

ATM SERVICES AGREEMENT

(Version 10.1)

RECITALS

- A. The parties to this AGREEMENT are Wellington Technologies, Inc., a Montana Corporation with offices at 2110 Overland Ave., Suite 130, Billings, Montana 59102, ("WTI"):and ______, a (Business Type) ______ with offices located at ______ ("Customer").
 - ("Customer").
- B. WTI is an ATM sales and transaction processing company that markets, sells, processes, supports and deploys automated teller machines ("ATMs") nationwide.
- C. Customer buys, installs, and/or operates one or more ATMs in various locations.
- D. ATM Networks require WTI and Customer to enter into an Agreement in order to accept ATM cards at Customer's ATM location(s) and settle money and fees resulting from ATM transactions created by Customer's ATM(s).

NOW THEREFORE, inconsideration of the mutual promises set for below and for other good and valuable consideration, receipt and sufficiency of which are acknowledged by the parties' signatures below, the parties enter the following:

AGREEMENT

SECTION 1 – DEFINITIONS

- 1.01 "Adjustment" means an electronic message initiated by the ATM Network Switch to correct automated debits and credits to Customer's Operating Account resulting from errors, Cardholder (Reg. –E-) claims or fees for ATM Services provided to Customer by WTI.
- 1.02 "ATM" means automated teller machine either owned or sold and processed by WTI.
- 1.03 "ATM Networks" mean both Regional and National electronic processing organizations that provide connections (pathways) between ATM locations and Card authorizing institutions. ATM Networks are utilized under contract by WTI for both Cardholder authorization and ATM transaction settlement.
- 1.04 "ATM Services" mean the package of services offered by WTI, WTI's Sponsor Bank ("Bank") and ATM Networks, to Customer including without limitation ATM transaction processing, settlement, Customer acceptance and activation.
- 1.05 "ATM Transaction" means any cash withdraw, balance inquiry, or account transfer activity performed at an ATM by a Cardholder.
- 1.06 "Automatic Clearing House" means a standardized nationwide system to transfer (clear) money (debits and credits) between ATM Networks, WTI, Customer, and Cardholder.

- 1.07 "Card" means any physical ATM card, credit card or bank card issued by any ATM Network.
- 1.08 "Cardholder" means the person utilizing a Card to perform ATM Transactions at Customers' ATM.
- 1.09 "Confidential Information" means any propriety information or trade secrets.
- 1.10 "Customer" means any ATM owner, such as a merchant or office building or other third party owning or operating an ATM location being processed by WTI.
- 1.11 "Fees" means charges assessed by WTI to Customer for ATM Services provided.
- 1.12 "Fines" means charges to Customer by Bank resulting from non-compliance with the Rules.
- 1.13 "Location Addendum" refers to the addendum pertaining to each and every ATM location contemplated by the AGREEMENT. The Location Addendum documents WTI's processing fees and the parties to and methods of ATM transaction revenue distribution. In some cases, the current Location Addendum may predate this AGREEMENT'S acceptance date.
- 1.14 "Operating Account" means a checking account owned by Customer and maintained by Customer in a U.S. financial institution.
- 1.15 "Processor" means any company utilized by WTI to authorize ATM Transactions, provide daily Transaction settlement services, and the clearing Cardholder claims
- 1.16 "Rules" mean the operating rules, bylaws, and regulations published by the ATM Networks that Members must to adhere to. Customer may receive Fines of \$5,000 or more per transaction if Customer's ATM(s) are not operated in accordance (compliance) with the Rules.
- 1.17 "Sponsor Bank" is the financial institution named in Appendix A of this Agreement that presents (sponsors) WTI and WTI's processed ATMs and ATM locations into various ATM Networks and ensures that they operate in accordance with the published Operating Rules of each ATM Network.
- 1.18 "Switch" means any ATM Network that routes (switches) ATM Transactions between WTI processed ATM(s), other ATM Networks, and Processors.

SECTION 2 - TERM, TERMINATION, DEFAULT

2.1 Term. This AGREEMENT, and the initial term hereof, applies separately to each Customer ATM locations made subject hereto by Location Addendum. The initial term of this AGREEMENT shall be for a period of five (5) years for each Location Addendum, commencing on the date, for each Location Addendum, that the first transaction is processed by WTI and terminating five (5) years after such date. Each Location Addendum will be subject to the terms and conditions of this AGREEMENT and have a separate initial term as set forth herein. This AGREEMENT shall automatically renew for an equivalent Term under the same terms and conditions, unless a party to this AGREEMENT gives a notice of non-renewal, not less than two (2) months (60 days) prior to the end of the initial or renewal term of each Location Addendum.

- **2.2 Termination.** WTI or Customer may terminate this AGREEMENT upon 120 days prior written notice to the other party for failure of the other party to perform according to the terms and conditions provided for in this AGREEMENT. If for any reason Customer discontinues processing with WTI during the initial term hereof, or any renewal term of this AGREEMENT, the amount of damages incurred by WTI would be impractical or extremely difficult to fix at the time of termination. It is therefore the express agreement of the parties that: In the event of termination of this AGREEMENT by Customer prior to expiration of its term, Customer shall pay WTI, as liquidated damages, an amount equal to 70% of the average monthly fees paid plus interchange and surcharge income received by WTI as a result of processing during the 12 months preceding termination (or such lesser period as monthly charges have been in effect) times the number of months remaining in the term of each and every Location Addendum. It is further expressly understood and agreed between the parties that this estimate of damages is a reasonable estimate of probable damages and is reasonably proportionate to the actual damage, which would be sustained by WTI for the termination of this AGREEMENT.
- **2.3 Default.** Each of the following occurrences will constitute an Event of Default under this Agreement:

<u>Nonpayment</u>. Any party fails to pay the other when due any amount due under this Agreement and such failure continues for a period of thirty (30) business days after written notice has been sent to the non-paying party.

2.4 Certain Post-Termination Rights.

A. <u>Other Rights.</u> No termination of the Agreement will affect any right of WTI with regard to the collection of Adjustments, fees owed, or Customer liabilities.

SECTION 3 - DUTIES OF CUSTOMER

- 3.1 In addition to other duties contained in this AGREEMENT, the Customer shall have the following duties, the failure or refusal of performance of which shall constitute a material breach of this Agreement:
 - A. Customer agrees to abide by ATM Network Operating Rules, copies of which can be obtained from WTI.
 - B. Customer agrees to reimburse WTI within thirty (30) business days an amount equal to any fees and fines imposed by the Sponsor Bank or ATM Networks on WTI resulting from Customer's failure to comply with the Rules.

Customer will maintain a legible approved Fee Notice on all ATMs operated by Customer and processed under this AGREEMENT. Fee Notices can be obtained free of charge from WTI. Customer further agrees that all Cardholder fee (surcharge) amounts will be clearly and conspicuously disclosed to the Cardholder and an option provided for the Customer to cancel any ATM Transaction prior to being charged the fee (surcharge) amount.

- C. Customer is responsible to make all necessary maintenance (repairs) to the ATMs processed under this AGREEMENT.
- D. Customer agrees to exclusively allow only WTI processed ATM equipment to be installed and/or operated at Customer's ATM locations identified by this AGREEMENT'S Location Addenda(s), during the entire Term of each Location Addenda.

- E. Customer will comply with all state and federal statutory and regulatory requirements governing Customer, its business and its ATM operations; customer acknowledges that the records maintained and output produced by WTI are not represented by WTI to be in compliance with such requirements.
- F. Customer will report any suspicious ATM activity to WTI when observed.
- G. Customer will retain, for at least two (2) years, all ATM created journal audit tapes maintain these audit records as may be required by regulatory authorities having jurisdiction over Customer and provide WTI with copies of Customer's ATM journal audit tapes within 24 hours of WTI request.
- H. Customer agrees that no employee or agent will request a Cardholder to divulge his or her PIN in an oral or written manner.
- I. Customer agrees that the placement of the ATM should be such that a Cardholder can reasonably prevent others from observing the entered PIN.

SECTION 4 - DUTIES OF WTI

- 4.1 WTI will perform the following services:
 - A. WTI will provide 24-hour, seven day a week, automated ATM data processing support to Customer's ATMs, including the Switching of ATM originated requests and authorization of transactions initiated by Cardholders.
 - B. WTI shall respond to Customer's inquiries regarding processing, settlement, equipment and fraud prevention.
 - C. WTI will assist Customer in becoming familiar with the Rules.
 - D. WTI will provide ATM activity monitoring and notify Customer when ATM problems are detected in accordance with the most current notification instructions supplied by Customer.
 - E. WTI will reasonably assist Customer in the installation, servicing, repairs and operation of their ATM(s).
 - F. WTI will, at WTI's option, either prepare monthly money settlement and ATM(s) activity reports and e-mail to Customer or provide Customer with direct access to such information via the Internet.
 - G. WTI will provide money settlement at the rates and in a manner set forth in each Location Addenda. It is understood that: ATM's transaction withdrawal amounts from 5:00 p.m. each business day to 5:00 p.m. (CST or CDT, whichever is applicable) of the next business day, and the associated surcharging income, may be direct deposited into Customer's checking account at Customer's United States bank of choice within 24 hours Monday through Friday.

SECTION 5 – THIRD PARTY REQUIREMENTS

5.1 **ATM Network Requirements**.

- A. <u>Registration</u>. WTI will comply with all ATM Network registration requirements; will maintain such registration in good standing.
- B. <u>Fines.</u> Customer is responsible to reimburse WTI within thirty (30) business days of receipt of any fines imposed upon Sponsor Bank or WTI due to any noncompliance on the part of Customer with the Rules.
- C. <u>Records.</u> Upon request, Customer will provide records containing Customer or Cardholder information to WTI, ATM Network or any regulatory agency as soon as possible but no later than seven (7) days from Customer's receipt of a request for such information.
- D. <u>Contact</u>. WTI must promptly volunteer a name or title of and a telephone number for an employee of Sponsor Bank upon request by Customer, or if WTI is unable or unwilling to respond to a Customer question.
- 5.2 **Notification.** Each party will promptly notify the other if it receives notice from any ATM Network or governmental agency that may affect that party's performance under this AGREEMENT.

SECTION 6 - PERFORMANCE

6.1 WTI shall use due care in fulfilling its responsibilities to Customer, and in performing its services hereunder. WTI shall give equal consideration to all Customers in production scheduling. WTI shall be responsible only for correction of errors that are caused by WTI's machines and employees, provided Customer notified WTI in writing of the receipt of the processed transaction or report containing the error. It is understood by the parties to this Contract that the Customer's failure to notify WTI of any error within 30 days of the discovery by Customer shall constitute Customer's acceptance of the services and shall relieve WTI of any obligation under this Contract for any further responsibility for the processed transaction or report. WTI has no duty or obligation to perform any service, other than those herein expressly provided, unless agreed upon in writing prior to the performance of such service. WTI shall be under no duty or obligation to inquire into the nature or authenticity of the transactions represented by the records or data submitted by Customer before, during, or as a result of processing hereunder.

SECTION 7 – ATM EQUIPMENT AND SERVICES FEES

- 7.1 ATM Services fees listed on each Location Addendum(s) to this Agreement are subject to the terms and conditions of this AGREEMENT for the entire term of this AGREEMENT as specified in Section 2 hereof. Each Location Addendum specifying the ATM location and ATM Services fees information is subject to this AGREEMENT shall be executed by both WTI and Customer from time to time as equipment is placed by Customer with WTI for Processing. Customer and WTI mutually agree and acknowledge that ATM equipment, not originally part of this AGREEMENT, shall nevertheless become subject to the terms and conditions of this AGREEMENT by this procedure. Each Location Addendum shall be dated and signed by both WTI and Customer.
- 7.2 Customer agrees to pay WTI for each service according to the Fees as outlined in each Location Addenda to this AGREEMENT. Customer authorizes WTI to charge Customer's Operating Account monthly for any fee amounts due. Customer further authorizes WTI to initiate debit entries and credit entries from time to time as adjustments for error correction to Customer's Operating Account. Should Customer prevent WTI from making any such entries, Customer hereby authorizes WTI to increase such payment by ten percent (10%), or \$5.00, whichever is greater, to cover WTI's additional handling costs.

- 7.3 WTI assumes no liability or responsibility, either express or implied, concerning the physical ATM site preparation, ATM equipment installation, or business phone service installation to the ATM. All such costs incurred are Customer's sole responsibility. Failure, on Customer's part, to have the physical ATM site ready when the ATM Equipment arrives may result in additional handling charges from WTI to Customer.
- 7.4 All maintenance (repair) charges, not covered by manufacturer's warranty, will be the Customer's sole financial responsibility. Customer agrees to hold WTI harmless from any and all maintenance related charges and invoices.
- 7.5 Customer shall pay and discharge when due all license and registration fees, Network pass-through fees, assessments, sales, use, property and other taxes and charges, together with any applicable penalties or interest, now or at any time imposed upon any item or service provided or payment payable under this contract, whether payable by or assessed to WTI or Customer. If Customer fails to pay any fees, assessments, taxes, or charges as required hereunder, WTI shall have the right but not the obligation to pay those fees, assessment, taxes or charges. If such payments are made by WTI, Customer shall promptly reimburse WTI, upon demand, for all such payments made plus handling costs, if any. Customer acknowledges that where required by law, WTI will file appropriate documents in order to comply with any tax rule, law or regulation. Customer agrees and acknowledges that it has not received any tax advice from WTI.

SECTION 8 - RISK OF LOSS

- 8.1 Customer shall indemnify and hold WTI harmless from and against any and all liability that may occur as the result of Customer's acts or omissions, negligent or intentional, or those of its agents or employees, under this AGREEMENT or otherwise, including but not limited to and in addition to that associated with the malfunction or failure of any ATM, any liability arising from any ATM Network electronic funds transfer or its participants or Cardholders, the failure or refusal of Customer to comply with any of its duties under the Rules of the particular Network, or the failure or refusal of Customer to satisfactorily account for any transaction which either originated or was received by the Customer unless such failure or refusal to account for a transaction occurred by reason of WTI's negligence or the failure of the WTI to follow its duties imposed by the known Rules of the respective ATM Network.
- 8.2 WTI assumes no liability for the accuracy of processed data, except for the correction of its work. WTI's liability for any cause or tort action shall not, in the aggregate, exceed the total service fee for services during the three (3) months preceding such failure under this AGREEMENT. IN NO EVENT WILL WTI BE LIABLE TO CUSTOMER FOR CONSEQUENTIAL DAMAGES AS DEFINED IN THE UNIFORM COMMERCIAL CODE.

SECTION 9 - ACCURACY

9.1 All ATM balancing activity will originate with the Customer or its designated Money Provider. The accuracy of such activity shall be the Customer's or Money Provider's sole responsibility. In the event that balancing entries are prepared for the Customer or its designated Money Provider by WTI, Customer agrees to hold WTI harmless for any and all errors and omissions in connection with the preparation of such manual entries for the Customer or its designated Money Provider.

9.2 Upon receipt of any output from WTI, Customer agrees to review, verify, make a final audit, and control dissemination of all output. If Customer fails to discover and report to WTI any error or omission in output that is discoverable by utilizing the controls and procedures specified by WTI in the manner required of a Notice herein, within three (3) business days of receipt of the same or within a reasonable period of time where the error or omission cannot reasonably be discovered and reported except by those patronizing Customer, the Customer shall not have (and Customer hereby waives) any rights or claims against WTI arising out of any such error or omission.

SECTION 10 - REPRESENTATIONS AND WARRANTIES AND CONFIDENTIALITY

- **10.1 Representations and Warranties.** Each party represents and warrants to the other that:
 - A. <u>Full Authority.</u> It has full authority and corporate power to enter into this Agreement and to perform its obligation under this Agreement.
 - B. <u>No Violation.</u> Its performance of this Agreement will not violate any applicable law or regulation or any agreement to which it may now or hereafter be bound.
 - C. <u>Enforceability</u>. This Agreement represents a valid obligation of that party and is fully enforceable against it according to its terms.
 - D. <u>Compliance.</u> It will comply with the terms of this Agreement, with the Rules as published and with all applicable state and federal laws and regulations.
 - E. <u>No Litigation</u>. That party and its officers and directors are not a party to any pending litigation that will affect its performance of this Agreement and have never been fined or penalized by any ATM Network.
- **10.2 Confidentiality.** WTI and Customer each agree that it will retain in strictest confidence the Confidential Information, trade secrets and all information belonging to or relating to the business of the other party (including without limitation the terms of this Agreement), and that each party will safeguard such information and data by using the same degree of care and discretion that it uses to protect its own confidential information. No party will use the other party's Confidential Information for its own benefit other than for the purposes contemplated by this Agreement, nor will it allow any third party to use such information.

SECTION 11 - NAMES AND TRADEMARKS

11.1 WTI Name. Neither party will use the other's name in any promotional or marketing materials, nor will it promote the other's programs in any way, without the other's verbal or written consent. Customer acknowledges and agrees that the trademarks owned by WTI are registered trademarks of WTI and that it has no rights to use such trademarks without WTI's consent

SECTION 12 – GENERAL

12.01 Successors and Assigns. This Agreement shall inure to the benefit of and will be binding upon the parties and their respective successors and assigns subject to paragraph 12.02, for the term of this AGREEMENT. This Agreement will not be deemed to be for the benefit of any third party.

- **12.02** Assignment. Customer may not assign its rights under this AGREEMENT without the prior express written consent of WTI, which will not be unreasonably withheld.
- **12.03** Notice. All communications under this AGREEMENT shall be in writing and will be delivered in person or by mail courier, return receipt requested, addressed to the addresses set forth in the opening paragraph of this AGREEMENT. The parties may, from time to time, designate different persons or addresses to which subsequent communications will be sent by sending a notice of such designations in accordance with this Section.
- **12.04 Entire Understanding, Amendment.** This AGREEMENT, including the attached Location Addendum(s) which are incorporated by reference, sets forth the entire understanding of the parties relating to its subject matter, and all other understandings, written or oral, are superseded. Except as otherwise provided in this AGREEMENT, this AGREEMENT may not be amended except in writing executed by both parties.
- **12.05** Severability. If any provision of this AGREEMENT is illegal, the invalidity of such provision will not affect any of the remaining provisions, and this AGREEMENT will be construed as if the illegal provision is not contained in the AGREEMENT. This AGREEMENT will be deemed modified to the extent necessary to render enforceable its provisions, and to comply with the Rules.
- **12.06** No Waiver of Rights. No failure or delay on the part of any party in exercising any right under this AGREEMENT will operate as a waiver of that right, nor will any single or partial exercise of any right preclude any further exercise of that right.
- **12.07** Applicable Law. The Agreement will be deemed to be a contract made under the laws of the State of Montana, and will be construed in accordance with the laws of Montana without regard to principles of conflicts of law. The non-prevailing party in any legal action shall not pay prevailing party's attorney fees.
- **12.08** Independent Contractors. WTI and Customer will be deemed to be independent contractors and will not be considered to be agent, servant, joint venture or partner of the other.
- **12.09** Construction. The headings used in this Agreement are inserted for convenience only and will not affect the interpretation of any provision. All sections mentioned in the Agreement reference section numbers of this Agreement. The language used will be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction will be applied against any party.
- **12.10** Force Majeure. Neither party will be liable to the other for any failure or delay in its performance of this Agreement in accordance with its terms if such failure or delay arises out of causes beyond the control and without the fault or negligence of such party. WTI shall not be liable for failure to provide, or delay in providing, service herein when prohibited by events beyond its control, including, but no limited to, natural disaster, national emergency, civil disorder, power outages or brownouts/blackouts.
- **12.11** Survival. All agreements that by their context are intended to survive the termination of this Agreement, including but not limited to Paragraphs 3.1.B, 3.1.H, 8.1, 8.2, 10.2, and section 11 will survive termination of this Agreement.

SECTION 13 - BACKGROUND CHECK AUTHORIZATION

13.1 WTI is required by the Department of Homeland Secuity, its Sponsor Bank, and various ATM Networks, to conduct a nonpublic credit/criminal history background check on every Customer. Signing this Agreement constitutes written authorization from Customer for WTI to obtain Customer's nonpublic consumer credit/criminal history information from a licensed consumer-reporting agency. WTI restricts access of its Customers' nonpublic personal information to only those WTI and Sponsor Bank's employees who need to know that information to provide services its Customers. WTI employees cannot use Customer's information for any other purpose. For Customer's safety, WTI maintains physical, electronic, and procedural safeguards to further guard Customer's nonpublic personal information. Customer agrees to reimburse WTI for all costs associated with WTI obtaining Customer's nonpublic credit and criminal history.

SECTION 14 - EFFECTIVENESS OF AGREEMENT SUBJECT TO ACCEPTANCE

14.1 This AGREEMENT shall not be effective until accepted by WTI and signed by its duly authorized representative.

SECTION 15 - EXISTING AGREEMENTS

15.1 Customer hereby certifies to WTI that Customer does <u>NOT</u> currently have an ATM (Cash Machine) processing contract with any other ATM service or processing provider. If Customer currently has an ATM contract in force with a provider, other than WTI, please <u>DO NOT</u> sign this AGREEMENT.

WTI	Customer
	(Name of Customer)
Signature:	Signature:
Printed Name:	Printed Name:
Title:	
Acceptance Date:	Date:

Contract Number _____

ADDENDUM TO ATM SERVICES AGREEMENT

Between Wellington Technologies, Inc. and

"ISO"

"ATM Operator"

THIS ADDENDUM shall amend and shall constitute a part of, together with any exhibits or schedules attached hereto,

that certain ATM Services Agreement (the "Agreement") made this ____ day of _____, by and between _______, by and between _________, "("ATM Operator") and Wellington Technologies, Inc. ("ISO"). The terms hereof will for all purposes be deemed incorporated in the Agreement. In the event of any conflict between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum shall control. All capitalized terms, unless otherwise indicated, shall have the meanings attributed to them in the Agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

Member Bank: The Member financial institution sponsoring the ATM transactions under this Agreement is Citizens Bank, N.A. whose principal address is 1 Citizens Plaza, Providence, RI 02903 and who can be reached for customer service at (888) 486-4949 (hereinafter "Member Bank").

Compliance with Rules and Regulations: ATM Operator and ISO each acknowledge that sponsorship of ATM Operator and its activities under this Agreement may be terminated for failure to comply with the terms of this Agreement; if the applicable networks determine that the ATM Operator is not qualified to act as such; or it they are found to be in violation of the rules and regulations of the applicable debit networks. ATM Operator further acknowledges that the applicable debit networks are the sole and exclusive owners of their respective Service Marks and agrees that it will not contest the ownership of the Service Marks for any reason whatsoever. The debit networks may at any time, immediately and without advance notice, prohibit the ATM Operator from using any of their respective Service Marks for any reason.

Financial Information: ATM Operator hereby acknowledges that it is required to provide requested financial information to Member Bank under this Agreement since the transactions settled by Member Bank hereunder constitute "financial transactions" under Federal Law (e.g., USA Patriot ACT). Member Bank is therefore required to obtain, verify and record the required information. A consumer credit report and criminal background investigation may also be required by Member Bank in connection with the sponsorship of ATM Operator's activities under this Agreement. ATM Operator hereby authorizes Member Bank or any of its agents to investigate information or data obtained from ATM Operator. ATM Operator further represents that all information provided to Member Bank and its agents are true and correct. ATM Operator hereby authorizes Member Bank to share ATM Operator's Financial Information with financial institutions that may become the sponsor of the ATM transactions by virtue of an assignment from Member Bank.

Except to the extent specifically amended by this Addendum, all terms of the Agreement are ratified and confirmed.

Wellington Technologies, Inc.	
("ISO")	
By:	
Name: Elaine Mc Clelland	
Title: CFO	
Date:	

<u>Citizens Bank, N.A. Providence, RI.</u>		
(Member Bank)		
By:		
Name:		
Title:		
Date:		

("ATM Operator"		
Signature:		
Printed Name:		
Title:		
Date:		

Initials Customer