

POINT OF SALE CREDIT CARD SERVICES PARTICIPATION AGREEMENT

This Point of Sale Credit Card Services Participation Agreement ("Agreement") effective as of the 16 day of March, 2009, is entered into between the FACC Services Group, LLC (the "Services Group"), and **Nassau County** hereinafter referred to as "Participant", for the provision of Point of Sale Credit Card Services.

WHEREAS, the Services Group has established an Internet Access Portal referred to as "MyFloridaCounty" with E-commerce capability; and

WHEREAS, the Services Group has developed and implemented an E-commerce service application through "MyFloridaCounty" for processing of over-the-counter credit card payment transactions; and

WHEREAS, the Point of Sale Credit Card Services implemented through "MyFloridaCounty" is identified as the Over-the-Counter Credit Card Services (OTCS) and provides a single electronic point of payment for a single transaction; and

WHEREAS, the Participant wishes to contract with the Services Group to process credit card payments through OTCS and Services Group wishes to provide said services to Participant.

NOW, THEREFORE, the parties hereto do hereby agree to the following terms and conditions for said electronic payment services:

SECTION A – DEFINITIONS

For the purpose of this Agreement, the following terms and/or phrases shall be defined as herein provided:

1. Application – A particular database on the Portal, or the Software Bridge to one particular database stored elsewhere for information lookup, or a particular electronic transaction for gathering data, processing a service, or processing requests from the public, and the user interface to allow public access and/or interaction with the same on-line.
2. Transaction – A specific electronic order or filing of information and/or receipt of a service(s), payment of Statutory Fee(s), and charges for gathering of data by an agency for a governmental purpose which begins upon the user's request for service(s) and is completed once service(s) are rendered and payment has been received by the Participant. For the purpose of this Agreement, an electronic transaction may include multiple services processed within a single E-commerce payment.
3. Statutory Fee – The governmental agencies' license fees, renewal fees, taxes, recording fees or other charges assessed by statute, regulation, ordinance,

charter, or other governmental act for the governmental function accessed by users or subscribers.

4. Service Charge – Per transaction cost levied against user of a credit card or bank debit card, as herein provided, for payment of statutory fees, other statutorily prescribed revenues, and Portal operational costs and due to Services Group at time of transaction. Pursuant to s. 215.322 (5), F.S., said charge shall be sufficient to pay charges by the financial institution, Services Group, or credit card company for the service.
5. Public Records – All records deemed to be public records as set forth in Florida Statutes and Rules of Court.
6. Point of Sale Credit Card Transaction – A credit card payment transaction originating electronically at the point of service and/or at the point of collection for statutory fees as defined herein.
7. Refund – Processed credit card transaction that a portion is given back to either customer or customer's bank by Services Group or Participant.
8. Charge-Back – Processed credit card transaction that is reversed-charged back-to Services Group because either customer or customer's bank finds issue or error with transaction.

SECTION B - GENERAL PROVISIONS

1. Term of Agreement

This Agreement shall commence on the date above published and shall continue in effect in accordance with its terms. This Agreement may be amended only by the written agreement of the parties.

2. Representations

- a. Services Group represents it is a vending services company as contemplated in s. 215.322(5), F.S.
- b. Services Group represents that the Service Charge as herein defined is sufficient, subject to future modification of said charge as may be mutually agreed to in writing by the Parties hereto, to pay for such costs that may be imposed upon Participant by the Services Group as a vending services company for Point of Sale Credit Card Services hereunder pursuant to s. 215.322(5), F.S.
- c. Participant may utilize OTCS for any legal payment by an individual and/or corporation of a financial obligation pursuant to state statute and/or regulation; local ordinance; and/or regulation; and/or by contract agreement.

3. Limitations of Liability

- a. The OTCS Services provides credit card processing services to enable credit card payment by Users; Participant hereby acknowledges that all fund processing services are provided by third party fund processors. Service Group shall not be responsible for any errors or omissions of third parties in connection with fund processing services.
- b. Services Group and/or Participant is not responsible for events beyond its reasonable control.
- c. Participant is not liable to Services Group or to any third person for any damages associated with or resulting from OTCS financial and/or E-commerce functions, unless caused by Participant as a result of failure to perform those responsibilities of Participant as delineated herein.
- d. Except as provided by Florida law, business records regarding account holders or instant access users, and activity, payment and personal information of either is the property of Services Group. Services Group shall be responsible for the security and confidentiality of such business records and further agrees to comply with all current or future laws requiring governmental entities to maintain the confidentiality of any information transmitted to them through OTCS or obtained from customer through the on-line payment process.
- e. This Limitations of Liability section shall survive termination of this Agreement. Notwithstanding the foregoing, Services Group and Participant agree that by entering into this Agreement Participant does not waive any rights of sovereign immunity granted to Participant under the Constitution or the laws of the State of Florida.

4. Financial Responsibilities

- a. All Statutory fees, and other statutorily prescribed revenues collected pursuant to this agreement by Services Group on behalf of the Participant will be transmitted to the Participant in full within one (1) business day of the availability of funds to the Services Group either by release by the appropriate financial institution or resolution of any outstanding issue(s) that has resulted in disbursement delay.
- b. The Participant will provide, prior to OTCS implementation, bank account information to allow electronic deposits of funds collected on behalf of the Participant as delineated in Attachment A. This bank account must support Automated Clearing House (ACH) transfer deposits. Any changes to such information shall be enforceable against Services Group five (5) business days after acknowledgment of receipt by Services Group of written notice of any such change. The participant has the option of using the same bank account as for the Official Records Service or to establish a new account for the OTCS.
- c. The Participant will provide contact information (name, address, telephone, e-mail, and facsimile) for an individual who shall serve as a single-point of contact for financial questions relevant to the Participant. Any changes to such information shall be enforceable against the Services Group within five (5) business days after acknowledgment of receipt by Services Group of written notice of any such change.

- d. When charge-backs and/or refunds are due to Services Group and Participant, the Participant will:
- (1) Initiate payment of funds associated with charge-backs/refunds to the Services Group within thirty (30) business days of the time the charge-back or refund is authorized and/or the Participant is notified that such a charge-back or refund has been authorized.
 - (2) If the charge-back/refund is not resolved by payment of invoice within thirty (30) business days, the Participant will then be required to initiate electronic transfer of outstanding funds within one (1) business day of being notified of such an occurrence.
- e. A non-refundable service charge based on the gross payment of statutory fees and other statutorily prescribed revenues per each successful E-commerce transaction processed through OTCS shall be charged. Said service charge shall be levied per transaction. This fee may be changed with notice to the parties. Parties hereto agree that such charge shall be levied against system user as an add-on cost against each E-commerce transaction and is not the responsibility of the Participant. Said charge shall be retained by the Services Group who shall be responsible for the applicable disbursement of resulting funds.
- f. Participant acknowledges and authorizes Services Group to process credit card transactions payments on its behalf. Services Group shall do business as "MyFloridaCounty".
- g. Participants will notify Services Group management of financial irregularities regarding a specific transaction or batch of transactions upon discovery of such irregularities but pursuant to Bank Card Rules. Said period shall not exceed eighteen (18) months from the time of transaction or batch processing. After this time period, transactions and funds transfers are considered settled.
- h. Services Group shall make all financial documents and records pertaining to operation of the OTCS available to inspection, auditing, and copying by Participant or other authorized representatives designated by Participant, within five (5) working days upon request. Services Group agrees to comply with any recommendations made in any independent audit which are commercially practicable unless Services Group and Participants otherwise mutually agree. Any such audit will be performed by a competent and reputable CPA licensed in Florida or a "big five" accounting firm. Participant and Services Group agree that audits shall be performed annually or special audits as required. Participant shall have the right to have a special audit performed at any time in addition to the annual audit. The cost of any special audit shall be borne as follows:
- (1) Special audits required by State or Federal Agencies will be borne by Services Group.
 - (2) Special audits performed at the request of Participants shall be borne by the requesting Participants, unless such special audit reveals material errors or impropriety by Services Group, in which case the cost of such audit shall be borne by Services Group.

To the extent an audit report discloses any discrepancies in Services Group charges, billings, or financial records, and following a period for review and verification of the amount by Services Group, Services Group will adjust and either pay any overcharge, or bill for any under charge as soon as reasonably possible, but not to exceed thirty (30) days. Services Group shall cooperate to assure that verification is completed in a timely manner mutually agreed to by both parties.

The OTCS accounting system is to be in accordance with industry acceptable accounting standards and include a numbered chart of accounts, books of original entry of all transactions, appropriate subsidiary ledgers, a general ledger, which includes to-date postings and an audit trail through financial statements. Such books may either be maintained on paper or on computer with appropriate backup.

5. Interruption of Services

- a. Each party shall use reasonable efforts to provide adequate and uninterrupted service under the terms of this Agreement. However, no party shall be liable for delay or interruption of service when the same shall be due to circumstances beyond the control of the party, its agents or employees, including but not limited to unanticipated equipment malfunction; periodic maintenance or update of the computer system or systems upon which such records or Applications reside; interruption of service due to problems with other networks; or force majeure or Acts of God.

Services Group will not be liable for any damages, claims or lost revenue arising from or as a result of OTCS downtime due to circumstances beyond the reasonable control of Services Group.

6. Disclaimer of Warranties

- a. Services Group makes no warranties, express or implied, including the implied warranties of merchantability, accuracy, non-infringement and fitness for a particular purpose, with respect to the Portal, the Applications, or the services to be provided under this Agreement unless otherwise provided in this Agreement or applicable service schedule.
- b. Services Group shall not be liable to Participant or any third party for lost interest on funds collected due to delays caused by payment processing and funds transfer processes that are beyond Portal Provider's control.

7. Resolution of Disputes

If any questions or issues related to the OTCS or interpretation of this Agreement exist the contract managers for each party shall attempt to resolve any such disputes or issues. If the contract managers fail to resolve any such disputes or issues, then such disputes or issues may be resolved by a court of competent jurisdiction.

8. Termination Provisions

- a. At the option of the Participant, this Agreement may be terminated upon Services Group material breach of any term, provision or condition of this Agreement, which breach is not cured following thirty (30) days written notice to Services Group specifying the breach or if Services Group has not, in good faith, instituted a cure within said thirty (30) day period of receipt of such written notice and continued diligently to effectuate a cure provided such cure can be reasonably accomplished within sixty (60) days of receipt of such notice.
- b. Upon ninety (90) days advance written notice to the other party, either the Participant or the Services Group may terminate this Agreement without cause.
- c. Any notice in connection with termination by either party shall be in accordance with Section D of this Agreement titled "Notices".

9. Assignment

No party hereto may assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, and any such assignment of this Agreement without the permission of the other party shall be null and void.

SECTION C - SERVICES GROUP RESPONSIBILITIES

The SERVICES GROUP agrees to:

1. Establish and maintain an on-line Internet based Credit Card Processing Service (OTCS) for the purpose of assisting the Public and Clerks of the Court with point of sale credit card transaction processing. The OTCS shall provide the necessary computer programs to provide Participants with system access capabilities for Point of Sale credit card transactions.
2. Credit cards to be accepted through OTCS will be Visa, MasterCard, American Express and Discover. Bank Debit cards displaying either Visa or MasterCard logos will be accepted.
3. Provide to Participant the required number of Point-of-Sale credit card kits pursuant to Participant's written notice to the Services Group. Each kit shall include the following:
 - a. 1 pre-configured mini-swipe device
 - b. 1 poster to explain service charge to credit card users
 - c. Full installation and user guides
 - d. Instructions relative to customer and technical support
4. Provide all publications, documents, forms, instructions and technical assistance as necessary for participation in the OTCS program
5. For every successful credit card transaction, Services Group will charge credit card holder a service fee in accordance with Section B, 4, e. This service fee is a non-refundable fee.

6. Services Group will provide customer and technical support for all approved credit card inquires through a toll-free number for both Participants and their customers.
7. Services Group will provide support for installation and set up of credit card services.
8. Assume responsibility for charge backs and/or refunds resulting from credit card user fraud when transaction has been accepted for processing subject to the provisions of Section D, 3 of this Agreement.

SECTION D - PARTICIPANT'S RESPONSIBILITIES

The PARTICIPANT agrees to:

- 1 As required, will provide all financial records and non-exempt court records pertaining to those transactions paid pursuant to this Agreement in good faith and to the best of Participant knowledge.
- 2 Pursuant to s. 215.322 (5), F.S., verify the identity of individuals presenting credit cards and/or bank debit cards for the purpose of initiating credit card transactions through OTCS. Verification shall be by a valid picture identification and must match name on presented credit card.
3. Verify that presented credit card and/or bank debit card has not expired.
4. Place explanation of service charge in a prominent position that is visible to potential users.
5. To provide a PC with Internet connection and attached printer. PC must have a 1E5.0 browser or higher and a ps/2 keyboard interface.
6. Assume responsibility for any refunds and/or charge-backs resulting from credit card user fraud when the Participant has failed to verify user identification pursuant to Section D, 2 of Agreement.
7. Participant will provide customer support for credit card rejections at the time of transactions.
8. Participant may request on-site support and will be invoiced for all travel expense to the extent permitted by Florida Statute 112.061 and billable hours based on the Services Group's Technical Assistance Program (TAP) rates in effect at the time.
9. Participant will establish a single point of contact for the administration of adding, modifying, and deleting users and services. Said point of contact will be the person authorized to update user and service information with the service provider.
10. When accepting multiple service payments processed within a single OTCS transaction the Participant will be responsible for reconciling the transaction to each of the individual service payments processed within that single OTCS transaction.

11. Participant may accept telephonic credit card transactions through OTCS subject to the provisions of Section D, 6 of the Agreement. In so doing, Participant will advise the caller of the service charge assessed for the transaction.

SECTION E - NOTICES

All notices shall be in writing and shall be considered effective three (3) days after mailing or upon proof of receipt of such notice and shall be directed to the parties to this Agreement as shown below:

SERVICES GROUP

Kenneth A. Kent
Executive Vice President
FACC Services Group, LLC
3544 Maclay Boulevard
Tallahassee, Florida 32312
(850) 921-0808
kent@flclerks.com

PARTICIPANT

John A. Crawford
Nassau County Clerk of Court
76347 Veterans Way, Ste. 456
Yulee, FL 32097
904-548-4600
nassauclerk@nassauclerk.com

SECTION F - AGREEMENT CONSTRUCTION

This Agreement shall be construed in accordance with the laws of the State of Florida, without reference to its choice of law provisions. In the event of any inconsistency between the terms of this Agreement and the terms set out in any Attachment hereto, the terms of this Agreement shall govern unless the Attachment specifically references the particular provision of this Agreement to be modified in the Schedule and expressly provides that it shall govern.

SECTION G - ILLEGAL PROVISIONS

If any provision of this Agreement shall be declared to be illegal, void, or unenforceable by a court of competent jurisdiction, the other provisions shall not be affected but shall remain in full force and effect.

SECTION H - ENTIRE AGREEMENT/GENERAL

No amendment, waiver, or alteration of this Agreement shall be effective unless signed by an authorized officer of each of the parties to this Agreement. Any oral agreement or representation shall not bind any party to this Agreement.

SECTION I - CONTRACT VENUE

The formation, interpretation, and performance of this Contract shall be governed by the laws of the State of Florida; venue for all litigation relative to the formation, interpretation, and performance of this Contract shall be Leon County, Florida.

IN WITNESS TO THEIR AGREEMENT TO ALL OF THE ABOVE AND FOREGOING, the parties hereto have herein below executed this Agreement effective the day and year first above written:

FACC Services Group LLC

By: Kenneth A. Kent
Name: Kenneth A. Kent
Title: Executive Vice President
Date: 3/11/2009

Participant

By: [Signature]
Name: John A. Crawford
Title: Clerk of the Circuit Court
Date: 3/2/09

*ESK
3/2/09*

ATTACHMENT A
BANKING AND FILE TRANSFER INFORMATION
REQUIREMENTS FOR POINT OF SALE CREDIT CARD
SERVICES

GROUP I: BANK ACCOUNT INFORMATION

- Depository Name
- Bank Transit/ABA Number
- Account Number

GROUP II: BANKING NOTIFICATION INFORMATION

- Name
- Phone Number
- FAX Number
- E-Mail
- Street Address and/or P.O. Box
- City
- State/Zip

GROUP III: FEE SCHEDULE

- Date: October 1, 2008
- Current Charge: \$2.50