

# Amendment to Merchant Processing Agreement

## 1 Your Business Information

Merchant Identification #(s)

Your Legal Name:

First/Last Contact Name:

Title:

Business Phone:

Whatcom Transportation Authority

Shonda Shipman

Finance Director

360-788-9331

## 2 What this Amendment Does

2.1 This Amendment amends the Program Terms and Conditions (the **Program Guide**) to your merchant processing agreement by:

- (1) Deleting Section (8) of Part 1: Confirmation Page in its entirety.
- (2) Adding the following Section 22.8 to the end of Section 22 (Confidentiality):

**22.8** We acknowledge that you may be subject to public records laws for the State in which you are located and any non-exempt public records, which may include our confidential information, are subject to inspection and copying upon request by the public. If a Public Records request is made for our confidential information, you will provide us 10 days' prior notice of your intent to disclose the records so that we may seek a protective order or take other court action. If no such action is filed, you may disclose the records.

- (2) Deleting the first sentence of Section 23.1 and replacing it with the following:

**23.1** Any transfer or assignment of this Agreement by you, without our prior written consent (such consent not to be unreasonably withheld by us), by operation of law or otherwise, is voidable by us.

- (3) Deleting the last paragraph of Section 23.3 and replacing it with the following:

Processor may not assign or transfer this Agreement to any other Person without your prior written consent (such consent not to be unreasonably withheld by you). Subject to Card Organization Rules, Bank may assign or transfer this Agreement and its rights, duties and obligations hereunder, in whole or in part, to any Person, whether in connection with a change in sponsorship, as set forth in the preceding paragraph, or otherwise, without notice to you or your consent.

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- (4) Deleting Section 25.4.1 and replacing it with the following:

**25.4.1** Any funds pertaining to the Card transactions contemplated by this Agreement now or hereafter in our possession may be commingled with other funds of ours, or, in the case of any funds held pursuant to the foregoing paragraphs, with any other funds of other customers of ours. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, we are hereby authorized by you at any time and from time to time, without notice or demand to you or to any other Person (any such notice and demand being hereby expressly waived), to set off, recoup and to appropriate and to apply any and all such funds against and on account of your obligations to us and our respective Affiliates under this Agreement and any other agreement with us our respective Affiliates for any related equipment or related services (including any check services), whether such obligations are liquidated, unliquidated, fixed, contingent, matured or unmatured.

- (5) Deleting Section 25.4.3 in its entirety;

- (6) Deleting the following phrase from Section 27.1: "agree to indemnify and hold us and the Card Organizations harmless from and against" and replacing such phrase with "are fully responsible for";

- (7) Deleting Sections 35.1 and 35.2 and replacing those Sections with the following:

**35.1 Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State in which you are located (without regards to its choice of law provisions).

**35.2 Venue.** The exclusive venue for any actions or claims arising under or related to this Agreement shall be in the appropriate state or federal court located in the State in which you are located.

- (8) Deleting Section 34.3 in its entirety.

- (9) Deleting the last two paragraphs of Section A.3. (Additional Fees and Early Termination) of Part IV (Additional Important Information For Cards). Notwithstanding anything to the contrary in the Agreement, if you cancel the Agreement before the end of the term without a default by us, we will not charge you an early termination fee, and your cancellation will not be a default or other material breach of this Agreement.

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- 2.2 Nothing in this Amendment or the Program Guide will abrogate the defense of sovereign or governmental immunity to the extent permitted under applicable law.

### 3 Effective Date

This Amendment becomes effective as of the effective date of your merchant processing agreement.

### 4 Amendment Approval

By signing below, you acknowledge that:

- You have read and understand this Amendment;
- You agree to comply with this Amendment; and
- You understand that if you sign this Amendment using an electronic signature process, the resulting signature has the same legal effect as if you had signed it by hand.

The individual signing below represents that s/he is authorized to sign this Amendment on behalf of the entity identified in Section 1.

Whatcom Transportation Authority

#### Merchant

By:   
*Signature*

Name: Shonda Shipman  
*Print or Type*

Title: Finance Director

Date: 3/1/19

CardConnect, LLC

By: \_\_\_\_\_  
*Signature*

Name: \_\_\_\_\_  
*Print or Type*

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

## **Magan Waltari**

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**From:** Pete Stark  
**Sent:** Monday, February 25, 2019 1:29 PM  
**To:** All WTA  
**Subject:** Responsible Charge

I will be attending a WSTA meeting in Olympia Tuesday and Wednesday, February 26 and 27<sup>th</sup>. Following that I will be on vacation through Sunday March 10<sup>th</sup>.

Shonda Shipman will be in responsible charge of WTA during my absence. See you on the 11<sup>th</sup>,

Pete

**Peter L. Stark**  
**General Manager**

### **WHATCOM TRANSPORTATION AUTHORITY**

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