

<b>Purchase Order</b>	Marshall University Office of Purchasing One John Marshall Drive Huntington WV, 25755-4100 Direct all inquires regarding this order to: (304) 696-2823	<b>Purchase Order #</b> <b>PayOGFE/12</b>
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TO:	Vendor Code:	Ship to:  n/a	<b>THIS ORDER IS SUBJECT TO          THE GENERAL TERMS AND          CONDITIONS AS PRESENTED          ON REVERSE SIDE HEREOF          AND AS SET FORTH HEREIN</b>
PayOGFE.com LLC 500 N, Akard Street - Suite 3131 Dallas TX 74201		Bldg: Room #:	WVFIMS Account #:
PH# 214-415-8355	FEIN 20 0560655		

P.O. Date	FY	Buyer	Ship Via	F.O.B	Terms	Contract #
11/2/12	12/13	JB				

		<b><u>AGREEMENT</u></b>  This agreement constitutes acceptance of contract made by and between MARSHALL UNIVERSITY, on behalf of the Governing Board, and <u>PayOGFE.com</u>  for <u>processing payments to officials for baseball, softball, men's          soccer, women's soccer, men's basketball, women's bsketball,          football, and volleyball.</u>  Services shall begin <u>July 1, 2012</u> and extend through <u>June 30, 2013</u> All in accordance with the agreement attached hereto and made a part hereof. This agreement may be extended upon mutual written consent.  <b>Schedule of payment</b> \$ <u>As</u> per <u>Invoice</u>  <b>Fee</b> \$ _____ <b>Travel Expense</b> \$ _____ <b>Other Expense</b> \$ _____ <b>Total \$</b> \$ _____  Approved As To Form this <u>N/A</u> day of _____, 20____ Attorney General By: <u>N/A</u> Asst. Attorney General  THIS ORDER IS EXEMPT FROM ALL SALES TAX LIMIT EACH INVOICE TO A SINGLE PURCHASE ORDER NUMBER	
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Line No.	Fund	Org.	Account	Encumber Amount			
1.	various	various	various	various			
2.							
3.							
4.							

Mail Original Invoice and 1 Copy to: Marshall University Accounts Payable One John Marshall Drive Huntington, WV 25755-4300	Total: <b>OPEN-END</b>   Authorized Signature <span style="float: right;">Date 11-2-12</span>
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screen (6) to Stephanie - 11/2/12 BGC

## PayOGFE.com, LLC Services Agreement

**AGREEMENT TO PROVIDE SERVICES** ("*Agreement*"), dated **July 1, 2012** ("*Agreement Date*"), by and between **Marshall University** with its principal place of business **1 John Marshall Drive, Huntington, WV 25755** ("*Customer*"), and **PayOGFE.com LLC**, a Texas corporation with its principal place of business at **500 N. Akard Street, Suite 3131, Dallas, Texas 75201-3330** ("*PayOGFE*" or "*Provider*") for the period **July 1, 2012 to June 30, 2013**.

**WHEREAS**, *Provider* desires to provide to *Customer*, and *Customer* desires to obtain from *Provider*, services provided by the GAMEPAY<sup>SM</sup> system for the purpose of compensating independent contractors including but not limited to officials, paramedics and police, and other services described in this *Agreement* on the terms and conditions set forth in this *Agreement*.

### THE PARTIES AGREE AS FOLLOWS:

#### SECTION 1: DUTIES AND RESPONSIBILITIES OF CUSTOMER

##### 1.1 ENTRY OF EVENT DATA

(a) All information requested by the GAMEPAY<sup>SM</sup> system must be completely and accurately entered. *Customer* should refer to PayOGFE.com's Instructions and Frequently Asked Questions (FAQ) areas for reference.

(b) *Provider* will completely and accurately enter the following Event Data into the GAMEPAY<sup>SM</sup> system:

- (i) Event Name
- (ii) Team Name
- (iii) Event Date
- (iv) Event Venue
- (v) Event Type
- (vi) Independent contractor(s) assigned to the Event

*Customer* is responsible for providing the profile information for an independent contractor in which *Customer* wishes to pay that is not in the GAMEPAY<sup>SM</sup> system. It is the *Customer's* responsibility to either 1) completely and accurately enter the required information for the independent contractor, or 2) provide information to *Provider* to enter. The *Customer* is responsible, one way or another, for name, address, phone number and SSN. The *Customer* is not responsible for the independent contractor's bank information. EXPLANATION (*Customer* cannot create an official's profile except when they assign an official during event creation and the official is not in GAMEPAY<sup>SM</sup>. Officials cannot create a profile; they can only modify or add to what is in GAMEPAY<sup>SM</sup>. If an official never registers, he/she never sees their profile information in GAMEPAY<sup>SM</sup> and will receive a check as method of payment. The official is the only one that can enter bank account information. An organization cannot enter bank account information or access profile information once established).

- (vii) Amount of Compensation to be paid to the independent contractor(s).

**1.2 ESTABLISH A BANK ACCOUNT****(a) NOT APPLICABLE****1.3 APPROVAL AND SUBMISSION OF DATA FOR PAYMENT**

**No payments will be distributed by *Provider* unless all of the following are performed by the *Customer*:**

- (a)** *Customer* must select all events in which it will request payments on behalf of *Customer*.
- (b)** *Customer* must generate an *Invoice* in the GAMEPAY<sup>SM</sup> system. *Customer* agrees that by submitting each *Invoice*: (1) *Customer* approves all payment Information; (2) *Customer* waives and releases any claim against *Provider* arising out of any errors in the submitted *Invoice*; and (3) any request for corrections will be considered special handling and additional fees may be applied. *Customer* further agrees that all final auditing responsibilities rest with *Customer*. *Customer* agrees that *Provider* does not have any responsibility for verifying the accuracy of any data *Customer* directly provides the PayOGFE Website, the GAMEPAY<sup>SM</sup> system, or any other electronic method.
- (c)** *Customer* must submit the GAMEPAY<sup>SM</sup> *Invoice* to *Provider* and instruct *Provider* to pay such *Invoice*. *Provider* may reject any *Invoice* which does not comply with the requirements in this Agreement. If any *Invoice* is rejected, *Provider* will make a reasonable effort to notify *Customer* promptly so that *Customer* may correct the *Invoice* and resubmit it. Any notice of rejection will be effective when given.
- (d)** *Customer* must transfer the requisite funds for payment of the *Invoice* into the *Customer Account*. The requisite funds may be tendered to the *Account* by either 1) a wire or electronic transfer made directly into the *Account* by the *Customer* or 2) a check presented by the *Customer* made payable to the *Customer Account*.
- (e)**
- (e)** *Customer* must give *Provider* the ability to view *Customer Account* transactions in order to determine if funds are available to make the payments requested and authorized by *Customer*.

**1.4 CUSTOMER WILL ASSIGN USERS TO FILL THE USER ROLES REQUIRED BY GAMEPAY<sup>SM</sup> SYSTEM.**

**SECTION 2: DUTIES AND RESPONSIBILITIES OF PROVIDER**

- 2.1 *Provider will provide online user training at no charge to Customer.*
- 2.2 *Provider will make payments based on approved events included in payment invoices created and approved by Customer.*
- 2.3 *Provider will make payments to officials only after Customer provides funds to cover approved invoices.*
- 2.4 *Provider will make payments to officials using the method of payment (check or direct deposit) selected by officials in their personal profiles.*
- 2.5 *Provider will have agreement with Bank for Bank to process payment requests submitted to Bank by Provider software GAMEPAY<sup>SM</sup> on behalf of Customer.*

**SECTION 3: FEES, PAYMENTS, AND SERVICE LEVELS**

- 3.1 *The payments to be made by Customer to Provider for particular services is outlined in the Fee Schedule, attached as Exhibit "A" to this Agreement. Customer agrees to pay within 15 days Provider's monthly invoice.*
- 3.2 *Customer is required to fund payments to bank account designated by Provider or issue check payable to Provider. EXPLANATION – (Customer should not transfer payments for Provider's service fee to Customer Bank Account because Provider does not have access to those funds).*

**SECTION 4: TERMINATION WITHOUT CAUSE**

Either party to this *Agreement* may terminate such *Agreement*, without cause, by providing notice to the other party in writing, explaining that it seeks termination of the *Agreement*.

**SECTION 5: NOTICES**

In the case of *Customer*:

Marshall University  
 Athletic Office  
 P.O. Box 1360  
 Huntington, WV 25715  
 PHONE: 304-696-2483  
 EMAIL: steele@marshall.edu  
 ATTN: David Steele

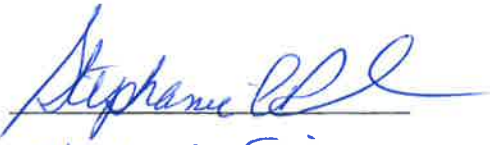
In the case of *Provider*:


PayOGFE.com, LLC  
 500 N. Akard St., Ste 3131  
 Dallas, Texas 75201-3330  
 FAX: (972) 534-1899  
 PHONE: (877) 729-6433  
 EMAIL: customerservice@payogfe.com  
 ATTN: Steve Pace

IN WITNESS WHEREOF, *Customer* and *Provider* have each caused this *Agreement* to be signed and delivered by its duly authorized representative.

Marshall University  
("Customer")

**PAYOGFE.COM, LLC**  
("Provider")

By:   
Name: Stephanie Smith  
Title: Director of Purchasing  
Date: 11-2-12

By:   
Name: Steve Pace  
Title: President  
Date: 10/21/12

**EXHIBIT "A"  
FEE SCHEDULE**

<u>FEE</u>	<u>DELIVERABLES</u>
<p>Mark your choice with an X</p> <p><input checked="" type="checkbox"/> \$5 per transaction * - For customers who do not require state income tax or child delinquency payment withholdings.</p> <p><input type="checkbox"/> \$6 per transaction * - For customers who do require state income tax or child delinquency withholdings.</p> <p>(* Transaction: per independent contractor , per event)</p> <p><input checked="" type="checkbox"/> \$200 fixed service fee</p> <p><b><u>Setup</u></b></p> <p><input type="checkbox"/> \$200 - <u>Organization setup fee</u></p> <p><b><u>Year End</u></b></p> <p><input checked="" type="checkbox"/> \$4 per item – For customer who requests us to process and file tax forms on their behalf for independent contractors that were not paid through the GamePay<sup>SM</sup> system.</p>	<ul style="list-style-type: none"> <li>▪ Processing and delivery of independent contractor payments</li> <li>▪ Event reports</li> <li>▪ Independent contractor payment reports</li> <li>▪ Replacement of stolen or lost check</li> <li>▪ Remittance to IRS for voluntary federal income tax withholdings requested by independent contractor</li> <li>▪ Laser Federal and state 1099's, delivery to independent contractor and filed with IRS and state</li>   <li>▪ Deliverables described above</li> <li>▪ Remittance to taxing authorities of funds authorized by customer to be withheld from independent contractor payments</li> <li>▪ State government filings</li> <li>▪ Laser Federal and state 1099's, delivery to independent contractor and filed with IRS and state</li>   <li>▪ Pass through of bank processing charges</li>   <li>▪ One time fee paid by Customer for the initial setup of Customer's information necessary to process payments to independent contractors</li>   <li>▪ Laser Federal and state 1099's, delivery to independent contractor and filed with IRS and state.</li> </ul>

# UC/WC Defaulted Accounts Search Results

Sorry, no records matching your criteria were found.

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FEIN: 200560655  
Business name: PAYOGFE.COM LLC  
Doing business as/Trading as:

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Please use your browsers back button to try again.

<a href="#">WorkforceWV</a>	<a href="#">Unemployment Compensation</a>	<a href="#">Offices of the Insurance Commissioner</a>
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500 N. Akard  
3131 Lincoln Plaza  
Dallas, Texas 75201

October 31, 2012

Ms. Dawn Kirtner  
Marshall University  
P.O. Box 1360  
Huntington, West Virginia 25715

Re: PayOGFE.com services agreement

Dear Dawn:

Attached is a new service agreement with Marshall University (dated July 1, 2012). Our revised service agreement will include processing payments to officials for baseball, softball, men's soccer, women's soccer, men's basketball, women's basketball, football, volleyball. Also we will process payments for police and paramedics. Our fee of \$5 per transaction and a monthly fixed fee of \$200 has not changed.

Thank you for your business.

Sincerely,

A handwritten signature in black ink that reads "Steve Pace". The signature is written in a cursive, flowing style.

Steve Pace  
President and CEO

Enc.

RECEIVED  
MARSHALL UNIVERSITY  
OFFICE OF PURCHASING  
2012 NOV -2 AM 10:08





MARSHALL  
UNIVERSITY



Department of Athletics

DATE: July 24, 2012

TO: Stephanie Smith

FROM: David Steele 

RE: PayOGFE – Sole Source

I am requesting a sole source approval of PayOGFE, based on their exclusive use of the GamePay software. This software provides a fully integrated payment and reporting system.

They have been an extremely reliable vendor for Marshall Athletics since 2007 and have greatly improved our office efficiency. The total amount of payments to this vendor is estimated at less than \$4,000 for the year. Continued use of this vendor also allows access to payment history for officials through use of the system.

Their client list includes four BCS conferences, the Big 12, Big Ten, ACC, Pac 12 and a number of other Division I programs and officiating organizations.

Thank you for your consideration of this request.

RECEIVED  
MARSHALL UNIVERSITY  
OFFICE OF PURCHASING

2012 AUG 11 AM 1:09

Approved   
8/10/12

**AGREEMENT ADDENDUM**

In the event of conflict between this addendum and the agreement, this addendum shall control:

1. **DISPUTES** - Any references in the agreement to arbitration or to the jurisdiction of any court are hereby deleted. Disputes arising out of the agreement shall be presented to the West Virginia Court of Claims.
2. **HOLD HARMLESS** - Any provision requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. **TAXES** - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** - Any references to prepayment are deleted. Payment will be in arrears.
6. **INTEREST** - Any provision for interest or charges on late payments is deleted. The Agency has no statutory authority to pay interest or late fees.
7. **NO WAIVER** - Any language in the agreement requiring the Agency to waive any rights, claims or defenses is hereby deleted.
8. **FISCAL YEAR FUNDING** - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **FEES OR COSTS** - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages to a certain dollar amount or to the amount of the agreement is hereby deleted. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination.
15. **TERMINATION CHARGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. **RENEWAL** - Any reference to automatic renewal is deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** - Any provision requiring the Agency to purchase insurance for Vendor's property is deleted. The State of West Virginia is insured through the Board of Risk and Insurance Management, and will provide a certificate of property insurance upon request.
18. **RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.
19. **ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **CONFIDENTIALITY** - Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act.
21. **AMENDMENTS** - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.

**ACCEPTED BY:**

**STATE OF WEST VIRGINIA**

Spending Unit: W. Marshall University  
Signed: Stephane PL  
Title: Director of Purchasing  
Date: 11-2-12

**VENDOR**

Company Name: Pay067E.com  
Signed: Steve Pace  
Title: PRESIDENT  
Date: 10/22/12

RFQ No. PayOGFE/12

STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**MANDATE:** Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

**DEFINITIONS:**

**"Debt"** means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

**"Employer default"** means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

**"Related party"** means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: PAYOGFE.com

Authorized Signature: Sten Pau Date: 10/16/12

State of Texas

County of Dallas, to-wit:

Taken, subscribed, and sworn to before me this 16<sup>th</sup> day of October, 2012

My Commission expires August 21, 2013, 20  .

**AFFIX SEAL HERE**

**NOTARY PUBLIC** Michelle Peterson

*Purchasing Affidavit (Revised 07/01/2012)*

