.A. Company acknowledges that (a) Bank is subject to the consumer and customer privacy provisions of the Gramm-Leach-Bliley Act of 1999 ("Act") and the implementing regulations promulgated by applicable federal banking regulators (the "Regulations"), (b) the Bank Confidential Information covered by this Agreement may include Non-Public Personal Information as that term is defined in the Regulations, and (c) Bank has certain obligations to protect the Bank Confidential Information from unauthorized disclosure to third parties. Company understands that Company's willingness and ability to cooperate with and assist Bank in this regard is a material factor in Bank's willingness to enter into this Agreement.



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**VI.B.** For purposes of this Agreement, the following terms shall have the meanings assigned to them below:

**VI.B.a** "Confidential Information" means Bank Confidential Information or Company Confidential Information, as applicable.

**VI.B.b** "Bank Confidential Information" means all information of Bank, whether or not in written, electronic or optical form, including, without limitation; (i) the names, addresses, social security numbers, telephone and facsimile numbers, financial data, e-mail addresses, and any other Non-Public Personal Information regarding Bank's, Bank's operating subsidiaries', or Bank's affiliates' customers and consumers, or prospective customers and consumers; (ii) that Company knows or should have known is proprietary, confidential or a trade secret, and (iii) is clearly identified as proprietary, confidential or a trade secret.

Notwithstanding the foregoing, Bank Confidential Information shall not include information that: (i) is or becomes generally available to the public other than as a result of a disclosure by Company, or any of Company's Representatives, in violation of this Agreement; (ii) is independently developed by employees or agents of Company who had no knowledge of or access to any of the Bank Confidential Information; (iii) was known to Company prior to disclosure by Bank hereunder; (iv) is or becomes available to Company from a source other than Bank; or (v) is disclosed with the consent of Bank; provided that with respect to clauses (iii) and (iv) above, the source of such information was not bound at the time of such disclosure by a nondisclosure, confidentiality or similar agreement with Bank or otherwise prohibited from transmitting the information to Company, or any of Company's respective Representatives, because of a contractual, legal or fiduciary obligation. Company shall have the burden of proving that any Bank Confidential Information that Company or Company's respective Representatives uses or discloses contrary to the terms of this Agreement is not Bank Confidential Information.

**VI.B.c** "Company Confidential Information" means all information of Company, whether or not in written, electronic or optical form, that (i) is clearly identified as proprietary, confidential or a trade secret, (ii) Bank knows or should have known is proprietary, confidential or a trade secret, and (iii) is information regarding Company's customers and consumers including, but not limited to, Nonpublic Personal Information regarding such customers and consumers and prospective customers and consumers.

Notwithstanding the foregoing, Company Confidential Information shall not include information that: (i) is or becomes generally available to the public other than as a result of a disclosure by Bank, or any of Bank's Representatives, in violation of this Agreement; (ii) is independently developed by employees or agents of Bank who had no knowledge of or access to any of the Company Confidential Information; (iii) was known to Bank prior to disclosure by Company; (iv) is or becomes available to Bank from a source other than Company; or (v) is disclosed with the consent of Company; provided that with respect to clauses (iii) and (iv) above, the source of such information was not bound at the time of such disclosure by a nondisclosure, confidentiality or similar agreement with Company or otherwise prohibited from transmitting the Company Confidential Information to Bank, or any of Bank's Representatives, because of a contractual, legal or fiduciary obligation. Bank shall have the burden of proving that any information that Bank or Bank's Representatives uses or discloses contrary to the terms of this Agreement is not Company Confidential Information.

**VI.B.d** "Representatives" means any directors, officers, employees, agents, stockholders, subsidiaries, affiliates, attorneys, accountants and other advisors or representatives of a party.

**VI.C.** Non-Use and Non-Disclosure of Confidential Information. (a) Company agrees to treat the Bank Confidential Information as strictly confidential and use and disclose the Bank Confidential Information only in connection with Company's performance of Company's duties and obligations under this Agreement. Company and Company's Representatives shall hold all Bank Confidential Information in a fiduciary capacity and shall exercise the highest degree of care in safeguarding all such Bank Confidential Information against loss, theft, intentional or inadvertent use and disclosure, and shall take all steps reasonably necessary to maintain the confidentiality thereof. Company shall immediately notify Bank of the date of, and circumstances involved in, any loss or unauthorized use or





disclosure of Bank Confidential Information. Company agrees to disclose Bank Confidential Information only to Company's Representatives as is necessary for Company to perform Company's respective duties and obligations under this Agreement. Company shall notify all of Company's Representatives of Company that has access to or knowledge of any of the Bank Confidential Information as to the existence of this Agreement and require them to abide by the terms hereof, and shall be responsible for any use or disclosure of Bank Confidential Information by Company's Representatives that is contrary to the terms hereof to the same extent as if Company had used or disclosed such Bank Confidential Information. Company and Company's Representatives shall not, directly or indirectly: (i) disclose, divulge or discuss the Bank Confidential Information with any third party (other than Company's Representatives); (ii) use any of the Bank Confidential Information for any purpose whatsoever other than in connection with their respective performance of their respective duties and obligations under this Agreement; or (iii) use any of the Bank Confidential Information for the gain, benefit, advantage or profit of any other person.

(b) Bank agrees to treat the Company Confidential Information as strictly confidential and use and disclose the Company Confidential Information only in connection with Bank's performance of Bank's duties and obligations under this Agreement. Bank and Bank's Representatives shall hold all Company Confidential Information in a fiduciary capacity and shall exercise the highest degree of care in safeguarding all such Company Confidential Information against loss, theft, intentional or inadvertent use and disclosure, and shall take all steps reasonably necessary to maintain the confidentiality thereof. Bank shall immediately notify Company of the date of, and circumstances involved in, any loss or unauthorized use or disclosure of Company Confidential Information. Bank agrees to disclose Company Confidential Information only to Bank's Representatives as is necessary for Bank to perform Bank's duties and obligations under this Agreement. Bank shall notify each of Bank's Representatives that has access to or knowledge of any of the Company Confidential Information as to the existence of this Agreement and require them to abide by the terms hereof, and shall be responsible for any use or disclosure of Company Confidential Information by Bank's Representatives that is contrary to the terms hereof to the same extent as if Bank had used or disclosed such Company Confidential Information. Bank shall not, and shall cause Bank's Representatives not to, directly or indirectly: (i) disclose, divulge or discuss the Company Confidential Information with any third party (other than Bank's Representatives); (ii) use any of the Company Confidential Information for any purpose whatsoever other than in connection with Bank's performance of Bank's duties and obligations for Bank and under this Agreement; or (iii) use any of the Company Confidential Information for the gain, benefit, advantage or profit of any other person.

**VI.D. Compulsory Disclosure.** In the event that Company or Bank, as applicable, is requested or required, as a result of any judicial or regulatory proceeding, to make any disclosure of Bank Confidential Information or Company Confidential Information, as applicable, Company or Bank, as applicable, agrees to provide the other party with advance notice thereof as promptly as possible (but in no event less than seven business days unless applicable law or a court order provides for disclosure prior to expiration of the seven business day period) so that the other party may seek an appropriate protective order or other appropriate remedy. If Bank or Company, as applicable, is unable to timely obtain such a protective order or other appropriate remedy and the other party is compelled to disclose any Confidential Information or else stand liable for contempt or suffer any similar censure, sanction or penalty, then Bank or Company, as applicable, may disclose only that portion of the Confidential Information that such party is advised by counsel is legally required to be disclosed, and such party shall use reasonable efforts to obtain reliable assurances that the Confidential Information that is so disclosed will be treated confidentially.

Any party to this Agreement may reveal Confidential Information to a regulatory agency with jurisdiction over such party and to such party's auditors and attorneys.

**VI.E. Destruction and Return of Confidential Information.** Company agrees that all Bank Confidential Information, including any summaries, copies or reproductions permitted hereby, are and shall remain the property of Bank. From time to time, and at any time, in Bank's sole discretion, Bank may request in writing that Company either immediately destroy or return the Bank Confidential Information to Bank, and Company agrees to promptly comply with Bank's request and shall cause Company's respective Representatives to comply with Bank's request, including, but not limited to, the destruction or deletion of all machine readable, electronic or optical Bank Confidential Information from computer



systems and data storage devices. If destruction or return of the Bank Confidential Information is not feasible, then Company shall consult with Bank and take prompt action to make such Bank Confidential Information unavailable or inaccessible to Company, Company's Representatives and other persons. Company agrees to promptly provide Bank with written certification of Company's satisfaction with the terms of this paragraph.

Notwithstanding anything to the contrary contained herein, for purposes of this section, the periodic statements on a Card account to Company under Article IV hereof, shall be property of Company and shall not be subject to the provisions of this section.

Bank agrees that all Company Confidential Information, including any summaries, copies or reproductions permitted hereby, are and shall, as between Bank and Company, remain the property of Company. From time to time, and at any time, in Company's sole discretion, Company may request in writing that Bank either immediately destroy or return to Company, and Bank agrees to promptly comply with Company's request and shall cause Bank's Representatives to comply with Company's request, including, but not limited to, the destruction or deletion of all machine readable, electronic or optical Company Confidential Information from computer systems and data storage devices. If destruction or return of the Company Confidential Information is not feasible, then Bank shall consult with Company and take prompt action to make such Company Confidential Information unavailable or inaccessible to Bank, Bank's Representatives and other persons. Bank agrees to promptly provide, and to cause its Representatives to promptly provide Company with written certification of Bank's satisfaction with the terms of this paragraph.

**VI.F. No License, Obligation or Warranty.** No right, title or license is hereby granted by Bank, by implication or otherwise, to Company or any of Company's Representatives, except for the limited usage rights specifically described herein, with respect to any Bank Confidential Information. No right, title or license is hereby granted by Company by implication or otherwise, to Bank or any of Bank's Representatives, except for the limited usage rights specifically described herein, with respect to any Company Confidential Information.

**VI.G. Specific Performance.** Company and Bank each recognizes and acknowledges, on behalf of itself and their respective Representatives, that the Bank Confidential Information and Company Confidential Information are special and unique to Bank, or Company, as applicable, and that any breach or threatened breach of any of the provisions of this Agreement will result in irreparable and continuing harm to Bank or Company, as applicable, for which there will be no adequate remedy at law and which could not be adequately compensated by monetary damages. If either party or any of such party's respective Representatives, breaches, or threatens to commit a breach of, any of the provisions of this Agreement, then the other party shall have (but shall not be limited to) the right and remedy to have this Agreement specifically enforced by any court having equity jurisdiction, including but not limited to the right to obtain temporary and permanent injunctions against the party allegedly in breach of this Agreement, and such party's Representatives, without having to prove actual damages or post a bond.

In connection with the enforcement of this section, the parties hereby irrevocably submits for the purposes of any action or proceeding to enforce this Agreement to the jurisdiction of the courts of the State of Nebraska and the Federal District Court for the District of Nebraska, and to venue in Omaha, Nebraska.

**VI.I. Notices of Default.** Bank and Company shall each promptly give written notice to the other upon becoming aware of the impending or threatened occurrence of any event which could reasonably be expected to cause or constitute a breach of any of their respective representations, warranties, covenants or agreements contained in this Agreement.





## **ARTICLE VII - TERMINATION**

- VII.A.** The initial term of this Agreement shall commence on the Effective Date and remain in force for a period of three (3) years from the Effective Date.
- VII.B.** Upon expiration of the initial term, this Agreement shall automatically renew for additional successive terms of one (1) year until a party delivers written notice of non-renewal to the other party at least thirty (30) days prior to the end of the then-current term, or this Agreement is terminated in accordance with the terms of this Agreement.
- VII.C.** This Agreement may be terminated:
- VII.C.a** By Bank if Company materially breaches any representation, warranty or agreement contained in this Agreement which is not cured within thirty (30) days after written notice of such breach has been delivered to Company.
  - VII.C.b** By Company if Bank materially breaches any representation, warranty or agreement contained in this Agreement which is not cured within thirty (30) days after written notice of such breach has been delivered to Bank.
  - VII.C.c** By Company if the Federal Deposit Insurance Corporation is appointed as a receiver for Bank.
  - VII.C.d** By Bank if Company commences a voluntary case or other proceeding seeking rehabilitation, liquidation, reorganization or other relief with respect to itself or Company's debts under any rehabilitation, bankruptcy, insolvency or other similar law generally affecting the rights of creditors now or hereafter in effect or seeking the appointment of a trustee, rehabilitator, receiver, liquidator, custodian or other similar official of Company or substantially all of Company's property, or consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against Company, or make a general assignment for the benefit of creditors, or file an answer admitting the material allegations of a petition filed against Company in any such proceeding or fail generally to pay Company's debts as they become due, or take any corporate action to authorize any of the foregoing; or
  - VII.C.e** By Bank if an involuntary case or other proceeding be commenced against Company seeking rehabilitation, liquidation, reorganization or other relief with respect to Company or Company's debts under any rehabilitation, bankruptcy, insolvency or other similar law generally affecting the rights of creditors now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of Company or any substantial part of Company's property, and such involuntary case or other proceeding remains undismissed and unstayed for a period of sixty (60) days, this Agreement shall be terminated as to such party.
  - VII.C.f** By Bank upon sixty (60) days prior notice if Bank reasonably believes that the prospects for performance by Company of Company's obligations under this Agreement, all Cards and Cardholder Agreements are significantly impaired.
- VII.D.** Effect of Termination. The termination of this Agreement shall not affect, diminish, release or impair any obligation or liability incurred by a party to the other party which was incurred prior to the effective date of termination under this Agreement any obligation or liability incurred by a Cardholder to Bank prior to the effective date of termination of the applicable Card, or in connection with this Agreement. On the effective date of termination, Bank may, without further notice to Company or any Cardholder, terminate and cancel all Cards without incurring any further obligation and liability.

## **ARTICLE VIII - INDEMNIFICATION**

- VIII.** Indemnification. Company shall indemnify Bank and hold Bank harmless from and against any and all damage, loss, or injury which Bank may suffer, incur or sustain arising out of this Agreement, the Cards, the Cardholder Agreements, and any Transaction unless such damage, loss, or injury was caused by the sole negligence of Bank.





To exercise Bank's indemnification rights hereunder as the result of the assertion against Bank of any claim or potential liability or loss for which indemnification is provided, Bank shall promptly notify Company of the assertion of such claim, discovery of any such potential liability or loss or the commencement of any action or proceeding in respect of which indemnity may be sought hereunder. Bank shall advise Company of all facts relating to such assertion within the knowledge of Bank, and shall afford Company the opportunity at Company's sole cost and expense to defend against such claims for liability. Company shall notify Bank within thirty (30) days of receipt of a notice of claim, whether Company shall assume the defense of such claim (unless a shorter response period is required under the circumstances). If the defense of a claim is assumed by Company, Bank shall be consulted and kept fully informed with regard to the progress of such claim. Bank shall cooperate with Company in connection with such claim. In any such action or proceeding, Bank shall have the right to retain Bank's own counsel, but the fees and expenses of such counsel shall be at Bank's own expense unless (i) Company and Bank mutually agree to the retention of such counsel, (ii) the named parties to any such suit, action, or proceeding (including any impleaded parties) include both Bank and Company, and in the reasonable judgment of Bank, representation of Bank and Company the same counsel would be inadvisable due to actual or potential differing or conflicts of interests between them, or (iii) Company has failed to promptly assume or diligently prosecute or defend the claim.

## **ARTICLE IX - REPRESENTATIONS AND WARRANTIES**

**IX.A.** Bank hereby represents, warrants and covenants to and with Company as follows:

**IX.A.a** The execution and delivery by Bank of this Agreement, the performance by Bank of Bank's duties and obligations hereunder and the consummation of the transactions contemplated hereby do not (i) conflict with or result in a violation or breach of any term or provision of any law, rule, regulation, judgment, decree, order or injunction applicable to Bank or any of Bank's assets and properties or any contractual restriction of any kind binding or affecting Bank or any of Bank's properties, or (ii) conflict with or result in a violation or breach of or constitute, with or without notice or lapse of time or both, a default under any material agreement to which Bank is a party or any material obligation or responsibility which Bank has to any third party.

**IX.A.b** Bank is a corporation duly organized, validly existing and in good standing under the laws of California. Bank has the corporate power and authority to execute and deliver this Agreement and to perform Bank's obligations hereunder.

**IX.B.** Company hereby represents, warrants and covenants to and with Bank as follows:

**IX.B.a** The execution and delivery by Company of this Agreement, the performance by Company of Company's duties and obligations hereunder and the consummation of the transactions contemplated hereby do not (i) conflict with or result in a violation or breach of any term or provision of any law, rule, regulation, judgment, decree, order or injunction applicable to Company or any of Company's assets and properties or any contractual restriction of any kind binding or affecting Company or any of Company's properties, or (ii) conflict with or result in a violation or breach of or constitute, with or without notice or lapse of time or both, a default under any material agreement to which Company is a party or any material obligation or responsibility which Company has to any third party.

**IX.B.b** Company has the power and authority to execute and deliver this Agreement and to perform Company's obligations hereunder.

## **ARTICLE X - MISCELLANEOUS**

**X.A.** Survival. Articles III, V.C, V.E, V.F, VI, VII.D and VIII shall survive termination of this Agreement.

**X.B.** Assignment. Neither this Agreement nor any of the rights, interests or obligations of either party hereunder may be assigned by either of the parties without the prior written consent of the other party, provided, however, that Bank may subcontract with a third party to perform the non-credit services to



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be provided by Bank without the consent of Company. No such permitted assignment or subcontracting shall release the assignor or subcontractor from assignor's or subcontractor's obligations and liabilities under this Agreement.

- X.C.** Binding Effect. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties to this Agreement and their respective successors and permitted assigns.
- X.D.** Notices. Except as provided in Article IV, all information, notices, requests, demands, consents and other communications given or required to be given under this Agreement and under the related documents shall be in writing and delivered to the applicable party at the address indicated below:

If to Bank: Bank of the West  
180 Montgomery Street, 11th floor  
San Francisco, CA 94104  
Attention: Commercial Card Manager

If to Company: Laramie County

or, as to each party at such other address as shall be designated by such party in a written notice to the other party complying as to delivery with the terms of this section. Any notices shall be in writing, including telegraphic or facsimile communication, and may (but need not) be sent by registered or certified mail, return receipt requested, postage prepaid or telegraphed. Notices may not be sent by electronic mail. Notice shall be effective upon actual receipt thereof.

- X.E.** Incorporation. All appendices attached to this Agreement are incorporated into this Agreement by reference.
- X.F.** Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Nebraska (excluding Nebraska's choice of law rules), and as applicable, federal law.
- X.G.** Entire Agreement. This Agreement contains the entire understanding of and all agreements between the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous representation, information, bid, offer, letter of intent, agreement or understanding, oral or written, pertaining to any such matters which agreements or understandings shall be of no force or effect for any purpose.

This Agreement may not be amended or supplemented in any manner except by mutual agreement of the parties and as set forth in a writing signed by a duly authorized representative of the parties hereto or their respective successors in interest, provided that, notwithstanding anything to the contrary contained herein, Bank may unilaterally, in Bank's sole discretion, amend the terms and conditions of any Cardholder Agreement, including, without limitation, the interest, fees and charges related to the Cards, in accordance with the provisions of the Cardholder Agreement.

- X.H.** Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- X.I.** Headings and Construction. The headings used in this Agreement are inserted for purposes of convenience of reference only and shall not limit or define the meaning of any provisions of this Agreement. As used herein, the singular includes the plural and vice-versa, the masculine includes the feminine, and vice-versa, "and" means "or" and vice-versa, unless the context clearly indicates the contrary.
- X.J.** Waiver. The waiver of any breach of any provision under this Agreement by any party shall not be deemed to be a waiver of any preceding, subsequent or other breach under this Agreement. No such waiver shall be effective unless in writing and executed by any authorized signatory.






**BANK OF THE WEST**  
**BNP PARIBAS**

- X.K. Third Party Beneficiaries.** Except as expressly provided in this Agreement, the parties intend that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person other than the parties to this Agreement.
- X.L. Severability.** If any provision of this Agreement, as applied to any part or circumstances, shall be adjudged by a court of competent jurisdiction to be void, invalid or unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision, or any other circumstances, or the validity or enforceability of the other provisions of this Agreement.
- X.M. Force Majeure.** Neither party to this Agreement shall be liable to the other party for any delay or non-performance of such party's obligations under this Agreement or any Cardholder Agreement arising from any cause beyond such party's reasonable control, provided, however, that such party shall, on a best efforts basis, cure such inability to timely perform such party's obligations hereunder, and if such party is unable to cure such nonperformance within thirty (30) days of the force majeure event, the other party may terminate this Agreement.
- X.N. Association Rules.** Company acknowledges and agrees that the association rules of the applicable card network shall govern and regulate certain issues which arise out of the usage of the Cards.
- X.O. No Partnership.** Neither this Agreement nor the performance of the services of the respective parties hereunder shall be considered or construed to (a) create a partnership, association or joint venture between Company and Bank, or (b) constitute any party to this Agreement or any of such party's respective agents, employees or Representatives as the agent, employee or representative of the any other party, and no party to this Agreement shall make any representations to the contrary. No party to this Agreement will be under any obligation to any other person, except for obligations expressly assumed under this Agreement or by operation of law.
- X.P. Cooperation.** The parties shall cooperate to insure that the respective duties and obligations of each of the parties hereunder are effectively, efficiently and promptly discharged. Each party shall execute and deliver to the other parties such further instruments and documents and take such further action as may from time to time be necessary to carry out the intent and purposes of this Agreement.
- X.Q. Governmental/Sovereign Immunity.** Company only agrees to waive its Governmental/Sovereign Immunity as provided by any applicable law, including Wyoming Statute (§) 1-39-101 et seq., as amended, in order to allow Bank to enforce Bank's rights under this Agreement. Company does not otherwise waive any of its Governmental/Sovereign Immunity as provided by any applicable by entering into this Agreement.



**BANK OF THE WEST**  
**BNP PARIBAS**

IN WITNESS WHEREOF, the parties to this Agreement have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

|  |   |
|--|---|
| <b>COMPANY NAME</b><br>Laramie County          | <b>BANK OF THE WEST</b>   |
| Name:  | Name:<br>Rochonne Sanchez   |
| Title:   | Title: VP<br>Liquidity Asset Management RM  |
| Signature                                      | Signature<br> |
| Date   | Date<br>10.3.19   |
| <b>Additional company signatory (optional)</b> |   |
| Name:  |   |
| Title:   |   |
| Signature                                      |   |
| Date   |   |



RECEIVED AND APPROVED AS  
TO FORM ONLY BY THE  
LARAMIE COUNTY ATTORNEY







## APPENDIX A - PRICING

|  |  |
|--|--|
| <ul style="list-style-type: none"> <li>Annual Account Fees* – please check your choice(s) <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Corporate Cards – Merchant Category Codes (MCC) restrictions NOT available</li> <li><input type="checkbox"/> Purchasing and Fleet Cards – Merchant Category Codes (MCC) restrictions available</li> </ul> </li> </ul> <p>(card design may be different from the illustration but will indicate card type on card)</p> | <div>  <p>\$30.00 (Waived if annual Net Purchasing Volume is ≥\$240,000)</p> </div> <div>  <p>\$45.00 (Waived if annual Net Purchasing Volume is ≥ \$720,000)</p> </div> |
| <ul style="list-style-type: none"> <li>Billing – please check your choice(s)</li> </ul>  | <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Corporate Billing</li> <li><input type="checkbox"/> Individual Billing</li> </ul>   |
| <ul style="list-style-type: none"> <li>Late payment fee (if the Amount Due printed on the periodic billing statement is not paid in full by the Payment Due Date)</li> </ul>   | <p>\$25.00</p>   |
| <ul style="list-style-type: none"> <li>Fraud protection per card</li> </ul>  | <p>\$0.00</p>  |
| <ul style="list-style-type: none"> <li>ATM fees – Domestic</li> </ul>  | <p>\$1.00 per withdrawal</p>   |
| <ul style="list-style-type: none"> <li>ATM fees – International</li> </ul>   | <p>\$2.50 per withdrawal</p>   |
| <ul style="list-style-type: none"> <li>Foreign Transaction Fee</li> <li>International Transaction Fee (Visa/Mastercard Fees)</li> </ul>  | <p>1.5%</p> <p>1.0%</p>  |
| <ul style="list-style-type: none"> <li>Finance Charge - Purchase (if the Amount Due printed on the periodic billing statement is not paid in full by the Payment Due Date)</li> </ul>  | <p>Prime + 4.99% (Corporate Billing)</p> <p>Prime + 6.99% (Individual Billing)</p>   |
| <ul style="list-style-type: none"> <li>Finance Charge - Cash Advance</li> </ul>  | <p>18%</p>   |
| <ul style="list-style-type: none"> <li>Emergency Card Replacement (24 hour service)**</li> <li>Emergency Cash Advance**</li> </ul>   | <p>Domestic Fee: \$125.00</p> <p>International: \$165.00</p>   |
| <ul style="list-style-type: none"> <li>NSF Payment Fee</li> </ul>  | <p>\$15.00 per returned payment</p>  |
| <ul style="list-style-type: none"> <li>Over-the-credit-limit Fee</li> </ul>  | <p>\$25.00</p>   |
| <ul style="list-style-type: none"> <li>Copy of Sales Draft</li> </ul>  | <p>\$2.00 per sales draft</p>  |
| <ul style="list-style-type: none"> <li>Copy of Statement</li> </ul>  | <p>\$8.00 per statement</p>  |
| <ul style="list-style-type: none"> <li>Logo Card Setup Fee (monochrome logo on standard design)</li> </ul>   | <p>\$300.00 per design</p>   |
| <ul style="list-style-type: none"> <li>Custom File Interface Setup Fee**</li> </ul>  | <p>\$1,500.00/per data feed***</p>   |
| <ul style="list-style-type: none"> <li>Monthly Data File Transmission Fee**</li> </ul>   | <p>\$100.00/per data feed***</p>   |
| <ul style="list-style-type: none"> <li>New and Replacement Card Fees</li> </ul>  | <p>\$0.00 (standard mail)</p> <p>\$20.00 per card (overnight)</p>  |

\* Annual Account Fee. The Company agrees to pay an annual account fee for establishing and maintaining an account (e.g., Card account, Company account) issued on behalf of the Company. Fees are always waived the first year. This fee is payable on the anniversary date of account issuance and annually thereafter.

\*\* Mastercard ONLY

\*\*\* Program Maintenance and Transactions Fees to be waived when average monthly Net Purchasing Volume exceeds \$200,000.00 and the average transaction size exceeds \$125.00.