



U.S. Bank Multi Service Aviation Card Program

Application Checklist

- Section 1 - Company Information.** Complete all sections.
 - LEGAL company name is required in this section; brand or abbreviated names cannot be accepted.
 - LEGAL address is required in this section. A hanger address can only be accepted if it is the LEGAL address.
- Sections 2 – 3 - Anticipated Monthly Charge Volumes.**
 If you anticipate monthly charge volume of **\$25,000.00 OR LESS** on the MSA Card(s), complete **Section 2** and sign in both **Section 2** and **Section 4**. **ALSO**, submit a copy of a valid government issued photo id (e.g., driver's license) with the completed Application. Financial statements are not required.

If you anticipate monthly charge volume of **GREATER than \$25,000.00** on the MSA Card(s), read **Section 3** and sign in **Section 4**. **ALSO**, submit financial statements according to the following table.

MONTHLY CHARGE VOLUME	FINANCIAL STATEMENTS REQUIRED	YEARS
Less than or equal to \$25,000.00*	YES	1
\$25,000.01 - \$250,000.00	YES	2
Greater than or equal to \$250,000.01	YES	3

*One Year of Financials is required when Section 2 is not signed but Company's Monthly Charge Volume is expected to be less than or equal to \$25,000.00

The financial statements must be the Company's most recent financial statements. If the most recent annual financial statements are more than five (5) months old, please attach the most recent interim financial statements and the prior year interim statements for that same period. Financial statements must contain a Balance Sheet and an Income Statement/Profit and Loss and, if available, Statement of Cash Flows and Auditor's Opinion.

- Section 4 - Authorization and Execution.** Read carefully; sign as directed.
- Section 5 - Additional Company Information.** Complete all sections.
- Section 6 - Flight Department Information.** Complete all sections.
- Section 7 - Compliance with Applicable Statutes and Regulations.** Read carefully.
- Section 8 – Cellular Phone Contact Policy.** Read carefully.
- The Multi Service Aviation Card Terms and Conditions (the "Agreement").** Read carefully and retain for your records.
- Proof of Existence.**
 Before U.S. Bank can open an Account for any entity, U.S. Bank must verify the entity's existence. Accordingly, please submit a copy of at least one (1) of the following unexpired documents in order for U.S. Bank to process this Application:
 - (1) "certified" articles of incorporation;
 - (2) government-issued business license;
 - (3) signed partnership agreement or signed limited partnership agreement;
 - (4) executed trust instrument;
 - (5) signed operating agreement; or
 - (6) signed articles of organization or association. If such documents are unavailable, another document verifying Company's proof of existence may be acceptable. U.S. Bank may contact Company to verify information or to complete additional documentation.
 If **Section 2** is completed also submit a copy a valid government-issued photo ID of the Authorized Signer (e.g., driver's license) as stated above.
- Send completed applications, financial statements and other required material to your U.S. Bank Representative. If you do not have a U.S. Bank Representative, send completed applications, financial statements and other required material by email to: cpsnewapplications@usbank.com, by fax to U.S. Bank at 866-977-1310, or mail to U.S. Bank, Attn: Contract Services |901 Marquette Avenue | Mail Code EP-MN-A17S | Minneapolis, MN 55402.**

If you have any questions about the MSA Card Program, please call 877-MSA-CARD or 877-672-2273.





U.S. Bank Multi Service Aviation Card Program Application

Section 1 – Company (“Company”) Information.

Company's Legal Name (As Stated on Company's Legal Documents)

Federal Tax ID

Doing Business As (“DBA”), if any. Please list all DBAs.

Company Name To Be Embossed On Card(s) (Limit To 25 Letters And Spaces.)

Date Company Established (MM/DD/YY)

Company Physical Address (PO Box Not Acceptable; Hanger Address Acceptable only if it is the Address on Company's Legal Documents)

City

State

Zip Code

Contact Name

Contact Title

Contact Phone Number

Contact Fax Number

Email Address (to contact Company regarding the processing of this Application)

Website Address

\$

Anticipated Monthly Charge Volume

Section 2 - Anticipated Monthly Charge Volumes \$25,000.00 or Less. Please complete the section below and sign in Section 4.

Printed Name Of Authorized Officer

Printed Title of Authorized Officer

Home Phone Number

Date Of Birth

Social Security Number

Home Physical Address (PO Box Not Acceptable)

City

State

Zip Code

I, as the above named Authorized Officer, (a) request that U.S. Bank issue a Multi Service Aviation Card (“Card(s)”) and account (“Account(s)”) to designated employees/applicants in the future; (b) authorize U.S. Bank to verify my employment and income history and all other information I have provided, and to obtain information about me from other creditors, credit bureaus, third parties, and federal or state records for use in assessing my personal credit worthiness in connection with U.S. Bank extension(s) of credit to Company under the Agreement; (c) agree to be jointly and severally liable to repay any and all transactions charged to any and all Accounts, plus fees or other charges, according to the terms of the Agreement; (d) authorize U.S. Bank to share information about its experiences with me with U.S. Bank affiliates and credit bureaus; and (e) agree that Accounts will be used for business purposes only and not personal, family, or household purposes.

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

DATED THIS _____ DAY OF _____, 20____ BY:
(day) (month) (year)

Printed Name of Authorized Officer

Signature of Authorized Officer



Section 3 – Anticipated Monthly Charge Volumes Greater than \$25,000.00. Please read below and sign in Section 4.

By completing this Application, Company acknowledges and agrees that: (a) all information provided in this Application is true, complete and accurate and Company has the authority to provide such information and complete such Application; (b) Company requests that U.S. Bank establish an Account in the name of Company and issue Cards in accordance with the Agreement; (c) U.S. Bank will review this Application and may, at its sole discretion, grant such request, but that U.S. Bank is under no obligation to do so; (d) Company will be bound by the Agreement upon signing this Application; and (e) U.S. Bank is authorized to investigate, obtain, and exchange reports and information regarding this Application and any resulting Accounts with credit reporting agencies and other parties with legitimate business needs for such reports or information. If this Application is approved, Company and U.S. Bank agree that the Agreement attached to this Application will constitute the entire agreement between Company and U.S. Bank.

Section 4 - Authorization And Execution.

Company certifies to U.S. Bank that the person executing this Agreement (1) is authorized by Company in accordance with its organization rules and applicable law to bind Company to this Agreement, (2) has the authority to incur Debt in the name of Company, (3) is an officer of Company, and (4) is acting in his or her capacity as an agent of Company.

The signer represents and warrants that (1) he or she is duly authorized by an applicable Bylaw, Article or other corporate authority to enter into all transactions contemplated by this Agreement, and (2) the signatures appearing on all supporting documents of authority are authentic.

In witness whereof, Company has, by its authorized signer(s), executed this Application and agrees to the attached Agreement.

Dated this _____ day of _____, 20 _____ by:
(day) (month) (year)

Signature

Second Signature (Only If Required By The Company's Organization Guidelines.)

Printed Name Of Authorized Signer

Printed Name Of Second Authorized Signer

Printed Title Of Second Authorized Signer

Section 5 – Additional Company Information.

Billing Address (If Different From Company Address)

City

State

Zip Code

Receive Billing By:

- Fax
- Mail
- Online – Choose User Name And Password (below)

Bill Sort Method:

- Tail Number
- Card Number

Payment Due Date:

- 14 days from the date of the Statement
- 28 days from the date of the Statement
(Company will be defaulted to 14 day terms, if not qualified for 28 day terms.)

User Name

Password

\$

\$

Total Assets:

Total Annual Sales

Number of Employees

Number of Cards Requested

Is The Company Rated By Dun And Bradstreet? Yes No

If Yes, D&B Number

Describe The Nature Of Your Business:

Does Company Conduct Business In A Foreign Country? Yes No

If Yes, List Countries And Nature Of Business Conducted:

Important: Each country must be individually listed, e.g., Italy, France, etc.; please do not list continents, e.g., Europe, Asia, etc.

Does Company Have An Existing Relationship With U.S. Bank? Yes No

If Yes, What Type Of Relationship?

If yes, Account Number

Does Company Have A Line Of Credit With U.S. Bank Or Any Other Financial Institution? Yes No

If Yes, Please Provide The Following Information:

Name Of Financial Institution Providing Line Of Credit

Limit

Amount Currently Available

Industry Category:

- Transportation Manufacturer Services Retail Construction Landscape Wholesaler
- Other _____

Note: Financial Statements May Be Requested For Specific Industry Types.

Type Of Organization:

- Corporation (Publicly Traded) Corporation (Private) Corporation (Non Profit) Partnership LLC LLP Sole Proprietorship
- Government Other _____

Section 6 – Flight Department Information

Flight Department Contact	Phone Number	Fax Number
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Flight Department Address (If Different From Company.)

City	State	Zip Code
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FAA Registration: Part 91 Part 135 Part 121 Part _____

Number Of Cards Per Aircraft	Anticipated Monthly Usage (Gallons)	Other Aviation Cards Used
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Aircraft Information (Attach Additional Sheets If Necessary)

PILOT NAME	TAIL NUMBER	AIRCRAFT TYPE	HOURS FLOWN PER MONTH	FUEL CONSUMED PER MONTH (GALLONS)	BASED AT (ICAO)

Section 7 – Compliance with Applicable Statutes and Regulations.

The parties shall maintain compliance with all statutes, regulations and U.S. Bank policy applicable to the products and services contemplated under this Agreement, including but not limited to Anti-Money Laundering and U.S. Economic Sanctions. To help the United States government fight the funding of terrorism and prevent money laundering activities, U.S. Federal law requires all financial institutions to obtain, verify, and record information that identifies each person (individual, corporation, partnership, trust, estate, or any other entity recognized as a legal person) who opens an account. U.S. Federal law also requires financial institutions to conduct ongoing Company due diligence, verify the identity of beneficial owners of certain legal entities, and comply with U.S. Economic Sanctions. U.S. Bank may require Identification Information on Company's affiliates, Participants, Related Parties, or Cardholders, as applicable, to allow U.S. Bank to remain in compliance with U.S. Federal law or U.S. Bank policy. Company shall promptly provide such Identification Information to U.S. Bank, and Company shall cause its affiliates, Participants, Related Parties or Cardholders, as applicable, to provide Identification Information to U.S. Bank. **"Identifiable Information"** means legal names, physical street addresses, taxpayer identification numbers, dates of births or other information or documentation. **"Related Parties"** means Authorized Officers, Authorized Signers, beneficial owners or directors of Company or Company's affiliates. **"U.S. Economic Sanctions"** means the economic sanctions programs administered by the U.S. Department of Treasury's Office of Foreign Assets Control.



U.S. Bank Multi Service Aviation Card

Terms and Conditions



Please read and retain for your records and future reference.

The issuer of the Multi Service Aviation Card is U.S. Bank National Association dba Multi Service Aviation (“**U.S. Bank**” or “**MSA**”). The Multi Service Aviation Card Terms and Conditions (the “**Agreement**”) is entered into by U. S. Bank National Association (“**U.S. Bank**”) and the entity that signed the Application as “**Company**” for the establishment of a Program. This Agreement supersedes any previous and like agreements with Company. Any references in this Agreement to MSA refer to Multi Service Aviation.

1. **EFFECTIVE DATE.** The terms and conditions of this Agreement will become effective when U.S. Bank has 1) approved the credit worthiness of Company and 2) approved this Application and Agreement. The “**Effective Date**” of this Agreement will be the date signed by Company.
2. **SCOPE OF MULTI SERVICE AVIATION CARD PROGRAM.** Upon approval as indicated above, MSA will issue Multi Service Aviation Cards (“**Card(s)**”) and establish related Accounts, including but not limited to Accounts accessed via electronic or mobile devices, (“**Accounts**”) for Company and any affiliated entity as Company may designate in writing to MSA while this Agreement is in effect (“**Participant**”) pursuant to the Multi Service Aviation Card Program policies and procedures. The MSA Card Program (the “**Program**”) includes: transaction processing, reporting, billing, and payment systems with respect to purchases of aviation fuels and other products and services by corporate, commercial, and government aircraft operations (“**Services**”). Company will furnish a list, in writing, to MSA designating such Participant(s) and business names, if business activities are conducted under a name other than that of Company. Company shall have the right to exclude any Participant from the Program upon written notice to MSA. Company shall also provide aircraft identification information (if applicable). Unless MSA notifies Company to the contrary, or a Card has been terminated as provided herein, all Cards will expire upon the expiration or termination of this Agreement. All Accounts established and Cards issued hereunder will be used solely for business purposes and will be governed by this Agreement. “**Account**” means any Account established by MSA pursuant to this Agreement in the name of Company, its Participants or Cardholders, to which Debt is charged, regardless of whether or not a Card is issued.
3. **LIABILITY.** Company, and if applicable, Authorized Officer, shall be liable for all Debt incurred or arising by virtue of the use of a Card or Account of Company, Participant or any Cardholder. “**Debt**” means all amounts charged to an Account including without limitation all purchases, fees, Late Charges, and other charges or amounts due that are owed to U.S. Bank by Company, its Authorized Officer(s), affiliates, Participants, or Cardholders.
 - a. **Joint and Several Liability.** Company and the Authorized Officer are jointly and severally liable to U.S. Bank for all Debt. This liability structure applies to any PCL (as defined below) when Section 2 of the Application has been completed.
 - b. **Corporate Liability.** Company is solely liable to U.S. Bank for all Debt. This liability structure applies to any PCL (as defined below) when Section 2 of the Application has not been completed.
4. **BILLING PROCEDURE AND PAYMENT DUE DATE.**
 - a. **Billing Procedure.** MSA will send to Company a weekly billing statement (the “**Statement**”), which will itemize all charges for the billing period. The amount shown on the Statement as “**Bill Total**” is due and payable upon receipt of the Statement by the Company.
 - b. **Payment Due Date.** Company shall pay the amount shown on the Statement as Bill Total within the Payment Due Date as indicated in Section 5 of the Application above.
5. **DELINQUENCY.** An Account will become delinquent unless U.S. Bank receives the amount shown on the Statement as Bill Total, less any disputed amounts, no later than the Payment Due Date set forth in Section 4.b., unless otherwise agreed upon by MSA and Company. Any unpaid portion of the Bill Total will be shown on subsequent Statements under the “**Account Summary**” section and noted as outstanding. In the event of Company’s delinquency, U.S. Bank may elect to terminate this Agreement immediately upon notice to Company. Whether or not U.S. Bank has elected to terminate this Agreement, if any part of the amount under Account Summary shown on any Statement remains unpaid Payment Due Date or any succeeding Statement, Company also shall pay to U.S. Bank a “**Late Charge**” in an amount equal to 3/8 of 1% per week (19.5% APR) of such amount. Court costs plus reasonable attorney fees (as allowed by law) may be added to any delinquent balance referred to an attorney for collection.

In the event Company fails to make full payment when due, Company acknowledges and agrees that U.S. Bank may, in addition to all other rights and remedies, invoke any and all statutory or equitable lien rights or those of any participating aviation merchants in connection with the enforcement of U.S. Bank’s right to payment under this Agreement, and authorizes U.S. Bank to file a lien for the unpaid Debt, plus Late Charges from the date of the oldest unpaid Debt, aircraft title search fees, filing fees and attorney fees, against any aircraft for which Debt was incurred and made to Card(s). If the Debt remains unpaid, U.S. Bank may institute a suit against the Company to enforce the lien and collect the Debt.

If a lien is filed, it will be based on the aircraft lien laws of the State of Texas (regardless of the domicile of the Company or where it does business, or the state of registration of the aircraft or where the aircraft owner resides or does business, or where any of the Services were furnished, or where jurisdiction may otherwise be proper regardless of where the aircraft was at the time such Debt were incurred). Venue for enforcement of this Agreement and any lien will be in the state courts of the Commonwealth of Virginia, USA, regardless of diversity issues or amounts owed, and by using this Card, the Company waives objections to U.S. Bank’s choice of law or forum. Service of process by certified mail, return receipt requested, postage prepaid, and mailed to the Company at the address on the Application will be sufficient to confer jurisdiction regardless of where the Company is geographically located or does business. The Company will be liable to U.S. Bank for all costs and expenses of liens and litigation including, but not limited to, Late Charges, attorney’s fees, court and discovery costs or other costs incurred by U.S. Bank in enforcing its rights hereunder.

6. **DISPUTED BILLINGS.** Company may notify MSA of any disputes regarding charges or billings hereunder in writing, by telephone or by electronic means. Written communications relating to billing disputes must be sent to Multi Service Aviation at PO Box 13050, Overland Park, Kansas 66282-3050, by fax to 866-977-1505, or by email to msacustomerservice@usbank.com. Communications should include the Company’s and, if applicable, the Participant’s name(s) and Account number(s), the dollar amount of any dispute or suspected error and a description of the dispute or error. Any communication regarding a dispute or suspected error must be received in written form by MSA within thirty (30) days from the last day of the billing cycle in which the disputed invoice was posted to the Account. If the disputed invoice is found to be an accurate billing transaction, then payment will be due as set forth in this Agreement.

7. LOST OR STOLEN CARD(S) OR COMPROMISED ACCOUNT(S).

- a. Company or Authorized Officer shall immediately, upon receipt of such information, notify U.S. Bank of any lost or stolen Cards or any compromised Account information. Company or Authorized Officer shall also immediately notify U.S. Bank to cancel Cards or Account access. Such notification and/or request for cancellation can occur by telephone, in writing, or by any agreed to electronic means. Addresses and phone numbers at the time of this writing appear at the end of this Section 7.a. After notification has been made to U.S. Bank of such lost or stolen Cards or compromised Accounts or to cancel Cards or Accounts, use of such Cards or Accounts is expressly prohibited. Failure to notify U.S. Bank immediately of lost or stolen Cards or compromised Accounts or to request cancellation of Cards or Accounts, as required by this Section 7, may result in Company and/or Authorized Officer's liability for any charges, fees, transactions or purchases on such Cards or Accounts. Company and/or Authorized Officer shall not be liable for use of such Cards or Accounts following receipt by U.S. Bank of the notice required herein. Company and/or Authorized Officer agree to assist U.S. Bank in determining the facts, circumstances and other pertinent information related to any loss or possible unauthorized use of Cards or Accounts and to comply with such procedures as may be required by U.S. Bank in connection with the investigation. Such procedures may include the submission of pertinent information in writing, within sixty (60) days of the date of the loss. Notwithstanding the foregoing, U.S. Bank shall continue to process all claims for lost, stolen or unauthorized use of Cards or Accounts whether or not such information is submitted within sixty (60) days of the loss. Additionally, notwithstanding the foregoing, since Cardholders have no liability to U.S. Bank for lost, stolen or cancelled Cards or Accounts, should Company and/or Authorized Officer separately hold a Cardholder liable for any such loss related to Cards or Accounts, Company and/or Authorized Officer agree to advise Cardholder, in advance, of any liability that may be imposed on a Cardholder and Company and/or Authorized Officer acknowledge that any such liability imposed on any Cardholder cannot exceed fifty U.S. dollars (\$50.00). In any event, Company and/or Authorized Officer acknowledge that by complying with all such procedures losses by both parties may be limited. U.S. Bank is not responsible for controlling the use of any Card(s) or Account(s), other than as specifically provided herein. Notification can be made by telephone to 877-MSA-CARD (877-672-2273), in writing to Multi Service Aviation at PO Box 13050 Overland Park, KS 66282-3050 OR msacustomerservice@usb.com or by facsimile at 877-977-1505.
- b. Subject to the terms set forth above in this Section 7, MSA agrees it shall be liable for fraudulent charges incurred or arising by the use of Cards in the Program, however, MSA shall not in any event be liable for any employee misuse of a Card or Account.

8. PRICING. The fees listed below may apply to this Agreement. Failure of U.S. Bank to apply any fee or charge outlined in this Agreement at any time does not preclude U.S. Bank from ever applying such fee or charge. U.S. Bank reserves the right to change pricing upon thirty (30) days prior notice to Company.

- a. If any payment on an Account is returned unpaid or the bank fails to honor any payment to U.S. Bank, Company agrees to pay the returned funds fee of thirty U.S. Dollars (\$30.00).
- b. Late Charges as detailed in the "DELINQUENCY" section above.
- c. An administration fee of seven point five percent (7.5%) is assessed on all non-fuel and some fuel transactions that occur outside of the United States and Canada. In some instances, the seven point five percent (7.5%) administration fee may be applied in Canada.

9. CONFIDENTIALITY. U.S. Bank considers the Program to be a unique service involving proprietary information of U.S. Bank. Company agrees that the Program reports, manuals, documentation, systems, processes and related materials (whether or not in writing) are confidential and will be circulated only to employees and agents of Company, and only to the extent necessary for Company to participate in the Program. U.S. Bank agrees that it will maintain all non-public data relative to Company's Account(s) under the Program as confidential information and U.S. Bank agrees to use such data regarding Company exclusively for the providing of services to Company hereunder and not to release such information to any other party except its agents; provided, however, that U.S. Bank must disclose transaction information to merchants and third party processors. If Company participates in the Card Program through a third party, Company consents to U.S. Bank sharing certain Company information with such third party. U.S. Bank may collect, maintain and, at its option, disseminate information and data concerning charge activity which does not contain any direct or indirect identification of Company. The parties agree to take all reasonable steps to safeguard such proprietary information and not to release such information to any party, or agent not essential to participation in the Program.

10. TERM, TERMINATION AND SUSPENSION.

- a. This Agreement shall remain in full force and effect for an initial term of five (5) years from the Effective Date of this Agreement (the "Agreement Term"), and shall continue thereafter until terminated by Company, U.S. Bank or MSA in accordance with this Section 10. After the conclusion of the Base Period either party may terminate this Agreement without cause, at any time, upon ninety (90) days prior written notice to the other Party. The effective date of termination shall be stated in the written notice of termination. All Cards and Accounts shall be deemed canceled effective upon termination of this Agreement.
- b. Notwithstanding the foregoing, a party shall have the right to terminate this Agreement immediately, by written notice of such termination **to the other party, upon any one (1) or more of the following events: (i) dissolution or liquidation of the other Party, or Parent thereof, if applicable; (ii) insolvency of the other party, or Parent thereof, if applicable, or the filing of a bankruptcy or insolvency proceeding by the other party, the appointment of a receiver or trustee for benefit of creditors of the other party or the other party enters into an arrangement with its creditors; (iii) any material and adverse change in the financial condition of the other party; or (iv) any failure by the other party to perform a material obligation of this Agreement.**
- c. Upon termination of this Agreement for any reason, Company shall ensure destruction of all Cards and return all confidential information of U.S. Bank to U.S. Bank. Company, and Authorized Officer if applicable, shall remain liable for all Debt incurred or arising by virtue of the use of a Card or Account prior to the termination date.
- d. U.S. Bank shall have the right to suspend any and all services and Debt to Company under this Agreement in the event that: (i) Company has breached any term of this Agreement; (ii) Debt due from Company, in the aggregate, exceeds the ACL or PCL as these terms are defined in Section 15 of this Agreement; or (iii) an Account becomes delinquent. Court costs plus reasonable attorney fees (as allowed by law) may be added to any delinquent balance referred to an attorney for collection.
- e. Rights, Debt or liabilities that arise prior to the suspension or termination of this Agreement shall survive the suspension or termination of this Agreement.
- f. U.S. Bank may immediately take the following action:
- i. U.S. Bank may suspend or terminate any Account if Company fails to comply with requests for Identification Information pursuant to Section 7 of the Application.
 - ii. U.S. Bank may terminate any Account if U.S. Bank is unable to verify the identity of Cardholder based on the Identification Information submitted to U.S. Bank.
 - iii. U.S. Bank may terminate any Account if U.S. Bank is unable to verify that providing services to Cardholder does not pose a risk to U.S. Bank of violating any requirement in Section 7 of the Application.

- iv. U.S. Bank may terminate this Agreement for Company's failure to comply with Section 7 of the Application; or
- v. U.S. Bank may terminate this Agreement if U.S. Bank determines that provision of services under this Agreement is counter to any existing, new or amended law, regulation, regulatory interpretation, anticipated regulatory interpretation, or any enforcement of existing, new, or amended law, regulation, regulatory interpretation, or anticipated regulatory interpretation.

11. INDEMNIFICATION.

- a. Except to the extent that any injury is due to Company's or a Participant's negligent acts or omissions, U.S. Bank shall indemnify and hold Company and Participants harmless against all losses, damages, costs, expenses and liability which may result in any way from any negligent or wrongful act or omission of U.S. Bank, its agents, employees and subcontractors. U.S. Bank shall indemnify and hold Company and Participants harmless against demands, claims, suits, or proceedings alleging infringement of any patent of the United States, or any trademark, service mark, copyright or other proprietary right arising out of or incident to this Agreement.
- b. Except to the extent that any injury is due to U.S. Bank's negligent acts or omissions, Company shall indemnify and hold U.S. Bank harmless against all losses, damages, costs, expenses and liability which may result in any way from any negligent or wrongful act or omission of Company, Participants, its agents, employees and subcontractors. Company and Participants shall indemnify and hold U.S. Bank harmless against demands, claims, suits, or proceedings alleging infringement of any patent of the United States, or any trademark, service mark, copyright or other proprietary right arising out of or incident to this Agreement.

12. LIMITATION OF LIABILITY. IN NO EVENT SHALL COMPANY, PARTICIPANT(S), U.S. BANK, MSA, OR ANY AFFILIATE OF U.S. BANK BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES OF ANY NATURE.

- 13. WARRANTIES.** Company warrants the truth, completeness and accuracy of the following in connection with this Agreement: (i) The financial information and all other information provided to U.S. Bank; (ii) This Agreement is a valid, binding and enforceable agreement; (iii) The execution of this Agreement and the performance of its obligations are within Company's power, has been authorized by all necessary action and does not constitute a breach of any agreement of Company with any party; (iv) Company has and continues to comply with all applicable state and federal statutes, ordinances, rules, regulations and requirements of governmental authorities as they relate to the use of the Card or participation in the Program; (v) the execution of this Agreement and the performance of its obligations under this Agreement will not cause a breach by it of any duty arising in law or equity; and (vi) Company possesses the financial capacity to perform all of its obligations under this Agreement. The parties agree that the failure of any of the above representations and warranties to be true during the term of this Agreement shall constitute a material breach of this Agreement and U.S. Bank will have the right, upon notice to Company, to immediately terminate this Agreement and all amounts outstanding hereunder shall be immediately due and payable.

U.S. Bank hereby disclaims any and all warranties with respect to goods and services purchased with its Cards or Accounts, including, without limitation, the implied warranty of merchantability or fitness for a particular purpose. This warranty and damages disclaimer shall apply whether U.S. Bank acts as card issuer, arranger of third party credit, or otherwise.

14. FINANCIAL INFORMATION.

- a. Since this Agreement is for an extension of credit with a financial institution and not a vendor services agreement, Company shall provide information as requested by U.S. Bank to perform periodic credit reviews. Unless such information is publicly available or available through U.S. Bancorp (the parent Company of U.S. Bank) or any of its subsidiaries, Company shall either provide: (i) if Company anticipates monthly charge volume of equal to or less than \$25,000.00 either the last year of annual financial statements OR information about an Authorized Officer who U.S. Bank may underwrite on behalf of Company within Section 2 of the Application; (ii) if Company anticipates monthly charge volume of greater than \$25,000.00 but less than \$250,000.00, the last two (2) years of annual financial statements, or (iii) if Company anticipates monthly charge volume of greater than \$250,000.00, the last three (3) years of annual financial statements. If the initial set of financial statements is older than five (5) months when provided, Company must also provide interim financial statements. Annually thereafter, as soon as available and in any event not later than one hundred twenty (120) days after the end of each fiscal year of Company, Company must provide the previous year's financial statements. U.S. Bank prefers audited financial statements that have been prepared by Company's independent certified public accountant. In the event U.S. Bank requires additional information to conduct its review of Company, or if Company's monthly charge volume increases such that the information it provided as described in 14.(i) above is no longer sufficient for underwriting Company, Company agrees to provide to U.S. Bank the information set forth in 14.(ii), (iii) or (iv) above, as the case may dictate, and if requested, such other information regarding the business, operations, affairs, and financial condition of Company as U.S. Bank may reasonably request. Such information may include, but is not limited to, quarterly financial statements, organizational charts, executive biographies and other formal documentation.
- b. Company must promptly notify U.S. Bank in writing of any material change to any information provided to U.S. Bank at any time in contemplation or in furtherance of this Agreement, including, without limitation the Company's primary business, legal organization (e.g., partnership, corporation, etc.), change in control or sale of affiliates, subsidiaries, or other entities participating under the agreement.

- 15. CREDIT ACCOUNTS.** Upon U.S. Bank approval, U.S. Bank will establish credit limits and related controls necessary for the Distributor Account. At its sole discretion, U.S. Bank may revise any credit limits or controls associated with this Program and will provide well notice to Distributor of any decrease in a Program credit limit that results in an amount lower than the current amount outstanding on the Account. Within ten days of such notice, Distributor shall make a payment to U.S. Bank sufficient to reduce the amount outstanding to an amount that is equal to or less than the revised credit limit.

- 16. CHANGE IN TERMS OF THE AGREEMENT.** U.S. Bank may change the APRs, fees and other Account terms in the future based on your experience with U.S. Bank National Association and its affiliates as provided under the agreement and applicable laws at any time by giving Company notice. If permitted by applicable law, such changes will apply to existing Account balances as well as future purchases. If Company does not accept the changes, Company must notify U.S. Bank in writing within 25 days after the date of the notice that Company refuses to accept the changes and elects to terminate this Agreement. Should Company elect to terminate this Agreement pursuant to this Section, all outstanding Debt will become due and payable by Company to U.S. Bank or MSA, according to the terms of the existing Agreement. Company will also be responsible for ensuring the destruction of all Cards.

- 17. REGISTERED MARKS AND TRADEMARKS.** Company has no right, title or interest, proprietary or otherwise, in or to the name or any logo, copyright, service mark or trademark owned or licensed by U.S. Bank.

- 18. NOTICES.** Except with respect to notices relating to the status of individual Cards which may be established in writing between U.S. Bank and Company or a Participant, all notices, requests and other communication provided for hereunder must be directed to Company at the address

on the Application and to MSA at U.S. Bank Attn: Contract Services, 901 Marquette Avenue, EP-MN-A17S, Minneapolis, MN 55402. Unless otherwise specified herein, requests and other communication provided for hereunder must be in writing, postage prepaid, hand delivered or by any means approved by U.S. Bank. Either party may, by written notice to the other, change its notification address.

19. **GOVERNING LAW AND VENUE.** The laws of the state of Minnesota and applicable federal laws and regulations of the United States apply to any dispute arising out of this Agreement, its subject matter, or its formation, including any non-contractual disputes. The laws of the state of Minnesota and applicable federal laws and regulations of the United States shall govern software services provided to Company pursuant to this Agreement. Any dispute or claim arising out of this Agreement, its subject matter, or its formation, including any non-contractual disputes, shall be brought before a state or federal court located in the city of Minneapolis, Minnesota, and will be exclusively governed by and construed in accordance with the laws of the state of Minnesota.
20. **COMPANY CONTACT.** The Company Contact(s) listed on the Application is/are authorized to provide U.S. Bank or MSA with the information necessary to establish the Account records and Cards, including, but not limited to, passwords, aircraft information, and other Account-related information. U.S. Bank or MSA is/are authorized to send all Account information and Cards produced to the attention of Company Contact(s). Company may, at any time, by written notice to MSA, change its Company Contact(s) or designate different Company Contact(s) than is listed on the Application.
21. **ASSIGNMENT.** This Agreement and any and all rights and Debt associated with the same may be assigned without prior notice to Company. All of U.S. Bank's rights under this Agreement will also apply to any assignee of this Agreement. Company may not assign or transfer this Agreement or any rights or Debt hereunder, by merger, of law, or otherwise, without the prior written consent of U.S. Bank.
22. **CUSTOMER SERVICE.** Company may contact MSA's customer service center at 877-MSA-CARD (877-672-2273) for Program customer service.
23. **SEVERABILITY.** Should any provision of this Agreement be declared invalid for any reason, such decision will not affect the validity of any other provisions, which other provisions will remain in full force and effect as if this Agreement had been executed with the invalid provision(s) eliminated. The parties will use their best efforts to agree upon a valid substitute provision in accordance with the purpose of this Agreement and the intent of the parties.
24. **ACCOUNT SECURITY.** The Program may enable Company to access Account and certain purchase information via MSA's website, including on-line billing and payment mechanisms and other media such as an automated telephone service. Company agrees to follow MSA security procedures and to keep any passwords confidential. Company is responsible for any losses or unauthorized access to Account data that results from failure of Company or that of Participants, employees, or other agents to fully comply with MSA security procedures. **IMPORTANT NOTICE. THIS AGREEMENT CONTAINS A CONFESSION OF JUDGMENT PROVISION WHICH CONSTITUTES A WAIVER OF IMPORTANT RIGHTS COMPANY MAY HAVE AS A DEBTOR, AND ALLOWS U.S. BANK TO OBTAIN A JUDGMENT AGAINST COMPANY WITHOUT ANY FURTHER NOTICE IN THE EVENT OF COMPANY'S DEFAULT.**
25. **CONFESSION OF JUDGMENT.** If Company fails or refuses to honor any of its Debt set forth in this Agreement when they become due, it shall be in default, in which case Company appoints without any further action on its part, Aviation Law Center as its attorney-in-fact acting under and by virtue of a power of attorney hereby duly executed and acknowledged by Company for the purpose of confessing judgment against Company in favor of U.S. Bank or their assignee for the unpaid balance of Company's indebtedness to U.S. Bank, plus post judgment interest at the rate of two percent (2%) per month of the outstanding balance as set forth in the judgment until paid in full, and the actual costs of collection, including filing fees, expenses, and attorney fees.
26. **WAIVER OF JURY TRIAL.** Company and U.S. Bank waive all rights to trial by jury in any proceeding relating to this Agreement.
27. **FORCE MAJEURE AND EXCUSABLE DELAY.**
 - a. Except for any duty arising under this Agreement to make payments, neither party is responsible for delays or failures in performance resulting from acts of God, acts of civil or military authority, fire, flood, strikes, war, epidemics, pandemics, shortage of power, telecommunications or Internet service interruptions or other acts or causes reasonably beyond the control of that party. The party suffering the force majeure event shall:
 - i. implement its applicable disaster recovery plan to the extent appropriate and practicable;
 - ii. give the other party prompt notice of the occurrence of a force majeure event;
 - iii. use diligent efforts to re-commence performance as promptly as commercially practicable pursuant to its disaster recovery plan; and
 - iv. provide periodic updates to the other party regarding its efforts to re-commence performance until performance has re-commenced in accordance with this Agreement.
 - b. Either party may terminate this Agreement upon written notice to the other, if the non-terminating party is unable to perform a material portion of its obligations as a direct result of a force majeure event for more than 30 consecutive days. Delay in either party's performance is excused to the extent its performance is delayed solely due to an act or omission of the other party.