

**AMENDED AND RESTATED SECURE PAYMENTS TASK FORCE PARTICIPATION
AGREEMENT
FOR AN ORGANIZATION
March 2016**

This Amended and Restated Participation Agreement (“Agreement”) is made by and between the organization or entity executing the Agreement (“Participant”) and the Federal Reserve Bank of Kansas City (“Bank”).¹ Participant and the Bank are each referred to as a “Party” and collectively referred to as “Parties.”

This Agreement governs the participation of Participant in the Secure Payments Task Force (“Task Force”). This Agreement amends and restates in its entirety the original Secure Payments Task Force Participation Agreement for an Organization by and between Participant and the Bank and is effective upon the date of the last signature below. Participant and the Bank agree as follows:

1. TASK FORCE STRUCTURE AND PURPOSE

The structure, mission, and administration of the Task Force are described in its charter, which can be found at <https://fedpaymentsimprovement.org/wp-content/uploads/secure-tf-charter.pdf> (“Charter”).

2. RESPONSIBILITIES OF PARTICIPANT

Participant agrees to participate in the Task Force subject to the terms of the Charter, as amended from time to time, which terms are fully incorporated herein by reference, and the terms and conditions of this Agreement. If a provision of the Charter is inconsistent with or conflicts with any term of this Agreement, the terms and conditions of this Agreement will prevail.

Participant’s responsibilities and duties in addition to those listed in the Charter are as follows:

- a. Organization Representative. Participant will be represented by a single individual representative at meetings and calls, unless otherwise agreed by the Task Force Chair or his/her designee. The individual representative of Participant should be identified on the Identification of Representative form attached as Exhibit A. If another individual will temporarily or permanently represent Participant, Participant must inform the Task Force Chair or the Chair’s designee of the substitution in writing.
- b. Participation Expectations.
 - i. Participant is expected to attend all calls and in-person Task Force meetings, and to review background documentation and proposals in preparation.

¹ As of the signing of this Agreement, the President of the Federal Reserve Bank of Kansas City is serving as the executive sponsor on behalf of the Federal Reserve System for the portion of the Strategies for Improving the U.S. Payment System effort relating to the Task Force.

- ii. Participant is expected to represent what is in the best interest of the U.S. payment system, while representing its perspectives (as applicable) on matters of Task Force discussion.
 - iii. Participant is expected to be knowledgeable about the U.S. payment system, as well as monitor payment system developments, particularly in areas relevant to developing a safe, faster infrastructure.
 - iv. Participant is expected to complete any assignments made by the Task Force, such as gathering information and feedback from its organization (as applicable) on matters the Task Force is considering.
 - v. Participant may be asked to identify and provide resources from its organization as applicable to support specific work efforts that advance the Task Force's mission to identify alternative approaches to a safe, faster U.S. payments capability.
- c. Fees and Costs. There are no fees for participating in the Task Force. Participant is expected to pay for all of Participant's costs associated with participation in the Task Force.
 - d. Documentation. Participant may distribute/disseminate information regarding the Task Force in accordance with this Agreement.
 - e. Steering Committee and Work Groups. Additional terms may apply if Participant serves on the Steering Committee or a Work Group in support of the Task Force.

3. ANTITRUST COMPLIANCE

Task Force activities will be conducted in accordance with all applicable laws, including antitrust laws. It is extremely important that all Task Force participants be aware of the types of activities prohibited by antitrust laws. Participant shall act in accordance with applicable laws:

- a. No Sharing of Confidential Competitive Information. There will be no discussion or sharing of any materials or data regarding Participant's actual plans for (i) prices, (ii) discounts, (iii) promotions, (iv) credit terms, or (v) other information related to prices; particular customers or suppliers (except for suppliers or vendors related to the Task Force's efforts); specific costs pertaining to Participant's actual implementation or use of any innovations that arise from the Task Force's work; confidential business strategies or tactical plans; profit margins; or market shares.
- b. Market Accessibility and Freedom. In connection with the Task Force, Participant shall not engage in any activity designed to prevent any competitor from gaining access to any market or customer for goods and services, or to prevent any competitor from obtaining a supply of goods or services or otherwise purchasing goods or services in the market. This subparagraph shall not be construed as requiring Participant to grant any

rights or licenses or as restricting Participant from enforcing any intellectual property or proprietary rights.

4. COMMUNICATIONS AND INFORMATION SHARING

Participant agrees that identifying information related to Participant or Participant's representative – name, title, and affiliation – may be listed publicly on behalf of the Task Force or by the Bank in connection with the Task Force's activities. In addition, Participant agrees that the above information, along with contact information (email/phone) may be disseminated to other Task Force participants. Participant agrees not to use, or disseminate to others, telephone numbers or email addresses related to other Task Force participants for other commercial purposes. The Bank along with other Federal Reserve Banks and the Board of Governors of the Federal Reserve System will be solely responsible for public-facing communications about the Task Force's work. Participant will not purport to speak for or act as an agent of the Bank, any other Federal Reserve Bank, or the Board of Governors of the Federal Reserve System or the Task Force itself when communicating regarding the work of the Task Force, unless authorized by the Task Force Chair or his/her designee.

5. INTELLECTUAL PROPERTY RIGHTS

The Bank and Participant agree that the purpose of the Task Force is to facilitate improvements to the U.S. payment system for the benefit of all payment system users. The Parties further agree that reports of the Task Force reflecting its work should be made widely available, consistent with the Task Force's purposes. To facilitate these outcomes, ownership rights of copyrighted materials are governed by Section 5(a). Ownership rights in other intellectual property are governed by Section 5(b). Participant may, alone or with one or more other Participants, submit a "Proposal," which is defined as an end-to-end solution for a proposed faster, more secure payment system pursuant to the effectiveness criteria outlined by the Task Force. For the avoidance of doubt, any reference to Proposal means a written proposal submitted by the Participant alone or in concert with one or more other participants during the term of this Agreement explicitly using the Faster Payments Task Force Proposal Template, Final Version ("Formal Submission Template") and any materials, suggestions, recommendations, or other statements provided by the Participant as an express written supplement to its Formal Submission Template. Other materials, suggestions, recommendations, or other statements that are not expressly written within or supplemental to the Formal Submission Template shall not be considered a Proposal. For the further avoidance of doubt, any reports or work product of the Secure Payments Task Force or work groups within the Secure Payments Task Force are not considered a Proposal. The Parties further agree that:

- a. Ownership of Copyright for Contributions and Reports. Participant will retain copyright ownership in its original work of authorship for any copyrighted materials, including any Proposal, contributed by the Participant to the Task Force or any Work Group of the Task Force (a "Submission"). Nothing in this Agreement shall effect a transfer of ownership of any software, data structures, or computer code contributed by Participant as part of a Submission. Participant agrees to grant and hereby grants to the Bank a non-exclusive,

irrevocable, worldwide, perpetual, royalty-free, fully paid-up license under Participant's copyright in each Submission to reproduce, distribute, publish, display, perform, and create derivative works of the Submission (in any format or medium) for the purposes of developing, publishing and distributing a Report (as defined in this Section 5(a)) under the Bank's own copyright and authorizing others to reproduce, use and distribute the Report. As between Participant and the Bank, Participant agrees and acknowledges that the Bank owns the copyright in all Reports and hereby assigns to the Bank any copyright held by Participant in such Reports. "Report" means a compilation of or collective works of the Bank and any or all Task Force participants, in draft, revision, or final approved form, prepared for or on behalf of the Task Force or any Work Group. A "Final Report" is a Report placed in final form and designated as such by the Task Force Chair for intended distribution to Task Force participants and the public.

- i. License. Bank shall license Participant to reproduce, use and distribute any Final Report, in any medium for any purpose and without fee or royalty, provided that the Participant includes on all copies the pre-existing copyright notice of the Bank or provides the notice "Copyright © [year-of-document] Federal Reserve Bank of Kansas City. All Rights Reserved."
 1. This license does not include a right for Participant to modify or create a derivative work of a Final Report, except Participant shall not be limited in any way in its use of its Proposal or of its intellectual property therein.
 2. The Bank retains the right to grant licenses under a Final Report to any member of the public, whether or not a Task Force participant.
- b. Ownership of Other Intellectual Property. The ownership of other intellectual property newly created or developed by or on behalf of the Task Force or any Work Group is governed by the following:
 - i. Intellectual property solely created or developed by a Task Force participant for or on behalf of the Task Force or any Work Group is exclusively owned by such Task Force participant;
 - ii. Intellectual property solely created or developed by the Bank, other Federal Reserve Banks, or the Board of Governors of the Federal Reserve System, for or on behalf of the Task Force or any Work Group, is exclusively owned by the Bank, other Federal Reserve Banks, or the Board of Governors of the Federal Reserve System; and
 - iii. Intellectual property jointly created or developed by two or more Task Force participants or one or more Task Force participants and the Bank, other Federal Reserve Banks, or the Board of Governors of the Federal Reserve System, for or on behalf of the Task Force or any Work Group, is jointly owned by the co-contributors without an obligation to account to the other co-contributors.
 - iv. Disclosure of Essential Claims.

1. License. Subject to Section 5(b)(iv)(2), Participant agrees to grant (and agrees to cause Participant's Affiliates to grant) to the Bank, the other Federal Reserve Banks, the Board of Governors of the Federal Reserve System, all Task Force participants and all members of the public, a non-exclusive license under fair, reasonable and non-discriminatory terms for any and all Essential Claims submitted by the Participant in its Proposal that is included in a Final Report.
 - A. "Affiliate" means an entity that directly or indirectly, through one or more intermediaries, controls the Participant, is controlled by the Participant, or is under common control with the Participant. For the purposes of this definition, the term "control" and its derivatives, with respect to for-profit entities, means the legal, beneficial or equitable ownership, directly or indirectly, of more than fifty percent (50%) of the capital stock (or other ownership interest, if not a corporation) of an entity ordinarily having voting rights. "Control" and its derivatives, with respect to nonprofit entities, means the power to elect or appoint more than fifty percent (50%) of the Board of Directors of an entity.
 - B. "Essential Claim" means any patent or patent application owned by Participant (or any and all of Participant's Affiliates) in any jurisdiction in the world that would necessarily be infringed by implementation of the Participant's Proposal. A claim is necessarily infringed hereunder only when it is not possible to avoid infringing it because there is no non-infringing alternative for implementing the Proposal.
2. Opt-Out Option. Participant shall have an opportunity to identify any Essential Claim incorporated or otherwise disclosed within the Participant's Proposal that will be incorporated into the Final Report and decline to grant a license in an identified Essential Claim, as described below:
 - A. From time to time, the Task Force Chair, or the Chair's designee, shall issue to Participant a written Call for Exclusion, requesting that the Participant specifically identify any Essential Claim incorporated or otherwise disclosed within its Proposal which Participant seeks to exclude from the license of Section 5(b)(iv)(1). Participant's identification of an Essential Claim requires: (1) an identification of the relevant patent number or patent application serial number, the jurisdiction of the patent or patent application, and a brief disclosure of the subject matter of the patent or patent application; and (2) delivery of a copy of the patent or patent application (if not available in published form).
 - B. Within the time frame described in the Call for Exclusion, Participant shall provide the Task Force Chair with a written Response to Call for Exclusion.

- C. Upon timely receipt of the Response to Call for Exclusion by the Task Force Chair, each Essential Claim specifically identified in the Response will be excluded from, and shall not be subject to, the terms and conditions of Participant's license in Section 5(b)(iv)(1).
- D. Notwithstanding the foregoing, Participant is encouraged to identify to the Task Force Chair (or Work Group Chair, as applicable) any Essential Claim known to Participant at the time of introduction, discussion or evaluation of its Proposal.

6. CHANGES IN AFFILIATION OR CHARACTER OF BUSINESS

Participant agrees to inform the Task Force Chair of a change in the name or general business purpose of the Participant, during participation on the Task Force.

7. RELATIONSHIP OF PARTIES

The Task Force is not a separate legal entity, and these terms and conditions do not create a partnership, joint venture, or render the Parties as employer and employee. Participant cannot bind or create any relationship of principal or agent between Participant and the Bank, any other Federal Reserve Bank, or the Board of Governors of the Federal Reserve System, or between or among Task Force participants.

8. INDEMNIFICATION AND OTHER CLAIMS

- a. Definitions. As used in this Section, the following definitions apply:
 - i. Indemnitee. Indemnitee means the indemnified Party.
 - ii. Indemnitor. Indemnitor means the indemnifying Party.
 - iii. Claim. Claim means any claim, demand, lawsuit, proceeding, negotiation, mediation, or arbitration (or portion thereof) arising out of Indemnitor's alleged or actual failure to comply with an obligation, representation, or warranty under this Agreement.
 - iv. Loss. Loss means any and all losses, liabilities, obligations, judgments, damages, settlement or expenses (including reasonable attorneys' fees and costs) related to a Claim.
- b. Indemnification by Participant. Unless prohibited by law and subject to the limitation of liability in Section 9(c), Participant shall indemnify against any Loss and defend against any Claim against the Bank and any and all other Federal Reserve Banks and the Board of Governors of the Federal Reserve System and each of their directors, officers, employees, representatives, agents, attorneys, successors and assigns.

- c. Indemnification by the Bank. Subject to the limitation of liability in Section 9(c), the Bank shall indemnify against any Loss and defend against any Claim against the Participant and, if applicable, its directors, officers, employees, representatives, agents, attorneys, successors and assigns. The Bank shall have no obligation to indemnify a Loss or defend a Claim between and among the Participant and another Task Force participant(s). Any indemnification under this paragraph pertains only to a Claim or Loss resulting from the Bank's alleged or actual failure to comply with an obligation, representation, or warranty under this Agreement.
- d. Notice of Claim. Indemnatee shall notify Indemnitor in writing of a Claim within 10 calendar days after receiving notice of such Claim. If Indemnatee fails to notify the Indemnitor within 10 calendar days from the receipt of a Claim, Indemnitor will be relieved of its obligation to indemnify and defend to the extent Indemnitor is prejudiced by the delay. Notice of a Claim shall be made in writing to the following as applicable: (1) the individual identified in Exhibit A for an organization or entity Participant; or (2) the General Counsel of the Bank.
- e. Defense of Claim.
 - i. Within 10 calendar days of receiving notice of a Claim from Indemnatee, Indemnitor must notify Indemnatee whether or not it will assume defense of the Claim.
 - ii. If Indemnitor assumes defense of a Claim, it shall promptly select legal counsel at its expense to represent Indemnatee in the Claim.
 - iii. If Indemnitor assumes defense of the Claim, Indemnitor has the right, in its sole discretion and without the approval of Indemnatee, to settle the Claim so long as (a) all obligations and liabilities of Indemnatee related to the Claim are extinguished as a result of such settlement, (b) such settlement is solely for monetary value, and does not impose any other obligation on the Indemnatee, (c) such settlement does not entail any admission that Indemnatee has violated any law or infringed upon the rights of any person or entity, and (d) such settlement does not otherwise adversely affect the rights of Indemnatee.
 - iv. If Indemnitor assumes defense of the Claim, and counsel selected by Indemnitor informs Indemnitor that a conflict of interest exists for such counsel representing Indemnatee, Indemnitor shall have the option to select different counsel at its expense to represent Indemnatee in the Claim or may waive its right to assume defense of the Claim.
 - v. If Indemnitor assumes defense of the Claim, Indemnatee at all times has the right to provide for additional defense at its own expense, for which Indemnitor will not be obligated to pay.

- vi. If Indemnitor does not assume defense of or fails to give timely notice under paragraph (i) that it will defend the Claim, Indemnitee may defend the Claim through counsel of its own choosing, which shall not relieve Indemnitor of its obligations under this Section 8, including the obligation to pay reasonable attorneys' fees and costs.
 - vii. If Indemnitee defends at its own expense under paragraph (v) or defends the Claim under paragraph (vi), any resulting settlement requires the approval of Indemnitor, which shall not be unreasonably withheld. If Indemnitee elects to settle without obtaining approval of Indemnitor, Indemnitee waives any right to indemnification for the settlement amount.
 - viii. Notwithstanding subparagraphs (i)–(vii) of this Section, if the Bank and Participant are both made defendants in any Claim for which each may seek indemnity from the other, the Bank may at its discretion, select and pay for counsel to represent both Parties, unless counsel determines such representation would constitute a conflict of interest. If counsel determines there is a conflict of interest, each Party will retain and pay for its own counsel, and in such a situation, each Party has the right to settle any portion of the Claim against itself at its own discretion, provided it obtains approval of the other Party prior to settling, which shall not be unreasonably withheld. If a Party elects to settle without obtaining approval of the other Party, the settling Party waives any right to indemnification.
- f. Participant agrees and acknowledges that the Bank has no obligation or responsibility to determine, resolve, or arbitrate any disputes arising under this Agreement between and among the Participant and any other Task Force participant(s) or the Participant and any third parties. By way of example and not limitation, each Task Force participant is solely responsible for: (i) taking steps it deems necessary to determine and establish the extent to which a Task Force participant created or developed other intellectual property under Section 5(b) of this Agreement, and (ii) determining whether disclosure of any Proposals requires the prior consent or licensing of another party and, if so, to obtain it.

9. REPRESENTATIONS AND WARRANTIES AND LIMITATION OF LIABILITY

- a. Representations and Warranties. Each Party represents, warrants and covenants that: (i) it is authorized to enter into this Agreement and to bind its organization or entity to the terms and conditions of this Agreement; and (ii) this Agreement is a legal, valid and binding obligation of such Party and enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy and insolvency laws and general principles of equity. Participant represents, warrants and covenants to the best of its knowledge that any and all works of authorship contributed by Participant in a Proposal do not infringe or misappropriate the copyright of any other entity or person. Participant further represents, warrants and covenants to the best of its actual knowledge, without due inquiry and review, that any and all technology (which, by way of example, includes hardware, software, devices, materials, processes or

algorithms) that is disclosed by the Participant's Proposal and owned or purportedly owned by the Participant, does not infringe or misappropriate the valid and enforceable intellectual property of any other entity or person. Notwithstanding the foregoing, the Parties agree that this intellectual property non-infringement representation does not apply to any commercial usage by the Bank, another Federal Reserve Bank, or the Board of Governors of the Federal Reserve System of any and all technology disclosed by the Participant's Proposal. If this situation occurs, the intent of the Parties is to enter into a separate commercial agreement to govern such uses.

- b. Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 9, NONE OF THE PARTIES MAKES ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THIS AGREEMENT. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED BY THE PARTIES.
- c. Limitation of Liability. EXCEPT FOR INTENTIONAL AND WILLFUL MISCONDUCT, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY BENEFICIARY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT, EVEN IF ANY SUCH PARTY IS EXPRESSLY ADVISED OF THE POSSIBILITY OF THESE DAMAGES. THE PARTIES ACKNOWLEDGE THAT THIS SECTION REFLECTS THE AGREED-UPON ALLOCATION OF RISK AMONG THE PARTIES AND THAT NEITHER PARTY WOULD ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY. THE LIMITATION OF LIABILITY WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY SET FORTH HEREIN.

10. USE OF NAME AND MARKS

Participant agrees that it shall not, in relation to the work of the Task Force and without prior written consent of the Bank in each instance: (i) use in advertising, publicity or other promotional activity the name of the Bank, any other Federal Reserve Bank or the Board of Governors of the Federal Reserve System or any trade name, trademark, service mark or source identifier owned by the Bank, any other Federal Reserve Bank or the Board of Governors of the Federal Reserve System; or (ii) represent, directly or indirectly, that any product or any service provided by Participant has been approved or endorsed by the Bank, any other Federal Reserve Bank or the Board of Governors of the Federal Reserve System.

11. TERM AND TERMINATION

- a. Term. This Agreement is effective on the latest date of the signatures below, and remains in full force and effect until terminated in accordance with the provisions of this Agreement.

- b. Termination for Cause. Participant's participation in the Task Force or any Work Group of the Task Force may be terminated upon notice to Participant, if, in the reasonable determination of the Task Force Chair, Participant has failed to comply with the terms of this Agreement or the Charter.
- c. Termination with Notice. Participant may immediately terminate its participation in the Task Force by providing written notice to the Task Force Chair. The Bank may terminate this Agreement upon thirty days' written notice to Participant.
- d. Consequences and Survival. Upon termination of this Agreement, the terms of Sections 5, 8, 9, 10, 11d, 12, 13, 15 and 16 survive the termination of this Agreement.

12. GOVERNING LAW

The laws of the State of Missouri, excluding its conflicts of law principles, govern all adversarial proceedings brought by Participant or the Bank, arising out of this Agreement or a subject matter of this Agreement. The Parties agree that any litigation must be brought in the United States District Court for the Western District of Missouri and Participant waives any claim of inconvenience or other objection to this forum.

13. INTENDED THIRD PARTY BENEFICIARIES

Each Federal Reserve Bank and the Board of Governors of the Federal Reserve System are intended third party beneficiaries of this Agreement. Each other Task Force Participant is an intended third party beneficiary, but only of Section 5(b)(iv)(1) of this Agreement.

14. ASSIGNABILITY

The rights and obligations of Participant under this Agreement may not be assigned or transferred, whether by operation of law or otherwise, without the prior written consent of the Bank, which consent shall not be unreasonably withheld, and any such assignment will be subject to the assumption of all of Participant's rights and obligations by the assignee. The Bank may assign its rights and obligations under this Agreement to one or more Federal Reserve Bank(s) or the Board of Governors of the Federal Reserve System without the prior written consent of Participant, provided that any such Federal Reserve Bank or the Board assumes all the rights and obligations of the Bank under this Agreement. This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and permitted assigns. Any assignment or transfer of this Agreement in violation of this Section shall be deemed null and void.

15. FURTHER ASSURANCES

Each Party agrees to cooperate fully with the other Party, to take such actions, to execute such further instruments, documents and agreements, and to give such further written assurances, as may be reasonably requested by the other Party to evidence and reflect the transactions described herein and contemplated hereby, and to carry into effect the intents and purposes of this Agreement.

16. ENTIRE AGREEMENT

This Agreement, including the exhibits (if any) and the Charter, constitutes the entire agreement between the Parties relating to the subject matter of this Agreement. This Agreement replaces and supersedes all prior written or oral agreements, statements, correspondence, negotiations and understandings among the Parties with respect to the matters covered by it.

AGREED:

BANK:

Federal Reserve Bank of Kansas City

By: _____

Title: _____

Date: _____

PARTICIPANT

Name of Organization (Printed): _____

Authorized Signature: _____

Name of Signer (Printed): _____

Title: _____

Date: _____

EXHIBIT A
IDENTIFICATION OF REPRESENTATIVE FORM

Participant designates the following individual to represent Participant in Task Force activities:

Name: _____

Address: _____

Telephone: _____

Email: _____

Fax: _____