Digital Commerce Alliance ASSOCIATION INTELLECTUAL PROPERTY POLICY ("POLICY")

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This Policy is incorporated by reference into the Bylaws of the Digital Commerce Alliance Association ("Bylaws") andMember Agreement.

1. **WORK GROUPS.**

   1.1. <u>Work Groups</u>. From time to time, any Director may propose to the President the formation of one or more Work Groups for the development of a Stable Draft Deliverable. The President will, promptly and in good faith, consider such proposal and respond to the proposing Director(s), in writing (which may be by email), whether the President approves or rejects such proposal. If the President approves the proposal, the President will promptly present the proposal for approval by the Board of Directors in accordance with Section 1.2. Any such approved Work Groups will operate in accordance with procedures ("Work Group Procedures") adopted and amended, from time to time, by the Board of Directors.

   1.2. <u>Formation</u>. The President may propose to the Board of Directors, at a duly called meeting of the Board of Directors, the establishment of one or more Work Groups to carry out the work of the Digital Commerce Alliance as assigned by the Board of Directors. Such proposal will include the proposed charter of such Work Group. The Board of Directors will, with the affirmative vote of at least two-thirds of a quorum of the Board of Directors: (i) approve formation of each Work Group; (ii) approve the charter of such Work Group; and (iii) appoint the initial and any replacement chair of such Work Group, which chair will serve for a term of one year, after which the Board of Directors must either replace or reappoint said chair. All output of a Work Group, including Draft Guidelines, and modifications to Draft Guidelines,will be subject to review and approval of the Board of Directors.

   1.3. <u>Appeal to the Board</u>. If the President rejects a proposal made under Section 1.1, the proposing Director may then appeal directly to the Board of Directors at a duly called meeting of the Board of Directors. The appeal will be in writing and state the reasons why, despite the President's rejection, the proposal should nonetheless be submitted to the Board of Directors for approval. The Board of Directors may then vote on the proposal as set forth in Section 1.2.

   1.4. <u>Composition of Work Groups</u>. Participation on any Work Group will be open to all Members, but Work Groups will be chaired only by Governing Members (as defined in the Bylaws).

   1.5. <u>Record of Activities</u>. Each Work Group will elect a secretary to document and record the minutes of Work Group meetings. The secretary must be an employee or delegate of the Digital Commerce Alliance Associationunless a majority of the Participants in the Work Group elect otherwise.

   1.6. <u>Meetings</u>. Work Groups will hold regular meetings on a schedule determined by the Work Group Procedures. The noticing of meetings of the Work Group and the governance thereof will be subject to the Work Group Procedures. Where practical, Robert's Rules of Order will be used as a guide in the conduct of meetings.

   1.7. <u>Removal</u>. The then-current Work Group Procedures will govern removal of any Member from a Work Group.

   1.8. <u>Working Draft</u>. Any Participant may submit to the Work Group Contributions for consideration for inclusion in a Working Draft. The Work Group may further develop the Contribution (including by modifying the Contribution or combining it with other Contributions or Working Drafts, in whole or in part, or with other materials). If and when the Work Group chair determines that a Working Draft,

in its then-current form, is a suitable candidate to be a Stable Draft Deliverable (or if six months has elapsed since the last Stable Draft Deliverable was designated), the Working Draft will, on at least 30 days' notice from the Work Group chair to all Participants, be submitted to a vote of the Participants in accordance with the applicable voting process and threshold in the Work Group Procedures. There will be at least three months between successive votes to approve a Working Draft as a Stable Draft Deliverable.

1.9. <u>Approval of a Stable Draft Deliverable</u>. When the Work Group chair determines, in accordance with procedures to be developed by the Board of Directors, that a Stable Draft Deliverable is sufficiently substantial and defined so as to provide for meaningful review by the Participants of the Work Group, he or she may initiate a Work Group review. Work Group Procedures will define the voting process and the voting threshold required to enable the Work Group chair to initiate a review period for all Members ("Review Period"). The duration of the Review Period will be at least 30 days and a maximum of 120 days. Upon completion of the Review Period, the Board of Directors will vote on the Stable Draft Deliverable in accordance with the Bylaws. If the Board of Directors approves such Stable Draft Deliverable, such Stable Draft Deliverable will be a Final Deliverable of the Digital Commerce Alliance. If the Board of Directors fails to approve such Stable Draft Deliverable, the Stable Draft Deliverable will be returned to the Work Group. The acts of review and, as applicable, approval by a non-Participant does not give rise to intellectual property commitments.

2. COPYRIGHT.

2.1. <u>Copyright Grant</u>. Each Member grants to the Digital Commerce Alliance a perpetual, worldwide, non-exclusive, no-charge, royalty-free, irrevocable, copyright license, provided that this grant of copyright license shall be revocable in the case of breach, without any obligation for accounting, to reproduce, prepare derivative works of, publicly display, publicly perform, sublicense, and distribute any Contribution made by the Member to the full extent of the Member's copyright interest in the Contribution.

2.2. <u>Conditions for Contributions</u>. No Contribution may be made unless the Member is the exclusive copyright owner of the Contribution or has sufficient copyright rights from the copyright owners to make the Contribution under the terms of this Policy. The Member making a Contribution must disclose the identities of all known copyright owners in the Contribution.

2.3. <u>Ownership of Collective Works</u>. By participating in a Work Group, Member expressly consents and agrees that all copyright created in the collective work belongs to the Digital Commerce Alliance.

3. PATENT LICENSING.

3.1. <u>Royalty Free Licensing Commitment</u>. Each Participant agrees that it will offer to all applicants a royalty free, nonexclusive, worldwide, perpetual patent license to the Necessary Claims on fair, reasonable, and non-discriminatory terms to make, have made, use, import, offer to sell, sell, and distribute Covered Implementations of any Final Deliverable. Mere membership in the Digital Commerce Alliance alone does not give rise to the licensing commitments under this Policy. The foregoing commitment and any license provided pursuant to this commitment: (i) are limited to complete implementations of a Covered Implementation (i.e., only when all Normative Elements of a Final Deliverable are implemented); and (ii) may include such other terms on a fair, reasonable, and non-discriminatorybasis, including a defensive suspension condition.

3.2. <u>Exclusion</u>. Prior to the adoption of a Stable Draft Deliverable as a Final Deliverable, a Participant may exclude Necessary Claims from its licensing commitments under this Policy by providing written notice of such intent to the Work Group chair ("Exclusion Notice"). The Exclusion Notice for issued patents and applications will include the patent number(s) or title and application number(s), as the case may be, for each of the issued patent(s) or pending patent application(s) that the Participant wishes to exclude from the licensing commitment set forth in Section 3.1. If an issued patent or pending patent application that may contain Necessary Claims is not set forth in the Exclusion Notice, such Necessary Claims will continue to be subject to the licensing commitments under Section 3.1. The Exclusion Notice for unpublished patent applications must provide either: (i) the text of the filed application; or (ii) identification of the specific part(s) of the Stable Draft Deliverable whose implementation makes the excluded claim a Necessary Claim. If the foregoing clause (ii) is chosen, the effect of the exclusion will be limited to the identified part(s) of the Stable Draft Deliverable. Exclusion Notices will promptly be provided to the President, who will promptly disseminate them to the Board of Directors, and be published by the Digital Commerce Alliance.

3.3. <u>Effective Date of Obligations</u>. A Participant's patent licensing obligations under this Section 3 become effective upon the approval, in accordance with Section 1.8, of a Stable Draft Deliverable as a Final Deliverable.

3.4. <u>Source Code</u>.

a. <u>Source Code</u>. A Final Deliverable may not include computer source code as a Normative Element.

b. <u>Source Code Licensing</u>. Any Member making a Contribution that includes or is comprised of computer source code will license that source code under the BSD 2-Clause License (see http://opensource.org/licenses/BSD-2-Clause) where any Necessary Claims in such source code will be subject to the patent licensing obligations under this Policy. Each Member represents, to such Member's knowledge, that it will not make a Contribution that includes or is comprised of computer source code that cannot be licensed in accordance with this Section without breaching another license agreement, including another open source license agreement, governing the use of that source code. In the event that the Contribution is not the Member's own code, Member shall notify the Digital Commerce Alliance of the origin of such code and identify any applicable licenses relating to such code.

3.5. <u>Withdrawal and Termination</u>.

a. <u>Withdrawal from a Work Group</u>. A Participant may withdraw from a Work Group at any time by notifying the Work Group chair in writing, and that withdrawal is effective upon receipt of the notice.

b. <u>Effect of Withdrawal or Termination</u>. A Participant's written withdrawal from a Work Group will have no effect on its obligations under this Policy, except as otherwise provided in this Section 3.5(b). If a Member terminates its the Digital Commerce Alliance membership or withdraws from a Work Group, however, all existing commitments and obligations up to the date of withdrawal or termination will remain in effect, but no new obligations will be incurred. Notwithstanding the foregoing, the patent licensing commitments under this Section 3 will apply to any Necessary Claims in a Stable Draft Deliverable existing as of the date of withdrawal or termination that are also infringed by the resulting Final Deliverable, if any.

3.6. <u>Successors and Assigns</u>. If a Participant assigns or transfers ownership or control of patents that the Participant is obligated to license under Section 3, the Participant shall make reasonable efforts to notify such assignee or transferee of the existence of such license undertaking. By complying with the above, the Participant has discharged in full all of its obligations and liability with regards to the licensing commitments after the transfer or assignment. This paragraph is not intended to place any duty on the Participant to compel compliance with the licensing commitment by the assignee or transferee after the transfer occurs.

4. TRADEMARKS.

In the event that the Board of Directors proposes to adopt any name or logo as a trademark, certification mark, or trade name (collectively, "Trademarks"), the Digital Commerce Alliance will notify the Members in writing (including a writing in electronic medium) at least 45 days before the date of the vote adopting such Trademark as a trademark of the Digital Commerce Alliance. Any Board of Director vote adopting a Trademark must be unanimous. The Digital Commerce Alliance will take such steps as the Board of Directors deems necessary and proper to protect its rights under such Trademarks adopted for use by the Digital Commerce Alliance. In furtherance thereof, the Board of Directors will establish and disseminate reasonable conditions and procedures for the licensing and use of such Trademarks, demonstrably free of any unfair discrimination among the Members. No Member or any of its Affiliates will assert against the Digital Commerce Alliance or any third-party any trademark or trade name rights they may have at any time in the proposed Trademarks unless the Member notifies the Board of Directors in writing of that Member's challenge to the proposed Trademark before its adoption by the Board of Directors.

5. REPRESENTATIONS, WARRANTIES, AND DISCLAIMERS.

Each Member represents and warrants that it is legally entitled to grant the rights and promises set forth in this Policy. In all other respects the Contributions are provided "as is" and "with all faults." The entire risk as to implementing or otherwise using any Stable Draft Deliverable, Final Deliverable, and any other work product of any Work Group will be assumed by the implementer and user. Except as stated in this Section 5, each Member expressly disclaims any warranties (express, implied, or otherwise), including implied warranties of merchantability, non-infringement, fitness for a particular purpose, or title, related to all Stable Draft Deliverables, Final Deliverables, Working Drafts, and Contributions. In no event will any party be liable to any other party for lost profits or any form of indirect, special, incidental, exemplary, or consequential damages of any character from any causes of action of any kind with respect to this Policy, whether based on breach of contract, tort (including negligence), or otherwise, and whether or not the other party has been advised of the possibility of such damage.

6. NON-DISCLOSURE POLICY.

6.1. <u>Duty to Keep Confidential</u>. Each Member will maintain all Confidential Information in confidence with at least the same degree of care that it uses to protect its own proprietary material and in no event with less than reasonable care. The Digital Commerce Alliance will mark any copies of Confidential Information it makes "confidential" or with a similar legend. No Member will disclose, nor will it assist any third party to disclose, any Confidential Information, except: (i) as otherwise required by law or legal process, including to legal and financial advisors in their capacity of advising a party in such matters;
(ii) during the course of litigation, so long as the disclosure of such terms and conditions are restricted in the same manner as is the confidential information of other litigating parties; (iii) in

confidence to employees on a need to know basis within a Member or its Affiliates; (iv) in confidence to its legal counsel, banks, accountants, and financing sources and their advisors solely in connection with complying with financial regulations; and (v) in confidence to its legal counsel in connection with providing legal advice; but only if, with regard to clauses (ii) through (v) above, the disclosing party will: (a) use all reasonable, legitimate, and legal means available to minimize disclosure to third parties, including seeking a confidential treatment request or protective order whenever available; and (b) provide the Board of Directors with at least 10 days prior written notice of such disclosure. Unless the parties agree otherwise, this obligation of confidentiality will expire three years after the date of disclosure of Confidential Information.

6.2. <u>Residuals</u>. Notwithstanding anything in this Policy to the contrary, any party may use Residuals for any purpose, including use in development, manufacture, promotion, sale, and maintenance of its products and services, although this right to Residuals does not represent a license under any patents, trademarks, or copyrights of the Digital Commerce Alliance.

6.3. <u>Independent Development</u>. The terms of confidentiality in this Policy will not be construed to limit any Member's right to independently develop or acquire products or technology, including similar or competing products or technology, without the use of the Digital Commerce Alliance's Confidential Information and without breach of the terms of the Member Agreement.

6.4. <u>Not Confidential</u>. Contributions, Working Drafts, Stable Draft Deliverables, Final Deliverables, and minutes of meetings of the Digital Commerce Alliance or a Work Group will be considered non-confidential and non- proprietary information, regardless of any markings to the contrary included on or with such Contributions, Working Drafts, Stable Draft Deliverables, minutes, or any combination of these. Notwithstanding the non-confidential status of such materials, no Member will publish or distribute Contributions of any other Member, Working Drafts, Stable Draft Deliverables, or meeting minutes to any third party, except where such disclosure would be allowed for Confidential Information under Section 6.1. The obligation not to publish or distribute set forth above will not prevent any Member from implementing, incorporating, or otherwise using or distributing the contents of any of its own Contributions in any of its products, services, and documentation, and the marketing, sale, or distribution of such products, services, and documentation may not be construed to breach this Section 6. For the avoidance of doubt, nothing in this paragraph will prohibit a Member from disclosing its own Contributions to any third parties.

7. INTERPRETATION.

Lists of examples following "including" or "e.g." are interpreted to include "without limitation," unless qualified by words such as "only" or "solely." All section references are to sections of this Policy.

8. DEFINITIONS.

Any initially capitalized terms used but not defined in this Policy will have the meaning set forth in Section 2 of the Bylaws.

8.1. "Affiliate" or "Affiliates" means that definition given to these terms in the Bylaws.

8.2. "Confidential Information" means only information that is approved and designated as "Confidential Information" by act of the Board of Directors, as well as any copies or abstracts of such information, and portions of minutes of any Board of Director, committee, general, or Work Group meeting that

would disclose such information. Unpublished patent applications disclosed by a Participant pursuant to Section 3.2 are "Confidential Information." Notwithstanding the foregoing, Confidential Information shall not include any information that: (i) becomes publicly available other than via a breach of a duty not to disclose such Confidential Information pursuant to this Policy; (ii) is received from a third party without any obligation of confidentiality; (iii) is rightfully known to the receiving party without any limitation on use or disclosure prior to its receipt from the Digital Commerce Alliance; (iv) is independently developed by employees of the receiving party without reference or access to any Confidential Information; or (v) is generally made available to third parties by the Digital Commerce Alliance without restriction on disclosure.

8.3. "Contribution" means any original work of authorship, including any modifications or additions to an existing work, that Member submits in writing for inclusion in the work product of a Work Group. For the purposes of this definition, "submit" means any form of written communication, including electronic communication, for the purpose of discussing and improving the work product, but excluding communication that Member conspicuously designates in writing as not being a Contribution.

8.4. "Covered Implementation" means those portions of a product (hardware, software, or combinations thereof) that implement and comply with all Normative Elements of the required parts of the Final Deliverable, plus the Normative Elements of any optional parts of the Final Deliverable, but only to the extent that any of the foregoing are within the bounds of the Scope.

8.5. "Final Deliverable" means the final version and contents of any Stable Draft Deliverable adopted by the Board of Directors in accordance with Section 1.9. For purposes of this definition, the Final Deliverable will not include any implementation examples included in a Final Deliverable.

8.6. "Member" means that definition given to "Member" in the Bylaws.

8.7. "Necessary Claims" means, as applicable to a given Member and the Final Deliverables promulgated by Work Groups in which such Member was a Participant, those claims in any patent or patent application in any jurisdiction that: (i) would necessarily be infringed by an implementation of a Covered Implementation; and (ii) are within the bounds of the Scope. A claim is necessarily infringed only when there is no technically feasible non-infringing alternative. "Necessary Claims" include only those claims that read on Normative Elements, which, as set forth below, do not include matters merely referenced in the Final Deliverable such as enabling technologies and other published specifications (even if necessary to make or use a product that conforms to the Final Deliverable), reference implementations, or examples that are not required to conform to the Final Deliverable.

8.8. "Normative Elements" means those elements of the Final Deliverable that are fully set forth in detail and must be implemented to conform to the Final Deliverable (including, if applicable, required elements of optional parts of the Final Deliverable) that are required for interoperability; no other matters whatsoever are Normative Elements. Normative Elements do not include matters merely referenced in the Final Deliverable such as enabling technologies, other published specifications referenced by the Final Deliverable (even if necessary to make or use a product that conforms to the Final Deliverable), reference implementations, or examples that are not required to conform to the Final Deliverable.

8.9. "Participant" means a Member that has taken the affirmative act of joining a particular Work Group in accordance with the Digital Commerce Alliance's then-current policies and procedures for so

doing, or has otherwise agreed, expressly and in writing, to be bound by the licensing obligations under this Policy.

8.10. "Residuals" means any information retained in the unaided memories of the receiving party's employees who have had access to Confidential Information in connection with such receiving party's participation in the Digital Commerce Alliance. An employee's memory is unaided if the employee has not intentionally memorized the Confidential Information for the purpose of retaining and subsequentlyusing or disclosing it.

8.11. "Scope" means to propose, develop, and implement specifications and tools specific to the card-linked offers industry.

8.12. "Stable Draft Deliverable" means all versions of a document or technical specification (except a Final Deliverable) developed by a Work Group, and approved as a Stable Draft Deliverable under Section 1.8, for the purpose of creating, commenting on, revising, updating, modifying, or adding to any document or technical specification that is to be considered for inclusion in the Final Deliverable.

8.13. "Working Draft" means all versions of a document or technical specification developed by a Work Group, or individual members of a Work Group, for the purpose of creating, commenting on, revising, updating, modifying, or adding to any document or technical specification that is to be considered for inclusion in a Stable Draft Deliverable.

8.14. "Work Group" means a working group established in accordance with the terms of this Policy and the Bylaws to create deliverables and otherwise to effectuate the particular work of the Digital Commerce Alliance.