

## SERVICE PROVIDER AGREEMENT

THIS SERVICE PROVIDER AGREEMENT ("Agreement") is made and entered into by and between **Certified Payments No. 1, Ltd., by and through its General Partner, Certified Payments, Inc.**, a Texas Corporation, with offices at 13740 Midway Rd., Suite 702, Dallas, TX 75244 ("Certified"); and **Williamson County, Texas**, a political subdivision of the State of Texas ("Agency").

### RECITALS

**WHEREAS**, Agency desires to accept payments from individuals or entities ("Customers") by Credit Card and pin-less debit card ("Agency Payments").

**WHEREAS**, Certified is a third party service provider that performs such Services on behalf of Agency ("Services").

**WHEREAS**, Agency desires to employ Certified to act on behalf of Agency in providing such Services and Certified desires to provide such Services subject to the terms and conditions set forth in this Agreement.

**NOW THEREFORE**, in consideration of the foregoing, and the mutual promises set forth below, the parties hereto agree as follows:

**1. DEFINITIONS** As used herein, the following terms have the meanings set forth below:

**"Agency Bank"** is the Depository Financial Institution where the Agency Bank Account is maintained and receives deposits from Agency's Customers or credits from the Federal Reserve Bank on behalf of the Agency.

**"Agency Bank Account"** is the account Agency has established with Agency Bank.

**"Bureau Code"** is the unique seven (7) digit Agency identifier assigned to Agency by Certified.

**"Card Issuing Bank"** is a financial institution that issues cards and contracts with its cardholders for billing and payment of transactions.

**"Card Associations"** are membership corporations of financial institutions that issue cards for payments of goods and services, provide card products and establish the rules and regulations governing member participation in card programs.

**"Card Holder"** is an authorized user of a payment card issued by a Card Issuing Bank.

**"Chargeback"** is a transaction whereby the Card Issuing Bank reverses the Agency's Payment.

**"Convenience Fee"** means the fee charged by Certified to Customers for the convenience of using the Services in making an Agency Payment.

**"Credit Card"** refers to a pin-less debit card or credit card issued to a Customer for payment of goods and services.

**"Customer"** means both consumer and corporate, individual or company that purchases or uses the services.

**"Front-End Processor"** is an authorization service through which Card Issuing Banks can approve or decline individual card transactions.

**"IVR"** means Integrated Voice Response system.

**"Processing Facility"** refers to the appropriate credit or debit network to which Certified transmits transactions.

**2. CERTIFIED'S OBLIGATIONS** Certified shall provide the Services as follows:

- A.** Certified will provide Customers with the opportunity to make Agency Payments by Credit Card and pin-less debit card. These Agency Payments may be made through Certified's website, the Agency's website, through an IVR system, by contacting the Agency directly by telephone, by contacting Certified by telephone or by any other communication medium that Certified and Agency mutually agree upon.
- B.** Certified shall begin providing such services to Customers on a date mutually agreed upon by Certified and Agency.
- C.** Certified shall collect and transmit Agency Payments from Customers using MasterCard, Visa and Discover. American Express may be collected and processed at the discretion of the Agency and Certified.
- D.** Certified may charge each Customer a Convenience Fee for each Agency Payment processed. The Convenience Fee will be collected in addition to the corresponding Agency Payment. **Exhibit A** attached hereto details the Schedule of Convenience Fees that Certified may charge to Agency's Customers. Certified, in its sole discretion may charge Customers a minimum Convenience Fee for each payment; an amount not to exceed Two Dollars (\$2.00) in US Currency. Certified will cause all net funds resulting from Agency Payments to be transmitted to Agency's Bank Account; Certified shall retain all Convenience Fees collected by it hereunder.
- E.** Except for the fees outlined in Exhibit A, Certified shall not charge Agency a fee in consideration for Certified's provision of Services to Customers as provided for in this Agreement; any fees payable by Agency in connection therewith will be mutually agreed upon by Certified and Agency.
- F.** Certified will notify each Customer of the dollar amount of the payment and the corresponding Convenience Fee to be charged to the Customer and obtain Customer's approval (electronically or otherwise) of such charges prior to initiating any charges to the Customer's Credit Card.
- G.** Certified will provide each Customer with electronic confirmation of the Agency Payment and the corresponding Convenience Fee.
- H.** Certified will electronically collect and transmit all payment information to the appropriate Processing Facility in the most time critical manner that each facility can accept. Transmission of Credit Card payments will occur in real time to the appropriate front-end processors(s).

- I. Certified will provide Agency with Agency Payment data and reports summarizing the use of the Services by Customers for a given reporting period. Agency will have the ability to import such payment data utilizing Microsoft Excel, Microsoft Access, a comma-delimited file ("CSV") or XML file.
- J. Certified will retain all logs and data for such period of time as required by applicable law and the regulations of the Card Associations.
- K. Prior to initiating any refunds to a Customer's Credit Card, Certified will attempt to obtain permission either orally or in writing, from the Agency's authorized representative. Unless Agency receives written authorization from Certified to the contrary, Agency may not issue refunds to the Customer by check. Certified will process such refunds in the form of a credit to the Customer's Credit Card that was initially charged and in Certified's sole discretion, may refund the corresponding Convenience Fee payment. Certified or its authorized agent will debit the Agency's Bank Account for the amount of the Agency Payment refund.
- L. Under the rules of the Card Associations, Customer's Card Issuing Bank gives Certified a limited amount of time to dispute a Chargeback or issue a refund. In the event a refund must be issued, Certified will contact Agency and Agency will immediately issue a memo authorizing Certified to refund the transaction, however, Certified and Card Issuing Bank reserve the right to debit the Agency Bank Account for the amount of the Agency Payment at any time during the Chargeback process.
- M. Agency will reimburse Certified for all chargeback actions or refunds of any kind, including but not limited to those resulting from overpayments, duplicate or misapplied payments or unauthorized charges. In the case of either a Credit Card refund or Credit Card Chargeback, where Certified is unable to collect amounts owed by Agency to Certified, Agency agrees to make amounts owed available to Certified in immediately available funds.
- N. Certified will provide Agency's Constable's Offices with a phone number that such offices may call in order to obtain support from Certified 24 hours a day 7 days a week (24/7 support). Hours of support for all other Agency offices and departments shall be Monday through Friday, 8am to 5pm CST.
- O. Certified will provide in-person training to all Agency staff at no cost to Agency.
- P. Certified shall initially provide Agency with sixteen (16) MagTek USB magnetic card readers, model # 21040107, or equivalent, at no charge. Agency acknowledges that said card readers shall, at all times, remain the property of Certified.

### **3. AGENCY'S OBLIGATIONS**

- A. In addition to this Agreement, Agency agrees to enter into any and all applicable agreements that are required to perform the services hereunder. Such Agreements may include but are not limited to MasterCard and Visa, American Express and Discover. Agency agrees to fully comply with the rules, regulations and operating procedures of the various Card Associations, including without limitation with respect to the use of specific Card logos and marks.
- B. Prior to Certified's commencement of Services, Agency will complete in full and sign all necessary paperwork that Certified puts forth.
- C. Certified is required to fully adhere to and operate according to the rules, regulations and operating procedures of the Card Associations, the Bank and any rules and regulations provided by American

Express and Discover. Agency agrees to immediately comply with any requests by Certified regarding any Agency conduct that is outside said rules and regulations. Agency's failure to comply with such request by Certified will be grounds for immediate termination of this Agreement.

- D. Agency agrees to promote the Services to its Customers. Promotions shall include publishing the Agency's Bureau Code, relevant IVR telephone number and URL of the Agency's website or Certified's website on all applicable tax instruction booklets, tax preparer communications, taxpayer information publications, citations, notices, utility bills and any related marketing material. Agency will obtain Certified's consent prior to publishing any materials that reference the Services and/or Certified.
- E. Agency will not require as a condition to making an Agency Payment, that a Cardholder agrees in any way to waive such Cardholder's right to dispute the transaction with the Card Issuing Bank for legitimate reasons.

#### **4. ADDITIONAL MATTERS**

##### **A. Confidentiality**

Neither party shall disclose to any third party or use for any purpose inconsistent with this Agreement, any confidential or proprietary, non-public information it obtains during the term of this Agreement regarding either party's business, operations, financial condition, technology, systems, know-how, products, services, suppliers, customers, marketing data, plans and models and personnel. Certified will not disclose to any third party or use for any purpose inconsistent with this Agreement any confidential Customer information it receives in connection with its performance of the Services, except that Certified may use personal information provided by Customers to establish and maintain individual user accounts requested to be established by such Customers with Certified.

##### **B. Relationship of Parties**

The performance by Certified of its duties and obligations under this Agreement shall be that of an independent contractor and nothing contained in this Agreement shall be deemed to constitute a joint venture or partnership between Certified and Agency.

##### **C. Intellectual Property**

In order that Agency may promote the Services and Certified's role in providing the Services, Certified grants to Agency a revocable, non-exclusive, royalty-free license to use Certified's logo and other service marks (the "Certified Marks") for such purpose only. Agency does not have any right, title, license or interest, express or implied, in and to any object code, software, hardware, trademark, service mark, trade name, trade dress, formula, system, know-how, telephone number, telephone line, domain name, URL, copyrighted image, text, script (including, without limitation, any script used by Certified on Certified's website) or other intellectual property right of Certified. All Marks, the System and all rights therein (other than rights expressly granted in this Agreement) and goodwill pertaining thereto belong exclusively to Certified.

##### **D. Force Majeure**

Certified will be excused from performing the Services as contemplated by this Agreement to the extent its performance is delayed, impaired or rendered impossible by acts of God or other events that are beyond Certified's reasonable control and do not involve either fault or judgment of Certified.

**E. Breach and Remedies**

Agency's sole remedy in the event of Certified's failure to perform the Services as set forth herein shall be to terminate the arrangement contemplated by this Agreement.

**F. Notice.**

Any notice to be given hereunder shall be in writing and may be affected by personal delivery, in writing or by registered or certified mail, return receipt requested, addressed to the proper party, at the following address:

Agency: Williamson County Judge  
Dan A. Gattis (or successor)  
710 Main Street, Ste. 101  
Georgetown, Texas 78626

Certified: Certified Payments No. 1, Ltd.,  
c/o: Certified Payments, Inc.  
Attn: Pamela Stewart, President  
13740 Midway Rd., Suite 702  
Dallas, TX 75244

**G. No Waiver of Immunities.**

Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to Agency, its past or present officers, employees, or agents, nor to create any legal rights or claim on behalf of any third party. Agency does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

**H. Agency's Limited Right to Audit.**

Certified will process transactions in real-time, online on behalf of Agency, as such, all transaction information is available for immediate access by Agency. Agency has 24/7 access to information that can be downloaded in multiple download formats. Transactional records of Agency are kept and maintained by Certified consistent with the rules, regulations, and operating procedure of the Card Associations, the merchant acquiring Bank and monies from Agency's transactions are deposited directly to Agency's designated bank accounts within 48 to 72 hours of approved customer initiated transactions. During the term of this Agreement and for the period of record retention required by the rules, regulations and operating procedures of the Card Associations, the merchant acquiring Bank and any rules and regulations provided by American Express and Discover that Certified maintains Agency's transaction records, Agency may audit such transactional records at their convenience by downloading them from Certified's website. Agency does not have a right, and Certified is not granting a right to audit its books and records generally to Agency or to audit Certified's records beyond the available and downloadable transactional documents.

**I. Term of Arrangement**

Unless otherwise terminated, the term of the arrangement shall continue from the date of this Agreement until thirty (30) days after such time as either Certified or Agency has notified the other party in writing of its decision to terminate.

**J. Termination**

Certified's performance of this Agreement is subject to the rules and regulations of the Card Associations, federal, state and local laws or regulations applicable to the Services. Receipt of a written directive from banking regulators, a member bank, Visa, MasterCard or other credit or debit card company or association to terminate shall be immediate upon such event.

**K. Venue and Governing Law**

Each party to this Agreement hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in Williamson County, Texas and the parties hereto expressly consent and submit to such jurisdiction. Furthermore, except to the extent that this Agreement is governed by the laws of the United States, this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding, however, its choice of law rules.

**L. Assignment**

This Agreement may not be assigned by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld, however, the obligations of Certified under this Agreement may be provided or fulfilled by any parent, subsidiary, affiliate, successor corporation or subcontractor of Certified so long as Certified assumes full responsibility for such obligations.

**M. Severability**

If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the parties shall be construed and enforced in accordance therewith. The parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.

**N. Not Sole Source Provider**

Certified agrees and acknowledges that Certified is not to be considered as a sole source provider to Agency of the type of services described hereunder. Furthermore, this Agreement shall not supersede or otherwise affect any current and existing service agreements or arrangements which Agency has, as of the date this Agreement, with Certified or with any other entity for the performance of the same or similar type of payment processing services for Agency.

**O. Entire Agreement; Modifications**

This Agreement, together with the exhibits and schedules hereto constitutes the entire agreement between Certified and Agency with respect to the subject matter hereof. There are no restrictions, promises, warranties, covenants or undertakings other than those expressly set forth herein and therein. Except as otherwise specifically set forth herein, this Agreement supersedes all prior negotiations, agreements, and undertakings between the parties with respect to such matter. This Agreement, including the exhibits and schedules hereto may be modified or amended only by an instrument in writing executed by the parties or their permitted assignees.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**AGENCY'S ACCEPTANCE:**

Agency Name: **Williamson County, Texas,**  
a political subdivision of the State of Texas

By: \_\_\_\_\_

Agency Signature

\_\_\_\_\_  
Dan A. Gattis

Printed Name of Agency Signature

\_\_\_\_\_  
Williamson County Judge

Title

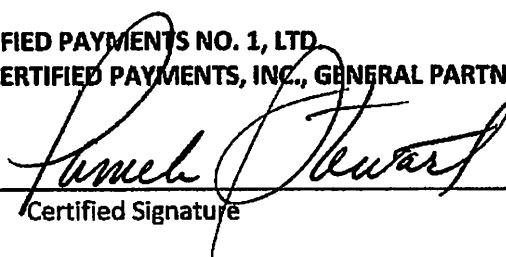
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4-7-09

Date

**CERTIFIED'S ACCEPTANCE:**

**CERTIFIED PAYMENTS NO. 1, LTD.**  
**BY: CERTIFIED PAYMENTS, INC., GENERAL PARTNER**

By: \_\_\_\_\_

  
Certified Signature

\_\_\_\_\_  
Pamela Stewart

Printed Name of Certified Signature

\_\_\_\_\_  
President

Title

\_\_\_\_\_  
3-27-2009

Date



## EXHIBIT A

This Exhibit A to the Service Provider Agreement between Certified and Agency provides as follows:

1. **Schedule of Convenience Fees**

Certified and Agency agree to the following provisions:

- A. 2.85% or a minimum of \$2.00 shall be the agreed upon Convenience Fee that the Agency agrees to allow Certified to charge to Customers for non-tax payments when Customer uses a Credit Card.

**AGENCY'S ACCEPTANCE:**

Agency Name: **Williamson County, Texas,**  
a political subdivision of the State of Texas

By: \_\_\_\_\_

Agency Signature

\_\_\_\_\_  
Dan A. Gattis

Printed Name of Agency Signature

\_\_\_\_\_  
Williamson County Judge

Title

\_\_\_\_\_  
Date

**CERTIFIED'S ACCEPTANCE:**

CERTIFIED PAYMENTS NO. 1, LTD.  
BY: CERTIFIED PAYMENTS, INC., GENERAL PARTNER

By:  \_\_\_\_\_

Certified Signature

\_\_\_\_\_  
Pamela Stewart

Printed Name of Certified Signature

\_\_\_\_\_  
President

Title

\_\_\_\_\_  
3-27-2009

Date

## **EXHIBIT B**

### **AMERICAN EXPRESS ADDENDUM**

This instrument (the "Addendum") effective \_\_\_\_\_, 2009, amends and supplements the [Government Entity] Agreement (as defined below) and the Cardtranz, Inc. Agreement (as defined below), including any and all exhibits, amendments, addenda, appendices and supplements thereto respecting the acceptance of the American Express® Card. For the purpose of this Addendum, "Cardtranz" means Cardtranz, Inc., a Texas corporation, located at 13740 Midway Rd., Suite 702, Dallas, Texas, 75244.

The term "[Government Entity] Agreement" shall mean the Agreement for American Express Card Services dated \_\_\_\_\_, and any Amendment and/or Addendum to such Agreement whereby American Express and the [Government Entity] have made available Card Acceptance for Government offices, agencies, and educational institutions and entities; and, such [Government Entity] agencies have initiated American Express Card acceptance. The term "Cardtranz Agreement" shall mean the agreement dated September, 2003 whereby American Express and Cardtranz have initiated American Express Card acceptance on behalf of various state and local governments. All other terms in this Addendum shall have the same meanings as they have in the [Government Entity] Agreement and/or the Cardtranz Agreement as such Agreements pertain to the parties of those Agreements.

Cardtranz hereby agrees to accept the Card on behalf of the [Government Entity] (as permitted by the [Government Entity]). The parties further agree that the [Government Entity] Agreement and the Cardtranz Agreement shall be deemed amended so that the Discount associated with such Charges on behalf of the [Government Entity] to Cardtranz shall be paid to American Express by Cardtranz. Payments for charges submitted on behalf of the [Government Entity] shall be paid directly to the [Government Entity].

The parties also agree to the following:

#### **Disputed Transactions and Chargebacks:**

American Express will send requests regarding a claim, complaint, or question related to a Disputed Charge to Cardtranz and not to the [Government Entity]. Cardtranz will retrieve all requested information relating to the Disputed Charge and provide such to American Express. If a Cardmember contests the Convenience Fee relating to a Charge, the payment of that Charge to the [Government Entity] also will be treated as contested. If the Disputed Charge results in a reversal of the Charge ("Chargeback"), both the [Government Entity] payment of that Charge and the Convenience Fee will be charged back by American Express. [Government Entity] payments will be charged back to the [Government Entity]; Convenience Fees will be charged back to CARDTRANZ. In no case shall a Convenience Fee be charged back to CARDTRANZ without the related Charge also being charged back to the [Government Entity].

CARDTRANZ will provide reports to the [Government Entity] of any Chargebacks either prior to or on the day the Chargeback is posted to the [Government Entity]'s bank account. American Express will deduct any Chargebacks from amounts owed to the [Government Entity] for Charges.

**Reporting:**

CARDTRANZ will provide reports to the [Government Entity] that include all transactions, including Chargebacks and adjustments in a format agreeable to the [Government Entity].

**Refunds:**

Refunds will be processed through the [Government Entity] agency's standard refund processes. The specific refund policy for each [Government Entity] agency will be posted on the [Government Entity] agency's web site. American Express will accept proof of the refund via the [Government Entity] agency's posted refund process in the event of a Dispute, and not allow the Chargeback.

**Limitation of Liability:**

In no event will Cardtranz or American Express be responsible hereunder for damages to the [Government Entity] arising from delays or problems caused by any telecommunications carrier or banking system or Internet Services Provider ("ISP"); provided, however, that the foregoing shall have no effect upon American Express' rights of Full Recourse, as used in the [Government Entity] Agreement. Except as specifically indicated above, all terms and conditions of the [Government Entity] Agreement and the CARDTRANZ Agreement shall remain in full force and effect.

**Authority to Sign:**

Each party represents that the individual who signs this Addendum has authority to do so and to bind it to the terms and conditions of this Addendum. Each party further represents that they are authorized to sign and enter into this Addendum on behalf of their subsidiaries, affiliates and licensees that accept the Card.

AMERICAN EXPRESS TRAVEL  
RELATED SERVICES COMPANY, INC.

[GOVERNMENT ENTITY]  
WILLIAMSON COUNTY, TEXAS, a  
political subdivision of the State of Texas

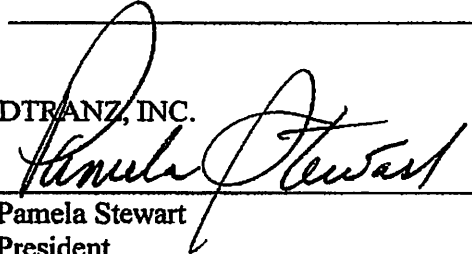
By: \_\_\_\_\_  
Thomas F. Pojero,  
President

By: \_\_\_\_\_  
Dan A. Gattis,  
Williamson County Judge

Date: \_\_\_\_\_

Date: \_\_\_\_\_

CARDTRANZ, INC.

By:  \_\_\_\_\_  
Pamela Stewart  
President

Date: 3-27-2009