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This Master Services Agreement (the "Agreement") governs a Business Customer's use of one or more Treasury Management services (each a "Service" and collectively the "Services") provided by Renasant Bank.

This agreement is effective as of July 1, 2023 for any Customers enrolling in any Treasury Management services on or after that date. This Agreement is effective as of August 1, 2023, for any Customers who enrolled in Treasury Management services using prior versions of the agreement, which are hereby replaced in their entirety. The enrollment in or continued use of any Service described herein shall constitute each customer's acceptance of the terms and conditions in this Agreement.

This Agreement supplements the terms and conditions applicable to the Designated Accounts (as defined below) for which Services are provided.

PART I: DEFINITIONS

1. Terms

As used herein:

- a. The term "**Bank**" refers to Renasant Bank.
- b. The term "**Customer**" refers to the entity or entities for whom any of the Services are provided.
- c. The term "**Designated Account(s)**" shall refer to Customer's deposit account(s) maintained with Bank, which Customer selects to be associated with or serviced by a Service.
- d. The term "**Deposit Account Agreement**" refers to documentation that establishes and governs deposit accounts of Customer with Bank. This Agreement supplements but does not replace the Deposit Account Agreement(s) that govern Customer's Designated Accounts.

- e. The terms “**Business Internet Banking**” (“**BIB**”) and “**Enhanced Business Internet Banking**” (“**EBIB**”) shall refer to Bank’s internet-based service for business customers, which is a Treasury Management Service in itself but also a channel for the delivery of some other Services and is therefore required in order for such other Services to function.
- f. The term “**Business Day**” shall mean any day, Monday through Friday of Bank is open for substantially all of its business, unless such day is also a Federal Holiday in which case certain Services will not be operable to the extent they are dependent on federal facilities that are closed due to the holiday.
- g. The term “**Affiliate(s)**” shall mean any entity that is the owner of one or more Designated Accounts and that directly or indirectly, through one or more intermediaries, is controlled by, or is under common control with the Customer entity that executes or otherwise approves the Enrollment Documents. Unless otherwise indicated, the term shall not refer to affiliates of Bank in this Agreement.
- h. Other capitalized terms used in any component of the Agreement shall have the meaning ascribed to them at the first usage of such terms.

2. THIS AGREEMENT

This Agreement consists of four components, which are:

- a. PART I: DEFINITIONS (this PART);
- b. PART II: GENERAL TERMS AND CONDITIONS. Provided that at least one Treasury Management Service is used General Terms and Conditions apply in all cases and to all Treasury Management Services;
- c. PART III: ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO SERVICES. In addition to the GENERAL TERMS AND CONDITIONS, ADDITIONAL TERMS AND CONDITIONS apply to the specific Service named at the top of each Section. Each Section applies if and only if Customer uses the named Service, as evidenced by an Enrollment Document for the Service executed by Customer and accepted by Bank, provided the Service has not been terminated. OTHERWISE, EACH SECTION DOES NOT APPLY TO EITHER CUSTOMER OR BANK AND IT CREATES NO OBLIGATIONS, REQUIREMENTS, OR LIABILITIES BETWEEN THEM.
- d. ENROLLMENT DOCUMENTS/SERVICE CRITERIA, defined below.

3. ENROLLMENT DOCUMENTS/SERVICE CRITERIA

- a. “**Enrollment Documents**” are separate documents by which Customer authorizes Bank to provide any Service.
- b. “**Service Criteria**” are Customer’s instructions to Bank as to the manner in which Customer wants Bank to deliver the Service and any information or instructions provided by Bank to Customer.
- c. For the purposes of this Agreement an Enrollment Document for a Service and the related Service Criteria for that Service will be considered one Enrollment Document, although in most cases they will be structured as separate pages to facilitate implementation.
- d. Enrollment Documents and their related Service Criteria are incorporated herein, become a part of this Agreement, and are enforceable hereunder upon their execution.
- e. Bank in its sole discretion shall be entitled to accept Service Criteria, both initially and as may subsequently be modified by Customer, by written means other than an Enrollment Document, including but not limited to Customer’s written request, Customer’s email request, or by way of a Bank-provided Service Criteria form,

provided Bank reasonably believes the instruction represents Customer's legitimate will and intent and can be acted upon within Bank's quality and risk standards.

PART II: GENERAL TERMS AND CONDITIONS

The following terms and conditions apply to the Services provided by Bank. Bank and Customer agree that this Agreement shall also govern all additional and modified Treasury Management Services used by Customer in the future and references to the "Services" in this Part Two shall include these additional Services in which Customer enrolls. Bank agrees to provide and Customer agrees to purchase certain Services provided for and described in this Agreement and agrees to such terms and conditions of this Agreement. Customer agrees as follows:

1. Authority, Representations and Warranties

- a. Customer hereby warrants that it has full right, authority and power to enter into this Agreement, on behalf of itself and any applicable Affiliates, and that execution of any Enrollment Document has been duly authorized by necessary governing bodies or executive officers, as the case may be.
- b. Customer agrees to read this Agreement carefully in conjunction with the terms and conditions of the Deposit Account Agreement and to keep copies of all pertinent agreements for Customer's records.
- c. Customer agrees to supply Bank any information that Bank may reasonably request including, but not limited to, such documents as may be satisfactory to Bank which establish the authority of any representative to enter into or act on behalf of Customer in regards to this Agreement or to enter into the Services or to perform any other act contemplated under this Agreement.
- d. Customer warrants that it is validly existing and in good standing under the laws of the applicable state and any consent or authorization of any governmental authority or third party required to be obtained by Customer in connection with this Agreement or any Treasury Management Service used or performed has been obtained.
- e. Customer warrants that, as of the effective date of this Agreement, there is no action, suit, or proceeding pending or, to Customer's knowledge, threatened that, if decided adversely, would impair Customer's ability to carry on its business substantially as now conducted or that would adversely affect Customer's financial condition or operations.

2. Accounts Eligible to Be Designated Accounts for Services and the Regulatory Treatment Thereof

- a. Customer acknowledges, represents and warrants that the Services will not be used for Designated Accounts established primarily for personal, family or household purposes.
- b. Specifically, Customer acknowledges, represents and warrants that the transfer of funds from Designated Accounts is for business purposes and not for personal, family or household purposes.
- c. Accordingly, the provisions of the federal Electronic Fund Transfer Act, as amended, and the Consumer Financial Protection Bureau's Regulation E, as amended, and any other laws or regulations, as well as any terms or provisions of this Agreement, intended for the protection of consumers or governance of transactions involving consumers or consumer accounts do not apply to any Service transactions affecting Designated Accounts.

3. Deposit Account Terms and Conditions

- a. Customer acknowledges and agrees that Customer's Designated Accounts are an integral part of the Services offered by Bank and that all transactions and Services initiated or processed pursuant to this Agreement are subject to the terms and conditions and all pertinent rules, regulations and agreements of the Deposit Account Agreement governing the Designated Accounts in effect from time to time between Customer and Bank including, without limitation, the arbitration provisions.

- b. In the event of an irreconcilable conflict between this Agreement and the Deposit Account Agreement, the terms and conditions of this Agreement shall control over the terms and conditions of the Deposit Account Agreement, but only to the extent necessary to resolve such conflict.

4. Accounts of Related Entities

- a. Customer warrants that it will not enroll any Designated Accounts in any Service governed by this Agreement unless Customer has established its right of control over such Designated Accounts. This warranty specifically applies to Designated Accounts owned by or held in the name of any Affiliate of Customer and/or unaffiliated entities that are linked to Customer by way of written authorization, or written contract. Notwithstanding the foregoing warranty, Customer acknowledges and agrees that prior to linking any Designated Account owned by an unaffiliated entity to any Services provided hereunder, Bank may require Customer and any such unaffiliated entity to enter into a separate linkage and joinder agreement.
- b. Customer agrees that Bank may rely on the representations and warranties contained in this Section when establishing any Services hereunder, and agrees to indemnify and hold bank harmless against any liability or cost arising from a claim by any entity that Customer was allowed to enroll in and use Services for any Designated Account in which Customer had no authority to do so.
- c. Customer acknowledges and agrees that it and its agents and representatives shall be deemed agents and representatives of each Affiliate for the purpose of entering into and approving this Agreement, as may be amended or replaced from time to time, and warrants that this Agreement shall be binding on any such Affiliates and controlling as to the transactions and decisions performed hereunder on behalf of such Affiliates.
- d. Customer acknowledges and agrees that (i) it shall be Customer's and its Affiliates' sole and exclusive responsibility to be knowledgeable of all laws, regulations, and/or rules governing or prohibiting the common access to, or the co-mingling of funds among Designated Accounts; (ii) Bank makes no representations or warranties regarding the legal effect and/or tax consequences of establishing such common access to, and/or the co-mingling of funds among, the various Designated Accounts of Customer and/or its Affiliates, and (iii) Bank expressly disclaims any and all liability arising from or related to such activities, including, without limitation, any impact on the treatment of Customer and its Affiliates as separate entities under the law.
- e. Customer further covenants and agrees that the linkage and access of and to the Designated Accounts of Affiliates authorized herein shall not be used to evade income taxes, launder money, or for any other illegal purpose. Customer and each Affiliate shall respond to inquiries and provide any and all documents or records which Bank or its examiners may reasonably request to demonstrate that the linkage and access is not being used for an illegal purpose.

5. Services Requested by Customer

- a. Bank shall perform the Services in accordance with the Service terms and conditions contained herein and the Service Criteria governing the selected Service.
- b. Some of the Services require Customer to complete and provide to Bank information or documentation in, or as part of, the Enrollment Documents, schedules, addenda, set-up forms, input forms or other documents required in connection with these Services. Customer's use or continued use of each of such Services will be conditioned on and subject to Customer entering into, or completing and providing to Bank, the foregoing when Bank so requests.
- c. Use of a Service under an existing agreement for such Treasury Management Service will constitute Customer's affirmation and agreement to be bound by the terms and conditions of this Agreement and the applicable Service terms and conditions and not the existing agreement.

6. Effective Dates

- a. The effective date of this Agreement shall be the date upon which the Enrollment Document is accepted by Bank.
- b. Customer may begin to use any Service once Bank has approved such use and has received all required and properly executed documents and information. The effective date of the terms of a Service contained in Part III of this Agreement shall be the date upon which Bank approves Customer's use of the Service or the date on which Customer uses the Service, whichever occurs first.

7. Data and Information Supplied by Customer

- a. Customer shall transmit or deliver data and other information in the format and on the media as provided for in this Agreement and the Service Criteria or as otherwise required by Bank in conjunction with rendering the Services.
- b. Customer shall have the sole responsibility of ensuring the accuracy and correctness of the data provided. Customer acknowledges and agrees that Bank shall not examine the data for correctness and Bank shall not have any responsibility for detecting errors in the data transmitted by Customer.
- c. The data provided by Customer must be legible, correct and complete. Bank shall not be liable to Customer for failure to process the data if it is not in the format specified by Bank or if the data is incomplete.
- d. Bank shall not be liable for errors or omissions caused by data that is rejected as the result of Customer's failure to provide the data in accordance with the standards specified in this Agreement and the Service Criteria.

8. Update Notice

Customer shall provide written notice to Bank for any material changes to information previously provided to Bank by Customer that might impact the manner of Bank's provision of any Service hereunder.

9. Security Credential/Security Procedures – Required - Standard

- a. Bank shall provide Customer or Customer's primary user with administrative rights, with a User ID and/or passwords (collectively, "**Security Credentials**") to access BIB and the Services accessed via EBIB, as well as such other online Services as Bank may offer and in which Customer may enroll.
 - i. The use of the Security Credentials, as well as any other Security Devices, as defined below, and any other procedures which Bank directs Customer to use in this Agreement or the Service Criteria, constitute the security procedures established by Bank to authenticate the identity of the person attempting to gain access to the Service (collectively, the "**Security Procedures**").
 - ii. The Security Credentials are not designed for the detection of errors.
 - iii. Bank may require Customer to change the Security Credentials from time to time for security reasons.
 - iv. Customer agrees that any person having access to Customer's Security Credentials will be able to access these Services and perform all transactions, including reviewing Designated Account information and making transfers to other Designated Accounts and to other persons. Customer acknowledges and agrees to be responsible for safeguarding the Security Credentials and Security Procedures to prevent unauthorized use. Customer acknowledges and agrees that providing the Security Procedures (or just the Security Credentials) to another person effectively constitutes a grant of authority to access or transact business on Customer's Designated Accounts.
- b. Customer agrees to comply with the Security Procedures.
- c. **Customer acknowledges and agrees that the Security Procedures, including (without limitation) any Security Credentials, or other user identification technology, token, certificate, layered security, two-factor**

authentication method, or other element, means, or method of authentication or identification used in connection with a Security Procedure (collectively "Security Devices"), constitute commercially reasonable security procedures under applicable law for the initiation of the Services used by Customer, including without limitation, transfers and access to confidential information.

- d. Customer authorizes Bank to follow any and all instructions entered and transactions initiated using any of the applicable Security Procedures unless and until Customer has notified Bank, according to notification procedures prescribed by Bank, that the applicable Security Procedures or any Security Device has been stolen, compromised, or otherwise become known to persons other than Customer or Customer's representative(s) and until Bank has had a reasonable opportunity to act upon such notice.
- e. Customer agrees that the initiation of a transaction or instructions using any of the applicable Security Procedures constitutes sufficient authorization for Bank to execute such transaction or instruction notwithstanding any particular designation by Customer of authorized persons or signature requirements identified on any signature card or other documents relating to this Agreement or the Designated Account(s) maintained with Bank.
- f. Customer agrees and intends that the submission of transactions and instructions using any of the applicable Security Procedures shall be considered the same as Customer's authorized written signature in authorizing Bank to execute such transaction or instruction.
- g. Customer agrees to be bound by any and all transactions initiated through the use of the Security Procedures, whether authorized or unauthorized, and by any and all transactions and activity otherwise initiated by Customer to the fullest extent allowed by law. Customer further acknowledges and agrees that the Security Procedures are not designed to detect error in the transmission or content of communications or transactions initiated by Customer and that Customer bears the sole responsibility for detecting and preventing such error.
- h. For Services requiring the use of Security Procedures Customer agrees to appoint and designate a primary user with administrative rights (the "**Administrator**") who will be authorized and responsible for creating and maintaining subsequent Security Credentials on Customer's behalf, including assigning, modifying, or revoking access privileges for any persons (individually a "**User**" and collectively "**Users**") and providing new and subsequent Security Devices to those Users.
- i. Bank will provide Customer's designated Administrator, by a delivery method of Bank's choosing, with Security Credentials to be distributed to each User with respect to one or more of the Services.
- j. Customer understands that the Administrator has the capability of providing administrative privileges identical to that of the Administrator to any User, including the ability to create and maintain subsequent User accounts and assigning and revoking access privileges. If the Administrator grants these privileges to a User, that User will also be considered an Administrator.
- k. Customer acknowledges that any Administrator shall have the ability to control security levels such as Service access and Service transaction limits, including without limitation the ability to assign monetary limits to transfers of funds.
- l. Customer agrees to keep all Security Procedures protected, secure, and strictly confidential and to provide or make available the same only to Customer's authorized representative(s).
- m. Customer agrees to not leave any computer or device unattended while it is logged in to any electronic or online Services governed by this Agreement.
- n. Customer agrees that Users shall not share Security Devices with each other or with any third parties.
- o. Customer agrees to notify Bank immediately, according to notification procedures prescribed by Bank, if Customer believes that any Security Procedures have been stolen, compromised, or otherwise become known

to persons other than Customer or Customer's authorized representative(s) or if Customer believes any transaction or activity is unauthorized or in error.

- p. In the event of any actual or threatened breach of security, Bank may issue Customer a new Security Credentials or other Security Devices or establish new Security Procedures as soon as reasonably practicable, but Bank shall not be liable to Customer or any third party for any delay in taking such actions.
- q. Bank reserves the right to modify, amend, supplement, or cancel any or all Security Procedures, and/or to cancel or replace any Security Devices, at any time and from time to time in Bank's discretion. Bank will endeavor to provide reasonable notice of any change in Security Procedures, but may make any change in Security Procedures without advance notice if Bank, in its sole judgment and discretion, believes such change to be necessary or desirable to protect the security of Bank systems and assets.
- r. Customer's implementation and use of any changed Security Procedures after any change in Security Procedures shall constitute Customer's agreement to the change and Customer agrees that the applicable Security Procedures, as changed, are commercially reasonable and adequate for the purposes intended.

10. Security Procedures – Required – Additional

- a. In addition to Standard Security Procedures, additional security procedures are required if Customer has access to Electronic Funds Transfer capability, which includes ACH Origination and Wire Transfer, and Customer and Bank deem these additional Security Procedures to be commercially reasonable.
- b. Customer acknowledges and understands that selecting Security Procedures other than those required previously herein along with those required below increases the risk of loss to Customer. Bank may, at its option, refuse to accept Customer's Security Procedures, in which case Bank may refuse to accept transfer requests initiated by Customer.
- c. **Dual Control.** Dual control requires that at least two authorized Users be involved in the initiation and release of any ACH batch/file origination or Wire Transfer payment request. One authorized User with sufficient initiation entitlements must input and approve the transaction information, and at least one other authorized User with sufficient approval entitlements must approve and release the transaction before it is processed by Bank.
- d. **Out of Band Authentication ("OOBA").** Bank uses advanced authentication procedures for some features of its online banking products.
 - i. The method of advanced login authentication is OOBA by way of a one-time verification code provided via automated phone call or text message to the mobile device of the User(s) designated by Customer's Administrator as having authority to use any of Bank's online products.
 - ii. The verification code must be correctly input by the User(s) before the requested action will be completed.
 - iii. Customer's Administrator is responsible for entering and maintaining accurate User telephone numbers for OOBA in the online products.
 - iv. Bank shall have no obligation to audit, check or verify the User phone numbers Customer provides to Bank.
 - v. By entering a User's phone number for use in connection with OOBA, Customer certifies that the User has consented to the use of the phone number for purposes of OOBA.
 - vi. The mobile service provider(s) for the User phone numbers used in connection with OOBA may charge fees for sending and receiving text messages. Customer acknowledges that Bank shall not be responsible for any such fees.

11. Additional Security Procedures – Customer Selected Security Procedures

In addition to the Security Procedures referenced above, Bank requires the additional Security Procedures below as part of Bank's "commercially reasonable Security Procedures" offered to Customer. **Customer may elect not to implement one or more of the Security Procedures set forth below. In doing so, Customer expressly acknowledges and understands that: (i) Customer is rejecting the commercially reasonable Security Procedures offered by Bank and instead implementing Security Procedures chosen by Customer; (ii) such decision may substantially increase the risk of loss to Customer; and (iii) Customer will be bound by any transaction, whether or not authorized, issued in Customer's name and accepted by Bank in compliance with Customer's selected Security Procedures.**

- a. **Dedicated Computer.** Customer agrees that its Administrator(s) and/or User(s) will only access and use EBIB, including to initiate and approve all ACH and Wire Transfer transactions, from computers used solely for Customer's business purposes. The computers shall not be used for general Internet purposes (e.g., personal e-mail, visits to non-business-related web sites, including social networking sites). Computers accessing EBIB should not have "computer administrative" privileges (i.e., a user with "unlimited" privileges).
- b. **Payment Activity Review.** Customer is responsible for reviewing account activity each Business Day and notifying Bank of any suspect ACH transactions, Wire Transfers, and/or other account transactions. If Customer believes any approved ACH Files or Wire Transfer payment orders received by Bank to be erroneous, Customer must notify Bank immediately. If Bank is timely notified, Bank will attempt to reverse the suspect transactions if possible.
- c. **Delivery/Transmission Options.** Customer acknowledges and agrees that the commercially reasonable Security Procedures offered by Bank for the initiation of ACH transactions and Wire Transfers and the transmission of data are the Security Procedures used in conjunction with EBIB. Customer further acknowledges and agrees that initiation of ACH transactions, Wire Transfers, check issue files, and check image files for deposit by any other method of communication (i) is a rejection by Customer of the commercially reasonable Security Procedures offered by Bank as more fully addressed above at the outset of this section; (ii) may only be used with Bank's prior written consent; and (iii) may be subject to such alternative Security Procedures that Bank and Customer agree upon, if any, which alternative Security Procedures will be deemed to have been selected by Customer.
- d. **Administrators Who Are Also Users.** If any Administrator of an online Service is also a User of that Service to conduct any banking business on behalf of Customer, then said Administrator shall establish separate Security Credentials for each of his or her roles, and use the Administrator Security Credentials only when conducting Administrator tasks. The intent of this Security Procedure is to minimize the exposure of administrative privileges in the event the User's computer or internet session becomes compromised by an unauthorized user.

12. Physical and Electronic Security

- a. Customer is solely responsible for providing for and maintaining the physical, electronic, procedural, administrative, and technical security of data and systems in Customer's possession or under Customer's control.
- b. Bank is not responsible for any computer viruses (including, without limitation, programs commonly referred to as "malware," "keystroke loggers," and/or "spyware"), problems or malfunctions resulting from any computer viruses, or any related problems that may be associated with the use of an online system or any wire transfer or Automated Clearing House (ACH) Origination Services.
- c. Any material downloaded or otherwise obtained is obtained at Customer's own discretion and risk, and Bank is not responsible for any damage to Customer's Mobile Devices, computer or operating systems or for loss of data that results from the download of any such material, whether due to any computer virus or otherwise.

- d. Customer is solely responsible for maintaining and applying anti-virus software, security patches, firewalls, and other security measures with respect to Customer's operating systems, and for protecting, securing, and backing up any data and information stored in or on Customer's operating systems.
- e. Bank is not responsible for any errors or failures resulting from defects in or malfunctions of any software installed on Customer's operating systems or accessed through an Internet connection.
- f. Customer acknowledges and agrees that it is Customer's responsibility to protect itself and to be vigilant against e-mail fraud and other internet frauds and schemes (including, without limitation, fraud commonly referred to as "phishing" and "pharming").
 - i. Customer agrees to educate User(s), agents, and employees as to the risks of such fraud and to train such persons to avoid such risks.
 - ii. Customer acknowledges that Bank will never contact Customer by e-mail in order to ask for or to verify Designated Account numbers, Security Devices, or any sensitive or confidential information.
 - iii. In the event Customer receives an e-mail or other electronic communication that Customer believes, or has reason to believe, is fraudulent, Customer agrees that neither Customer nor its User(s), agents, and employees shall respond to the e-mail, provide any information to the e-mail sender, click on any links in the e-mail, or otherwise comply with any instructions in the e-mail.
 - iv. Customer agrees that Bank is not responsible for any losses, injuries, or harm incurred by Customer as a result of any electronic, e-mail, or Internet fraud.
- g. In the event of a breach of the Security Procedures, Customer agrees to assist Bank in determining the manner and source of the breach.
 - i. Such assistance shall include, but shall not be limited to, providing Bank or Bank's agent access to Customer's hard drive, storage media and devices, systems and any other equipment or device that was used in breach of the Security Procedure.
 - ii. Customer further agrees to provide to Bank any analysis of such equipment, device, or software or any report of such analysis performed by Customer, Customer's agents, law enforcement agencies, or any other third party.
 - iii. In the event of a breach of a Security Procedure, Customer may be required to close its Designated Accounts or to execute a Bank approved reactivation agreement before Services are reinstated to a Designated Account.
 - iv. If Customer fails or refuses to assist Bank as required in this subsection, Customer shall be precluded from asserting that the breach of the Security Procedure was caused by Bank or facilitated through a source controlled by Bank.
- h. Customer agrees to use, as its own expense, computer hardware and software (including Mobile Devices) and related equipment and providers (including Internet and mobile data Providers) (collectively the "**Customer Equipment**") that meet all technical requirements for the proper delivery of the Service and that fulfills Customer's obligation to obtain and maintain secure access to the Internet.
- i. Customer understands and agrees it may also incur, and shall pay, any and all expenses related to the use of the Services, including, but not limited to, telephone service, cellular/mobile data service, or Internet service charges.
- j. Customer is solely responsible for the operation, maintenance and updating of all Customer Equipment used in connection with the Services and agrees to maintain such equipment in normal working order.
- k. Bank is not responsible for any errors or failures resulting from defects in or malfunctions of Customer Equipment. In addition to installing antivirus software, Customer hereby agrees to scan its computer hardware and software on a regular basis using a reliable computer virus detection product in order to detect and remove computer viruses.
- l. All right, title and interest in Bank-provided computer programs, user guides, and documentation necessary for the delivery of a Service shall remain the property of Bank or any third party Software provider, as applicable.

m. Unless otherwise expressly authorized, Customer may not copy, reproduce, transmit, retransmit, disseminate, display, publish, sell, broadcast, circulate, distribute, transfer, assign, commercially exploit, reverse engineer, reverse compile or create derivative works of any computer programs or documentation related to any Service governed hereunder.

13. Detection of Errors

Bank shall have no responsibility to detect errors made by Customer through any action undertaken under this Agreement, including but not limited to Customer's use of any Security Procedures, Customer's provision of any account numbers, Customer's initiation of any monetary transfers or Customer's provision of data used in conjunction with any of the Services.

14. Customer's Duty to Inspect

Customer's duty to inspect transactions via Bank's periodic account statement and Bank's online services, and to report any errors detected by such inspection, shall be as specified in the Deposit Account Agreement for Customer's Designated Accounts.

15. Loss Recovery Efforts

Customer agrees to cooperate with Bank in any loss recovery efforts Bank undertakes to reduce any loss or liability that arises in connection with any of the Services covered by this Agreement.

16. Internet Disclaimer

Bank does not and cannot control the flow of data to or from Bank's network and other portions of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. Actions or inactions by such third parties can impair or disrupt Customer's connections to the Internet (or portions thereof). Bank cannot guarantee that such events will not occur. Accordingly, Bank disclaims any and all liability resulting from or related to such events and in no event shall Bank be liable for any damages (whether in contract or in tort) that are attributable to the public Internet infrastructure, Customer's ability to connect to the Internet, or Bank's ability to connect to the Internet on Customer's behalf.

17. Services That Enable the Deposit of Images of Checks

Bank offers multiple Services by which Customer can deposit checks from remote locations. These Services are Business Check Express (BCE), BCE Direct, Mobile Deposit, and approved vendor-created items (such as Lockbox), all of which are addressed in their own sections of this Agreement. These Services are collectively referred to herein as "**Image Deposit Services**." If Customer uses any Image Deposit Services the following terms and conditions apply.

- a. Customer agrees that the image of any check that is transmitted to Bank (each a "**Check**" and, if more than one, "**Checks**") shall be deemed an "**item**" within the meaning of Article 4 of the Uniform Commercial Code.
- b. Customer further agrees that it will not remotely deposit any Checks or other items that:
 - i. are payable to any person or entity other than Customer,
 - ii. are prohibited by Bank's then current procedures pertaining to the Service (the "**Procedures**") or are in violation of any law, rule or regulation,
 - iii. Customer knows or suspects, or should know or suspect, is fraudulent or otherwise not authorized by the legal owner of the account on which the Check is drawn,
 - iv. have been previously endorsed by a bank and are either "**substitute checks**" (as defined in Federal Reserve Board Regulation CC or other applicable federal law or regulation) or "**image replacement documents**" that purport to be substitute checks, without Bank's prior written consent,

- v. are drawn on financial institutions that are located outside of the United States or Territories of the United States,
- vi. are “**Remotely Created Checks**” (as defined in Federal Reserve Board Regulation CC), and
- vii. are not acceptable to Bank for deposit into a deposit account as provided in the Deposit Account Agreement.

The Checks described above are “**Prohibited Check(s)**.” If Customer deposits a Prohibited Check, Customer agrees to indemnify and reimburse Bank for, and hold Bank harmless from and against, any and all losses, costs and expenses (including reasonable attorney’s fees) Bank may incur associated with any warranty, indemnity or other claim related thereto. Furthermore, if, after first having obtained Bank’s written consent to do so, Customer provides Bank with an electronic representation of a substitute check for deposit into a Designated Account instead of an original Check, Customer agrees to indemnify and reimburse Bank for, and hold Bank harmless from and against, any and all losses, costs and expenses (including reasonable attorney’s fees) Bank incurs because any such substitute check resulting from such electronic representation does not meet applicable substitute check standards and/or causes duplicate payments.

- c. Customer shall securely store all original Checks for Bank’s published retention period after Customer has received notice from Bank that the file containing the images of such Checks has been accepted. During the retention period, Customer shall take appropriate security measures to ensure the following:
 - i. Only authorized personnel shall have access to original Checks
 - ii. The information contained on such Checks shall not be disclosed.
 - iii. Such Checks will not be duplicated or scanned more than one time unless instructed by Bank.
 - iv. Such Checks will not be deposited or negotiated in any form.
- d. Customer will use commercially reasonable methods of destruction to completely destroy original Checks after expiration of the Retention Period.
- e. Customer will promptly (but in all events within 5 Business Days) provide any retained Check (or, if the Check is no longer in existence, a sufficient copy of the front and back of the Check) to Bank as requested to aid in the clearing and collection process or to resolve claims by third parties with respect to any Check.
- f. Contingency Plan. In the event Customer is not able to capture, balance, process, produce or transmit a file to Bank, or otherwise comply with the terms hereof or of the Procedures, for any reason, Bank recommends that Customer:
 - i. Transport the originals of all Checks to the closest office of Bank and deposit original Checks with Bank until such time that the outage, interruption or failure is identified and resolved; and/or
 - ii. Obtain from Bank the address of Bank’s Mail Teller Operation, and mail the original checks to Bank for deposit.

The deposit of original Checks at an office of Bank or through the Mail Teller shall be governed by the terms and conditions of the Deposit Account Agreement and not by the terms of this Agreement.

- g. Upon Bank’s acceptance of any Checks deposited via any of the Image Deposit Services, Bank shall grant Customer’s Designated Account Provisional Credit (as herein defined) for the total amount of the deposited Checks, subject to any applicable adjustments or corrections. As used herein, “**Provisional Credit**” means that the credit is made to Customer’s Designated Account subject to final payment of the Checks and subject to the terms of the Deposit Account Agreement. For the purpose of determining availability of funds, Bank may hold funds for the period of time permitted by Bank’s funds availability disclosure.
- h. Customer may be using special equipment, services, or software provided by a third party to assist it in processing Checks and files for deposit via the Image Deposit Services (each a “**Third Party**” and, if more than one, “**Third Parties**”). Customer (i) agrees that any Third Party is acting as Customer’s agent in the delivery of Checks and files to Bank, and (ii) agrees to assume full responsibility and liability for any failure of that Third Party to comply with the terms of this Agreement governing the Image Deposit Services. Bank will not be liable

for any losses or additional costs incurred by Customer as a result of any error by a Third Party or a malfunction of equipment provided by a Third Party. Customer shall provide at least 10 days advance written notice to Bank in the event it uses any such Third Party. Customer is solely responsible for maintaining compliance with the requirements of any Third Party, including obtaining any software updates. Bank shall not have any responsibility for any Check or file handled by a Third Party until that point in time when Bank accepts and approves a Check or file from such Third Party for processing.

18. Service Limits

Customer agrees that Bank may establish limits or restrictions on the Services provided in this Agreement and that Bank may establish and amend those limits. The limits or restrictions may apply to transaction amounts, types of accounts that are eligible for the Service, the frequency of the transactions or any other limits or restrictions that Bank deems necessary. Customer agrees to abide by and honor the limits or restrictions established by Bank. Customer also agrees that Bank shall have no liability to Customer for refusal to process any transaction or to act on any request by Customer that exceeds the limit or restriction.

19. Financial Information and Audit

- a. From time to time Bank may, but is not required to, request information from Customer in order to evaluate a continuation of the Service to be provided by Bank hereunder and/or adjustment of any limits set in accordance with this Agreement.
 - i. Customer agrees to provide the requested financial information immediately upon request by Bank, in the form required by Bank. Customer authorizes Bank to investigate or reinvestigate at any time any information provided by Customer in connection with this Agreement and the Services.
 - ii. Upon request by Bank, Customer hereby authorizes Bank to enter Customer's business premises on reasonable notice for the purpose of ensuring that Customer is in compliance with the terms of this Agreement, applicable laws and regulations.
 - iii. Customer agrees Bank may, but is not required, to perform audits of Customer's operational controls, risk management practices, staffing and the need for training and ongoing support, compliance with applicable regulations, this Agreement, and information technology infrastructure.
- b. Customer hereby acknowledges and agrees that Bank shall have the right to require specific internal controls at Customer's location(s) and Customer shall comply with any such requirement.
- c. Customer hereby agrees to allow Bank to review available reports of independent audits performed at Customer location related to information technology, the Services and any associated operational processes.
- d. Customer agrees that if requested by Bank, Customer will complete a self-assessment of Customer's operations, management, staff, systems, internal controls, training and risk management practices that would otherwise be reviewed by Bank in an audit of Customer.
- e. If Customer refuses to provide the requested financial information, or if Bank concludes, in its sole discretion, that the risk of Customer is unacceptable, if Customer violates the Service terms and conditions or the Rules, or if Customer refuses to give Bank access to Customer's premises, Bank may terminate the Services and this Agreement according to the provisions hereof.

20. Changes and Modifications

- a. Bank may amend, add to, modify or delete the terms or replace this Agreement in its entirety at any time, in its sole discretion, by providing notice to Customer and providing Customer with access to an updated Agreement in writing, electronically, or via a link posted to a secure website.
- b. Notwithstanding the foregoing, Bank may amend the Schedule of Fees at any time, in its sole discretion with or without notice other than by providing notice in accordance with Notice procedures described in this Agreement.

- c. In the event performance of the Service provided herein in accordance with the terms of this Agreement would result in a violation of any present or future statute, regulations or government policy to which Bank is subject, and which governs or affects the transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation or policy, and Bank shall incur no liability to Customer as a result of such violation or amendment.
- d. Any practices or course of dealings between Bank and Customer, or any procedures or operational alternatives used by them, shall not constitute a modification of this Agreement, nor shall they be construed as an amendment to this Agreement.

21. Availability of Services

- a. Bank will use reasonable efforts to make the Services available for Customer's use on a continuous basis.
- b. The Services may be unavailable for short periods of time for regular or emergency system maintenance. Bank will endeavor to have its scheduled maintenance occur during non-peak hours.
- c. In addition, accessibility to the Services may be interrupted because of conditions beyond Bank's control, including outages in Internet, cellular or other communications availability. Bank will use diligent efforts to re-establish the Services as promptly as possible. Bank does not promise the Services will always be available for Customer's use.
- d. Bank may elect to discontinue one or more of the Services at any time. If Bank chooses to discontinue a Service, Bank will provide Customer with reasonable advance notice.
- e. Bank reserves the right at all times to take actions to protect Bank systems and information, including denial of access to users of the Services.

22. Payment for Services

- a. Customer agrees to pay Bank the charges for the Services in accordance with Bank's most current, applicable, fee schedule in effect from time to time or as otherwise provided by Bank to Customer from time to time in an Enrollment Document or other written instrument.
- b. All fees are subject to change from time to time by Bank, in Bank's sole discretion on notice to Customer.
- c. Customer authorizes Bank to deduct any charges for the Services from any Designated Account or other deposit account Customer has with Bank, even if such deductions cause an overdraft in such account. Without limiting the generality of the foregoing, Customer may designate the account from which payment for the Services will be deducted (the "**Payment Account**") in the Enrollment Documents. Charges deducted from the Payment Account or any other deposit account of Customer will be reflected in the periodic statement for such account for the period in which the account was debited.
- d. Should Customer fail or refuse to pay any charges under this Agreement, Customer agrees to pay all collection costs (including reasonable attorney's fees) which may be incurred by Bank.
- e. Customer acknowledges that the fees of Bank for the Services have been established in contemplation of: (a) limitations on Bank's liability contained herein, (b) the responsibility of Customer to review statements, confirmations, and notifications promptly and to notify Bank immediately of any discrepancies or problems, and (c) the responsibility of Customer to assist Bank in any loss recovery effort.

23. No Obligation to Lend Money

- a. Customer and Bank agree that nothing in this Agreement shall be deemed to constitute a credit facility of any kind or nature in favor of Customer even if the Services rendered are in conjunction with a line of credit or even if the terms and conditions of the Services or the Service Criteria make reference to a line of credit.
- b. Customer represents and warrants to Bank that it understands and acknowledges that this Agreement does not create any right to borrow funds from Bank and that Bank has no obligation to lend funds to Customer in providing the Services that are the subject of this Agreement.
- c. In the event that Bank shall perform a transaction for Customer that creates an overdraft on Customer's Designated Account(s) such action(s) by Bank will not establish a course of dealing or conduct between the parties that would require Bank to perform any subsequent transaction which would also create an overdraft.

24. Stop Payment Orders

Unless otherwise specified in the terms and conditions of the Services or Service Criteria, any stop payment order which Customer wishes to place on a check drawn on a Designated Account or otherwise related to this Service shall be placed in accordance with Bank's normal stop payment procedures for other accounts in effect at that time.

25. Confidential Information and Proprietary Right in Data

- a. All information of a business nature relating to the assets, liabilities or other business affairs disclosed to Bank by Customer and Customer's customers in connection with this Agreement and the Services provided is confidential. Except as allowed by applicable law or disclosed in the Privacy Notice published by Bank, Bank shall not disclose or permit access to any such information by any person, firm or corporation.
- b. Bank shall cause its officers, employees and agents to take such action as shall be reasonably necessary to preserve and protect the confidentiality of such information, by disclosing such information only to persons needing to have access thereto for the performance of Bank's obligations under this Agreement or to any other party to which Bank may be required by law to report such information.
- c. Customer agrees to hold confidential, and to use only in connection with the Service, all information furnished to Customer by Bank or by third parties from whom Bank has secured the right to use the Service, including, but not limited to, Bank's product and service pricing structure, system design, programming techniques or other unique techniques.
- d. In addition, should Customer at any time receive or acquire any information relating to another customer of Bank, Customer shall promptly return such information to Bank and not reveal such information to any other party and shall not make use of such information for its own benefit or otherwise.
- e. Obligations and agreements of Bank and Customer regarding confidential information under this Agreement shall not apply to any information supplied that was known to either party prior to the disclosure by the other, is or becomes generally available to the public other than by breach of this Agreement or otherwise becomes lawfully available on a non-confidential basis from a third party who is not under an obligation of confidence to either party. Notwithstanding anything to the contrary contained herein, it is understood and agreed by the parties hereto that the performance of the Services is or might be subject to regulation and examination by authorized representatives of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and/or a State regulatory agency, and Customer agrees to the release by Bank of Customer's reports, information, assurances and other data and information as may be required under applicable laws and regulations.

26. Notices

Except as otherwise provided in the Deposit Account Agreement, any notice or other communication required or permitted to be given under this Agreement to Customer may be delivered or sent by U.S. Mail or private courier to the address provided for on an Enrollment Document for Customer (or otherwise provided by Customer on an

approved form provided to Bank), by electronic delivery to the email address on file for Customer, by posting to the website for the Service, or by directing Customer to an established web link where such notice is posted, or any other method allowed by law, and unless otherwise provided herein, such notices shall be deemed given to Customer when sent.

Unless another address is substituted by notice delivered or sent as provided herein, any written notice or other communication required or permitted to be given under this Agreement to Bank may be delivered or sent by U.S. Mail to Bank at the following address:

Renasant Bank
Treasury Management Department
P.O. Box 4140
Tupelo, MS 38803-4140

Except as otherwise stated herein, any such notices to Bank shall be deemed given when received.

27. Limitation of Liability and Indemnification

Bank and Customer acknowledge and agree that the limitations of liability outlined below are a bargained for allocation of risk and liability, and agree to respect such allocation of risk and liability. Customer acknowledges and agrees that Bank would not enter into this Agreement without the limitations of liability set forth in this section. Without limitation on any similar provisions set forth in the terms and conditions for each of the Services, Customer agrees as follows:

- a. BANK SHALL NOT BE RESPONSIBLE OR LIABLE TO CUSTOMER OR TO ANY OTHER PARTY FOR CONSEQUENTIAL, INDIRECT, SPECIAL EXEMPLARY, PUNITIVE OR INCIDENTAL DAMAGES ARISING OUT OF THE USE BY CUSTOMER OF ANY SERVICE EVEN IF CUSTOMER, BANK OR BANK'S SERVICE PROVIDER HAVE BEEN SPECIFICALLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- b. TO THE FULLEST EXTENT ALLOWED BY LAW, BANK'S LIABILITY TO CUSTOMER UNDER THIS AGREEMENT SHALL BE LIMITED TO CORRECTING ERRORS RESULTING FROM BANK'S FAILURE TO EXERCISE ORDINARY CARE OR TO ACT IN GOOD FAITH.
- c. CUSTOMER ACKNOWLEDGES AND AGREES THAT CUSTOMER'S USE OF THE SERVICES SHALL BE AT CUSTOMER'S SOLE RISK AND THAT THE SERVICES ARE PROVIDED BY BANK ON AN "AS IS" BASIS.
- d. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, BANK MAKES NO, AND HEREBY DISCLAIMS ANY AND ALL, REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN FACT, WHATSOEVER TO CUSTOMER OR TO ANY OTHER PERSON AS TO THE SERVICES OR ANY ASPECT THEREOF, INCLUDING (WITHOUT LIMITATION) ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, OR SUITABILITY. CUSTOMER AGREES THAT NO ORAL OR WRITTEN ADVICE OR REPRESENTATION OBTAINED FROM ANY BANK EMPLOYEE OR REPRESENTATIVE SHALL CREATE A WARRANTY OR REPRESENTATION FOR PURPOSES OF THIS AGREEMENT OR ANY SERVICES TO BE PERFORMED PURSUANT HERETO.
- e. BANK MAKES NO REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, TO CUSTOMER AS TO ANY COMPUTER HARDWARE, SOFTWARE, OR EQUIPMENT USED IN CONNECTION WITH THE SERVICES (INCLUDING, WITHOUT LIMITATION, CUSTOMER'S COMPUTER SYSTEMS, MOBILE DEVICES, OR RELATED EQUIPMENT, CUSTOMER'S SOFTWARE, OR CUSTOMER'S INTERNET SERVICE PROVIDER OR ITS EQUIPMENT), OR CUSTOMER'S MOBILE DATA OR AS TO THE SUITABILITY OR COMPATIBILITY OF BANK'S SOFTWARE, INTERNET DELIVERED SERVICE, EQUIPMENT OR COMMUNICATION INTERFACES WITH THOSE THAT CUSTOMER USES, OR AS TO WHETHER ANY SOFTWARE OR INTERNET DELIVERED SERVICE WILL PERFORM IN AN UNINTERRUPTED MANNER, INCLUDING (WITHOUT LIMITATION) ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- f. BANK SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY ERRORS OR FAILURES RESULTING FROM DEFECTS IN OR MALFUNCTIONS OF CUSTOMER'S COMPUTER HARDWARE OR SOFTWARE, FOR THE QUALITY OF

PERFORMANCE OR LACK OF PERFORMANCE OF ANY COMPUTER SOFTWARE OR HARDWARE OR INTERNET DELIVERED SERVICES SUPPLIED BY BANK TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT, OR FOR THE TRANSMISSION OR FAILURE OF TRANSMISSION OF ANY INFORMATION FROM CUSTOMER TO BANK OR FROM BANK TO CUSTOMER. BANK SHALL NOT BE RESPONSIBLE FOR NOTIFYING CUSTOMER OF THE NEED FOR ANY UPGRADES OR ENHANCEMENTS TO ANY OF CUSTOMER'S COMPUTER HARDWARE OR SOFTWARE.

- g. WITHOUT LIMITATION ON THE FOREGOING, CUSTOMER AND NOT BANK WILL BE RESPONSIBLE FOR ALL CLAIMS OF ANY SORT BY THIRD PARTIES OR OTHERS ARISING OUT OF THIS AGREEMENT, INCLUDING ALL LOSSES AND EXPENSES INCURRED BY BANK ARISING OUT OF CUSTOMER'S FAILURE TO REPORT REQUIRED CHANGES, TRANSMISSION OF INCORRECT DATA TO BANK, OR FAILURE TO MAINTAIN COMPLIANCE WITH THE LAWS, REGULATIONS AND RULES. WITHOUT LIMITING OR SUPERSEDING ANY LIMITATION OF LIABILITY PROVISIONS IN THE TERMS AND CONDITIONS GOVERNING EACH SERVICE.
- h. EXCEPT FOR THOSE LOSSES CAUSED DIRECTLY BY BANK'S GROSS FAILURE TO EXERCISE ORDINARY CARE OR TO ACT IN GOOD FAITH, CUSTOMER AND NOT BANK, SHALL BE RESPONSIBLE FOR ANY AND ALL LOSSES, COSTS, SUITS, DAMAGES, CLAIMS, LIABILITIES AND EXPENSES ARISING FROM OR RELATED IN ANY WAY TO (I) ANY SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT, (II) BANK'S ACTION OR INACTION IN ACCORDANCE WITH OR RELIANCE UPON ANY INSTRUCTIONS OR INFORMATION TRANSMITTED VIA ANY SECURITY DEVICE OR RECEIVED FROM ANY PERSON REASONABLY BELIEVED BY BANK TO BE AN AUTHORIZED REPRESENTATIVE OF CUSTOMER OR AUTHORIZED USER, (III) CUSTOMER'S BREACH OF ANY OF CUSTOMER'S COVENANTS, AGREEMENTS, RESPONSIBILITIES, REPRESENTATIONS OR WARRANTIES UNDER THIS AGREEMENT, AND/OR (IV) CUSTOMER'S BREACH OF APPLICABLE LAWS, RULES OR REGULATIONS.
- i. IN THE PERFORMANCE OF THE SERVICES, BANK SHALL BE ENTITLED TO RELY SOLELY ON THE INFORMATION PROVIDED BY CUSTOMER, IRRESPECTIVE OF THE ACCURACY OR COMPLETENESS THEREOF, AND MAY RELY ON THE TERMS AND CONDITIONS OF THIS AGREEMENT. BANK SHALL NOT BE RESPONSIBLE FOR PERFORMING ANY SERVICE NOT EXPRESSLY CONTRACTED FOR IN WRITTEN AGREEMENT WITH BANK.
- j. BANK SHALL NOT BE RESPONSIBLE FOR THE ACTS AND OMISSIONS OF TRANSFEREE INSTITUTIONS AND THEIR PERSONNEL WHO ARE NOT AGENTS OF BANK. BANK SHALL NOT BE RESPONSIBLE FOR CUSTOMER'S ACTS OR OMISSIONS (INCLUDING, WITHOUT LIMITATION, THE AMOUNT, ACCURACY, AND TIMELINESS OF TRANSMITTAL OR AUTHORIZATION OF ANY ENTRY RECEIVED FROM CUSTOMER) OR THOSE OF ANY OTHER PERSON AND NO SUCH PERSON SHALL BE DEEMED BANK'S AGENT.
- k. CUSTOMER HEREBY RELEASES BANK FROM ANY AND ALL CLAIMS OR DAMAGES RESULTING FROM, OR RELATED TO, ANY COMPUTER VIRUS, UNAUTHORIZED INTRUSION OR RELATED PROBLEMS THAT MAY BE ASSOCIATED WITH USING ELECTRONIC MAIL, THE INTERNET OR THE CUSTOMER EQUIPMENT.
- l. IN THE EVENT OF ANY LOSS SUSTAINED BY CUSTOMER WHICH IS NOT OTHERWISE EXCLUDED FROM LIABILITY AND ARISES OUT OF ANY MISDIRECTED OR UNAUTHORIZED PAYMENTS OR TRANSFERS RESULTING FROM EITHER GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY BANK, BANK'S LIABILITY SHALL BE LIMITED TO THE RETURN OF THE IMPROPERLY REMOVED OR TRANSFERRED FUNDS TO THE DESIGNATED ACCOUNT FROM WHICH THEY WERE REMOVED TOGETHER WITH INTEREST THEREON IN AN AMOUNT EQUAL TO THE INTEREST WHICH COULD OTHERWISE HAVE BEEN EARNED ON THE FUNDS MADE UNAVAILABLE TO CUSTOMER COMPUTED ON A DAILY BASIS AT THE FEDERAL FUNDS RATE IN EFFECT AT THE FEDERAL RESERVE BANK FOR THE PERIOD INVOLVED, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY OF LIABILITY WHICH CUSTOMER MAY ASSERT, INCLUDING, WITHOUT LIMITATION, LOSS OR DAMAGE FROM SUBSEQUENT WRONGFUL DISHONOR RESULTING FROM BANK'S ACTS OR OMISSIONS PURSUANT TO THIS AGREEMENT.
- m. BANK SHALL BE EXCUSED FROM FAILING TO TRANSMIT OR DELAY IN TRANSMITTING A TRANSACTION IF SUCH TRANSMITTAL WOULD RESULT IN BANK'S HAVING EXCEEDED ANY LIMITATION UPON ITS INTRA-DAY NET FUNDS POSITION ESTABLISHED PURSUANT TO PRESENT OR FUTURE FEDERAL RESERVE GUIDELINES OR IN BANK'S REASONABLE JUDGMENT OTHERWISE WOULD VIOLATE ANY PROVISION OF ANY PRESENT OR FUTURE RISK CONTROL PROGRAM OF THE FEDERAL RESERVE OR ANY RULE OR REGULATION OF ANY OTHER U.S. GOVERNMENTAL REGULATORY AUTHORITY.

- n. CUSTOMER AGREES TO INDEMNIFY, DEFEND ALL CLAIMS, AND HOLD BANK, ITS OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS, EMPLOYEES AND AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES, HARMLESS FROM ANY CAUSE OF ACTION, LOSS, DAMAGES, LIABILITIES, OR EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES, CAUSED BY ANY OF THE FOLLOWING:
- i. CUSTOMER'S FAILURE TO COMPLY WITH THE SECURITY PROCEDURES REQUIRED BY THIS AGREEMENT, INCLUDING THE FAILURE TO KEEP SECURITY CODES AND SECURITY DEVICES CONFIDENTIAL AND SECURE.
 - ii. ACTS OR OMISSIONS OF CUSTOMER, ITS EMPLOYEES, AND ITS AGENTS, INCLUDING NEGLIGENCE, WILLFUL MISCONDUCT, OR BREACH OF ANY WARRANTY OR FAILURE TO COMPLY WITH THIS AGREEMENT.
 - iii. ANY MISUSE OF ANY OF THE COVERED SERVICES BY CUSTOMER, ITS EMPLOYEES, OR ITS AGENTS.
 - iv. THE FAILURE OF CUSTOMER TO SAFEGUARD CHECKS, STATEMENTS, NOTICES, TRANSACTION IMAGES, AND OTHER TRANSACTION DOCUMENTS IN SUCH A WAY AS TO PREVENT UNAUTHORIZED ACCESS TO THEM AND POTENTIAL MISUSE OF THEM.
 - v. THE FAILURE OF CUSTOMER, ITS EMPLOYEES, OR ITS AGENTS TO COMPLY WITH APPLICABLE STATE AND FEDERAL LAW AND REGULATIONS.
 - vi. ACTIONS BY THIRD PARTIES, SUCH AS THE INTRODUCTION OF MALWARE, THAT DELAY, ALTER, ASSUME CONTROL OVER, OR CORRUPT CUSTOMER'S ABILITY TO COMMUNICATE SERVICE INSTRUCTIONS OR REQUIRED DATA TO BANK.
 - vii. CUSTOMER'S FAILURE TO REPORT REQUIRED CHANGES.
 - viii. CUSTOMER'S PROVISION TO BANK OF ANY INCORRECT OR DUPLICATE PAYMENT ORDERS, DATA OR INSTRUCTIONS.
 - ix. LOSSES ARISING FROM CUSTOMER'S USE IN A PAYMENT ORDER OR PAYMENT INSTRUCTION OF A BANK ROUTING NUMBER AND/OR RECIPIENT ACCOUNT NUMBER THAT IS INCONSISTENT WITH THE IDENTITY OF THE INTENDED RECIPIENT.
 - x. ACTIONS OR INACTIONS OF ANY THIRD PARTIES SELECTED BY CUSTOMER TO PERFORM CERTAIN DUTIES RELATED TO THE SERVICES COVERED IN THIS AGREEMENT.
 - xi. LIABILITY TO ANY PAYEE FOR TRANSACTIONS NOT HONORED BY BANK DUE TO CUSTOMER'S LACK OF SUFFICIENT FUNDS.
 - xii. LIABILITY TO ANY PAYEE ARISING FROM CUSTOMER'S INSTRUCTION TO REJECT (OR LACK OF INSTRUCTION TO PAY) ANY ITEM SUBJECT TO A POSITIVE PAY OR ACH POSITIVE PAY SERVICE. ANY DISPUTES ARISING FROM SUCH A TRANSACTION SHALL BE BETWEEN CUSTOMER AND THE PAYEE, AND BANK SHALL HAVE NO INVOLVEMENT IN OR LIABILITY TO EITHER PARTY FOR SAID DISPUTE.
 - xiii. BANK'S FAILURE TO CONDUCT A TRANSACTION OR PERFORM A SERVICE DUE TO CUSTOMER'S REQUESTING SUCH ACTION AFTER BANK'S PUBLISHED DEADLINE.
 - xiv. BANK'S ACCEPTANCE AND EXECUTION OF A CANCELLATION OR MODIFICATION REQUEST FROM CUSTOMER RELATED TO A PAYMENT ORDER OR PAYMENT INSTRUCTION PREVIOUSLY SUBMITTED BY CUSTOMER.
 - xv. BANK'S ACCEPTANCE OR REJECTION OF A TRANSACTION ON THE BASIS OF ANY CUSTOMER INSTRUCTION THAT CUSTOMER IS LEGITIMATELY ENTITLED TO MAKE AS A CONDITION OF THE USE OF ANY SERVICE COVERED BY THIS AGREEMENT.

28. Bank's Obligation; Attorneys' Fees

- a. Bank agrees to use ordinary care in rendering Services under this Agreement. Customer recognizes and agrees that ordinary care does not mean error free.
- b. Subject to the limitation of liability as provided herein, and any similar provisions contained within the terms and conditions of each Service, Bank will only be liable under this Agreement for Bank's own gross negligence or willful misconduct even if Customer has advised Bank of the possibility of injury to Customer or others.
- c. Customer agrees to pay all attorneys' fees, costs and expenses Bank may incur in collecting any sums Customer owes to Bank for overdrafts, service charges or otherwise or in enforcing any rights Bank may have under the terms of this Agreement or applicable law, rule or regulation applicable to the Designated Account(s) or the Services rendered by Bank under this Agreement.

- d. Customer also agrees to pay all attorney's fees, costs and expenses that Bank may incur as the result of defending a claim or action made against Bank by Customer, or on Customer's behalf where Bank is found not to be liable for such claim.
- e. Except as may be provided in the Deposit Account Agreement, in no event shall Bank be liable to Customer for attorneys' fees incurred by Customer in any claim brought by Customer against Bank.

29. Compliance with Laws, Rules, and Regulations

Customer agrees to comply with all existing and future operating procedures used by Bank for processing of transactions. Customer further agrees to comply with and be bound by all applicable state or federal laws, rules and regulations affecting the use of checks, drafts, fund transfers, and ACH transactions, including but not limited to, rules and procedural guidelines established by the Federal Trade Commission (**FTC**), the Office of Foreign Assets Control (**OFAC**), the Financial Crimes Enforcement Network, (**FinCEN**), the Board of Governors of the Federal Reserve, the National Automated Clearing House Association (**NACHA**) and any other clearinghouse or other organization in which Bank is a member or to which rules Bank has agreed to be bound. These laws, procedures, rules, regulations, and definitions shall be incorporated herein by reference.

30. Prohibited Transactions

- a. Customer agrees not to use or attempt to use any Service (a) to engage in any illegal purpose or activity or to violate any applicable law, rule or regulation, (b) to breach any contract or agreement by which Customer is bound, (c) to engage in any internet or online gambling transaction, whether or not gambling is legal in any applicable jurisdiction, or (d) to engage in any transaction or activity that is not specifically authorized and permitted by this Agreement.
- b. Customer acknowledges and agrees that Bank has no obligation to monitor Customer's use of any Service for transactions and activities that are impermissible or prohibited under the terms of this Agreement; provided, however, that Bank reserves the right to decline to execute any transaction or activity that Bank believes violates the terms of this Agreement.

31. Relationship of Parties

Customer and Bank acknowledge and agree that the relationship of Bank and Customer is that of an independent contractor and that this Agreement does not establish or create a general agency, joint venture, partnership, or employment relationship between them.

32. Force Majeure

Bank shall not be responsible for any liability, loss, or damage resulting from Bank's failure to perform any Service or to perform any other obligations under this Agreement which is caused by an act of God, fire, floods, adverse weather or atmospheric conditions or other catastrophes; war, sabotage, riots, acts of public enemy, legal constraint, or acts of governmental authority or the Board of Governors of the Federal Reserve; plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions; labor difficulties; equipment or computer failure or destruction or the unavailability, interruption, or malfunction of communications facilities or utilities; delays or interruption in the Internet or cellular or mobile data networks; delays or failure to act by Customer or third parties and their personnel; criminal acts; or generally any cause reasonably beyond Bank's control.

33. Reimbursement

Any reimbursement by Bank for any liability hereunder may be made either directly to Customer or by adjustment of the aggregate ledger and collected balances of Customer's Designated Accounts.

34. Termination

- a. Customer and Bank have the right to terminate this Agreement or any Service without cause upon ten (10) days advanced written notice delivered to the other party in accordance with the "Notices" section of this Agreement. However, Bank in its sole discretion may terminate this Agreement or any Service immediately if Bank deems the continuation of any Service to represent material risk of loss to the Bank or if Bank determines the Service violates laws or regulations to which Bank is subject.
- b. Termination requested by Customer shall not be effective until it is actually received and acknowledged by Bank.
- c. Since the Service cancellation request can take several days to process, Customer agrees to cancel all outstanding payment or transfer orders or other pending transactions, in addition to notifying Bank of its desire to terminate the Service.
- d. Bank will not be liable for payments, transfers, or other transactions not cancelled or payments, transfers or transactions made due to the lack of proper notification by Customer of the Service termination or discontinuance for any reason.
- e. Upon termination of a Service, Customer agrees to not close the Designated Account(s) for which such Service was provided until outstanding transactions have had a reasonable time in which to settle.
- f. In the event of termination or suspension by either party, Customer shall remain liable for all charges incurred through the date of termination. All substantive and procedural provisions hereof relative to liabilities of the parties shall survive any termination of this Agreement.
- g. Notwithstanding the foregoing, Bank may terminate this Agreement and the Services immediately by giving written notice to Customer if:
 - i. Customer ceases to conduct business in the ordinary sense,
 - ii. Customer fails to perform or comply with any of the terms or conditions of this Agreement or the terms and conditions relative to the Services, or defaults under any other agreement between Bank and Customer, or
 - iii. any proceeding for voluntary or involuntary bankruptcy, insolvency, or similar proceedings is commenced by or against Customer.
- h. Bank may immediately terminate this Agreement without notice if:
 - i. Bank or Customer closes Designated Account(s), or
 - ii. Bank, in its sole discretion, determines that Customer has abused the Services or Bank believes that it will suffer a loss or other damage if the Agreement is not terminated.

35. Suspension of Services

Without liability to any party, and without limiting any other right or remedy available to Bank, Bank shall be entitled to cease or suspend any Service, in whole or in part, in Bank's sole discretion and with or without notice to Customer.

36. Governing Law

Unless otherwise specified in the Services section of this Agreement, the rights and obligations of the parties to this Agreement shall be governed by the laws governing Customer's Designated Accounts.

37. Vendors

- a. Customer acknowledges and agrees that the Services may be provided in whole or in part by independent third party service providers (“**Vendors**”) as selected by Bank, and that both Vendors and the Services are subject to change from time to time without notice to Customer.
- b. Customer further acknowledges, agrees and stipulates that each such Vendor is an independent contractor providing software, data transmission services, or operational functions in support of the Services and is not the agent of Customer or Bank.
- c. Neither Bank nor Vendor is responsible for the actions or omissions of the other.

38. Miscellaneous Provisions

- a. Headings. The headings and captions contained herein are included only for convenience of reference and do not define, limit, explain, or modify this Agreement or its interpretation, construction, or meaning.
- b. Severability. Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining terms or provisions hereof, and any such invalidity or unenforceability in any such jurisdiction shall not invalidate or render unenforceable such term or provision in any other jurisdiction; provided, however, that any such invalidity or unenforceability does not deny any party hereto any of the basic benefits of the bargain contemplated by this Agreement.
- c. Waiver. No waiver by Bank (whether or not in writing) of any term, condition, or obligation of Customer shall bind Bank to waive the same term, condition, or obligation again, nor shall any other provision, condition, term, or obligation hereof be affected by such a waiver.
- d. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the successors, heirs, trustees, and permitted assigns of the parties hereto.
- e. Incorporation by Reference. The Deposit Account Agreement, any Enrollment Document or other enrollment form, the Service Criteria, and any exhibit and appendix to this Agreement and any exhibit to each such appendix, or on screen instructions which are referred to herein or attached hereto, as amended from time to time pursuant to the provisions hereof, shall be deemed incorporated herein by reference thereto and shall become a part of this Agreement as if fully set forth herein.
- f. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto concerning the subject matter hereof and supersedes any prior agreements related to the same. All contemporaneous agreements or understandings concerning the subject matter hereof, whether oral or written, are merged into this Agreement.
- g. Disputes. The resolution of disputes between Customer and Bank with regard to any of the Services shall be based on the terms and conditions of this Agreement and the Deposit Account Agreement. Statements or representations made by employees or agents of Bank shall not alter or amend this Agreement or establish a course of performance, course of dealing, or usage of trade between Customer and Bank.
- h. Transfers and Assignments. Customer cannot transfer or assign any rights or obligations under this Agreement without Bank’s written consent. Bank may assign its rights and delegate its duties under this Agreement to a company affiliated with Bank or to a third party.
- i. Archived Information. Records of transaction entries, security procedures and related records used by Bank for transactions contemplated by this Agreement shall be and remain Bank’s property. Bank may, at its sole discretion, make available such information upon Customer’s request. Any expenses incurred by Bank in making such information available to Customer shall be paid by Customer.

- j. Recording and use of Communications. Customer and Bank agree that all telephone conversations or data transmissions between them or their agents made in connection with this Agreement may be electronically recorded and retained by either party by use of any reasonable means. Bank shall not be obligated to make such recordings.
- k. Construction. This Agreement is an agreement between parties who are experienced in sophisticated and complex matters similar to the transactions contemplated by this Agreement, is entered into by both parties in reliance upon the economic and legal bargains contained herein, and shall be interpreted and construed in a fair and impartial manner, without regard to such factors as the party which prepared the instrument or drafted any provision thereof, the relative bargaining powers of the parties or the domicile of any party.
- l. Use of Trademarks. Customer may not use Bank's name or trademarks without the express written consent of Bank. If Customer is permitted to use any of Bank's name, trademarks or promotional materials, Customer will not indicate, directly or indirectly, that Bank endorses, or is connected in any way with, any of Customer's goods or services.
- m. Third Party web sites. Bank may provide access to information, products or services offered on other third party web sites. Bank is not responsible for, nor does it control, the content, products or services provided by linked sites. Bank does not endorse or guarantee the products, information or recommendations provided by linked sites, and is not liable for any failure of products or services advertised on those sites. In addition, each third party site may provide less security than Bank and have a privacy policy different from that of Bank. Customer's access, use and reliance upon such content, products or services is at Customer's own risk.
- n. Number and Gender. In this Agreement, where applicable, references to the singular shall include the plural and references to the plural shall include the singular. References to the male, female, or neuter gender shall include reference to all other such genders where the context so requires.

PART III: ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO SPECIFIC SERVICES

SECTION ONE: AUTOMATED CLEARING HOUSE (ACH) ORIGINATION

1. Additional Definitions

In addition to the Definitions provided previously in this Agreement, the following additional definitions apply to ACH Origination:

- a. **"ACH"** means any automated clearing house of which Bank is a participating member, or through which transactions are processed hereunder. This includes any automated clearing house **"Operator,"** which is an entity that facilitates ACH transactions by receiving them from the ODFI as defined below and distributing them to RDFIs as defined below.
- b. **"Entry"** means an ACH transaction. Entries referenced as "Credit Entries" have the impact of transferring funds into the Receiver's account. Entries referenced as "Debit Entries" have the impact of removing funds from the Receiver's account.
- c. **"ODFI"** means Originating Depository Financial Institution; for purposes of this Agreement Bank is the ODFI and processes ACH Entries on behalf of Customer, who is the ACH **"Originator."**
- d. **"RDFI"** means Receiving Depository Financial Institution, which holds the account of the **"Receiver"** whose account is credited or debited by the Entry.
- e. **"Prefunding"** is an ACH processing option in which the funds to support the Entries are removed from the Originator's account prior to Bank's release of the Entries to the ACH Operator. Prefunding can be applied only to the origination of Credit Entries.
- f. **"Processing Date"** means the date upon which Customer submits Entries to Bank for processing.

- g. **“Effective Entry Date”** means the date upon which an Entry is posted to the Receiver’s account at the RDFI.
- h. **“Settlement Date”** means the date upon which funds are debited or credited, as the case may be, to or from the Originator’s account to offset the ACH transactions Customer has originated. Generally, the Effective Entry Date and the Settlement Date are the same, unless the Prefunding option is in effect.
- i. **“Processing Limit”** or **“Daily Limit”** means the maximum monetary value of ACH Entries that Customer can submit for processing on any one day. Absent a separate written agreement to the contrary, the ACH Processing Limit shall be initially established by Bank in its sole discretion and may be changed from time to time by Bank, in its sole discretion and without advance notice to Customer.
- j. **“Exposure Limit”** means the maximum monetary value of aggregate unsettled ACH Entries that Customer can submit for processing. For example, if Customer submits entries totaling \$100 on Wednesday for settlement on Friday, and then also submits Entries totaling \$100 on Thursday for settlement on Friday, then on Thursday the aggregate unsettled ACH Entries total \$200. Absent a separate written agreement to the contrary, the Exposure Limit shall be initially established by Bank in its sole discretion and may be changed from time to time by Bank, in its sole discretion and without advance notice to Customer.
- k. **“Authorized ACH Representative”** means any employee or agent of Customer who is authorized by Customer to add, amend, and delete Entries and/or ACH transaction files on behalf of Customer and to provide instructions, requests, and other communications to Bank that are binding on Customer, including without limitation the person designated in the Enrollment Document for ACH or as subsequently modified by Customer in writing and accepted by Bank.
- l. **“Customer Account,”** sometimes referred to as **“Offset Account,”** means Customer’s account at Bank where the aggregate result of the ACH batch is **“settled.”** If Customer’s ACH file or batch contained Credit Entries, then the settlement to Customer’s account will be a debit equaling the monetary value of the Entries. If Customer’s ACH file or batch contained Debit entries, then the settlement to Customer’s account will be a credit equaling the monetary value of the Entries.
- m. **“NACHA”** means the National Automated Clearing House Association, or its successor. NACHA is the governing body for the Automated Clearing House.
- n. **“Rules”** means the Operating Rules of NACHA, or the operating rules of any other ACH association of which Bank is a member, as applicable with respect to any particular transaction, as amended, modified or supplemented from time to time.
- o. **“On-Us”** Entry means an Entry to or from a Receiver’s account maintained at Bank.
- p. **“Standard Entry Class”** or **“SEC”** means a three-character data code within an Entry that defines the purpose of the Entry and determines how the Rules will be applied.
- q. Terms used herein and not otherwise specifically defined shall have the meanings ascribed to them by the Rules.

2. Statement of Service

- a. Customer wishes to initiate credit and/or debit transactions (the "Entries") through Bank to accounts maintained at Bank and at other depository financial institutions by means of the Automated Clearing House Network (**“ACH”**) and Bank agrees to act as Customer’s ODFI with respect to such Entries.
- b. This Section One sets forth the terms and conditions pursuant to which Bank will provide to Customer the ACH Services outlined herein (**“ACH Services”**).
- c. Customer will indicate on an Enrollment Document or in Service Criteria the Designated Accounts for which the ACH Services will be provided. Customer agrees that by using the ACH Services offered herein and/or executing the applicable Enrollment Document(s), Customer has read and agrees to all terms, conditions, and

provisions of this Agreement, the Enrollment Document(s), and the terms and conditions pertaining to the Designated Accounts. In the event of inconsistency between a provisions of this Section One, the Uniform Commercial Code (“UCC”), and/or the terms and conditions applicable to the Deposit Account Agreement, the provisions of this Section One shall prevail.

3. Compliance with Rules and Laws

- a. Customer agrees to comply with and be bound by the Rules as published by NACHA and updated by them from time to time. Customer acknowledges it possesses a copy of the Rules or otherwise has access to them.
- b. Customer agrees that it shall originate only Entries that comply with the laws of the United States, including, without limitation, the anti-terrorism and anti-money laundering programs administered by the U.S. Treasury Department's Office of Foreign Asset Control (“OFAC”).
- c. Customer acknowledges that the additional compliance review necessary for international ACH transactions could result in delays in processing and settling such transactions.
- d. The duties of Customer set forth in the following subsections of this Section One in no way limit the requirement of complying with the Rules.

4. ACH Daily Processing Limit

Bank will assign Customer a limit representing the maximum aggregate monetary amount of Entries that may be initiated by Customer each day (“ACH Daily Processing Limit”). Customer acknowledges that the ACH Daily Processing Limit is solely for the protection of Bank and its assets and Bank may change the ACH Daily Processing Limit in Bank’s sole discretion with or without notice to Customer. Customer understands that daily requests for Entries exceeding this amount are honored solely at the discretion of Bank.

5. ACH Exposure Limit

Bank will assign an Exposure Limit representing the maximum aggregate monetary amount of non-settled Entries outstanding for Customer at any point in time. Customer acknowledges that the establishment of an ACH Exposure Limit is a NACHA requirement for which Bank is subject to the scrutiny of its regulators. Bank may change the Exposure Limit in Bank’s sole discretion with or without notice to Customer. Customer understands that ACH batches or files that will cause Customer to exceed their Exposure Limit will be rejected or accepted in Bank’s sole discretion. If a batch or file is rejected for exceeding the Exposure Limit, Bank will notify Customer or Customer’s designated representative, and Customer agrees to hold Bank harmless for not processing the transactions.

6. Methods of Input

Customer may submit ACH entries for processing directly in EBIB, by importing them to EBIB in NACHA format or other Bank-approved formats, or by FTP transmission in NACHA format.

7. Transmission of Entries by Customer

- a. User(s) shall initiate the debit or credit Entries provided for in the Enrollment Document on behalf of and selected by Customer.
- b. User(s) shall transmit Entries to Bank in computer readable form in compliance with the formatting and other requirements set forth in the NACHA file specifications or as otherwise specified by Bank.
- c. Entries shall be transmitted to Bank no later than the cut off time and the number of days prior to the Effective Entry Date specified by Bank. Entries received after the cut off time shall be deemed to have been received on the next Business Day, which could affect the timeliness of settlement.

8. Standard Entry Class (“SEC”)

- a. Customer agrees to comply with the Rules regarding the use of SEC codes to define the purpose of each Entry.
- b. Customer acknowledges that the SEC codes are determined according to characteristics of the Receiver of the Entry (For example, PPD for a consumer Receiver, CCD for a Receiver who is a business entity, etc.). The Rules contain the complete list of available SEC codes and their definitions.
- c. Customer acknowledges that the Rules define certain special-use SEC codes as having a higher level of risk, and Customer can use these special SEC codes only when approved in advance by Bank, in which case Customer agrees to comply with additional controls required by the Rules. These restricted codes are:
 - i. **WEB** – The WEB SEC code is used for ACH debits authorized by the Receiver over the internet. Additional requirements that Customer must follow include:
 - a. The internet session must have a minimum encryption of 128 bits.
 - b. The Receiver’s authorization must contain a clear and explicit affirmation that an ACH debit is being authorized.
 - c. The Receiver’s bank routing number must be validated before transactions can begin.
 - d. The Receiver’s bank account number must be validated before transactions can begin.
 - e. The Receiver must be provided a telephone number to cancel the authorization or make inquiries about WEB Entries to their account.
 - f. Customer must conduct, or cause to be conducted, an annual audit to ensure ongoing compliance with NACHA Rules, and must remedy any audit findings within a reasonable period of time.
 - g. Customer must keep proof of the Receiver’s authorization for a minimum of two years following the last WEB Entry originated.
 - ii. **TEL** – The TEL SEC Code is used for ACH debits authorized by the Receiver orally, either by telephone or in person. Additional requirements that Customer must follow include:
 - a. Interactions during which a consumer authorizes a TEL transaction must be between an originator and a consumer who have an established ongoing relationship, or must be initiated by the consumer, not the originator.
 - b. Customer must obtain the Receiver’s explicit authorization prior to initiating a debit entry.
 - c. Customer must record the oral authorization, or confirm it in writing before the effective date of the entry. Copies of the recording or written notice must be retained and available for at least two years as proof of authorization.
 - d. The Receiver must be provided a telephone number to cancel the authorization or make inquiries about TEL Entries to their account.
 - iii. **IAT** – The IAT SEC Code (International ACH Transaction) is used for cross-border ACH credit or debit entries. Because additional diligence is required to ensure international transactions are compliant with various anti-terrorism and anti-money laundering regulations, Customer shall not initiate any IAT Entries without Bank’s prior approval. If approved by Bank, the following provisions apply to IAT Entries originated by Customer:

- a. IAT Entries are transmitted by Bank in U.S. dollars and converted to the local currency for receipt in the foreign country at the exchange rate determined by Bank's processor on the date determined by Bank's processor. All risk of fluctuation in the applicable exchange rate is borne by Customer.
- b. In the event of a returned IAT Entry, consumer payments will be credited to Customer at the originated U.S. dollar amount; corporate payments will be credited to Customer at the exchange rate determined by Bank's processor at the time of return.
- c. Customer shall originate all International ACH Transactions, as that term is defined in the Rules, with an IAT SEC code and Customer hereby agrees to abide by all of the Rules related to IAT Entries.
- d. Customer acknowledges that it has reviewed and understands the "Rules Exceptions for Outbound IAT Entries" subsection of the Rules, and agrees that the laws, regulations, and rules of the country in which the Receiver is located shall govern the matters listed within that subsection. Customer further acknowledges that Customer understands that such laws, regulations, and rules can differ materially from the Rules.

9. Third Party Service Providers

Customer may be using special equipment, services or software provided by a third party to assist it in processing Files hereunder ("**Service Provider**"). In this event, the following terms and conditions apply.

- a. Customer acknowledges and accepts the NACHA-defined distinction between a "Third Party Service Provider" and a "Third Party Sender."
 - i. This is determined by whether the third party ever takes possession of the funds in an ACH transaction. For example, if the third party is a payroll processor, they are a Third Party Service Provider if the payroll credits settle directly against an account owned by Customer, but they are a Third Party Sender if the funds are first transferred to an account of the third party.
 - ii. Customer and Bank agree that this Agreement allows the use of Third Party Service Providers subject to the terms outlined herein, but does not allow the use of Third Party Senders; Third Party Senders must have their own ACH Origination agreement with Bank.
- b. Bank does not allow a Third Party Sender to provide services to Nested Third Party Senders. A "Nested Third Party Sender" is defined as 'A Third Party Sender that has an agreement with another Third Party Sender to act on behalf of an Originator, and does not have a direct agreement with the ODFI.
- c. Customer agrees not to use a Service Provider to transmit files to Bank without first entering into Bank's Third Party Service Provider Agreement.
- d. If Customer uses Service Provider to transmit Files to Bank and Customer and Service Provider have not entered into a Third Party Service Provider Agreement, Customer (a) agrees that Service Provider is acting as Customer's agent in the delivery of Files to Bank, and (b) agrees to assume full responsibility and liability for any failure of Service Provider to comply with the laws of the United States, the Rules and this Agreement
- e. Customer is solely responsible for maintaining compliance with the requirements of Service Provider, including obtaining any software updates.
- f. Bank's sole responsibility shall be to transmit Bank approved transactions to the ACH Operator and Bank shall not have any responsibility for any File handled by Service Provider until that point in time when Bank accepts and approves a File from such Service Provider for processing.
- g. If Bank authorizes Customer to use a Service Provider, the terms and conditions governing the relationship between Customer and the Service Provider shall be governed by a separate agreement between Customer and Service Provider ("**Service Provider Agreement**"). All of Customer's obligations and responsibilities under this Agreement will apply to the Service Provider, and Customer's separate agreement with the Service Provider must so provide. At Bank's request, Customer will provide to Bank a true and exact copy of such agreement.

- h. Customer shall designate the Service Provider as a User and the Service Provider must also enter into a Service Provider Agreement before the Service Provider sends Files to Bank. Notwithstanding the foregoing, Customer hereby authorizes Bank to accept any File submitted by the Service Provider even if the Service Provider has not been designated as a User or if the Third Party Service Provider has not executed the Service Provider agreement.

10. Authorization; Records Retention

Customer shall obtain an authorization (“**Authorization Agreement**”) as required by the Rules from the person whose account will be debited or credited as the result of a debit or credit Entry initiated by Customer and Customer shall retain the Authorization Agreement in original form while it is in effect and the original or a copy of each authorization for two (2) years after termination or revocation of such authorization as stated in the Rules. Upon request, Customer shall furnish the original or a copy of the authorization to any affected Participating Depository Financial Institution, as defined in the Rules.

11. Processing, Transmittal, and Settlement by Bank

Except as otherwise provided for herein and if Bank elects to accept Entries, Bank shall:

- a. use commercially reasonable efforts to comply with the instructions of Customer;
- b. process Entries received from Customer to conform with the file specifications set forth in the Rules;
- c. transmit such Entries as an ODFI to the ACH processor selected by Bank;
- d. settle for such Entries as provided in the Rules;
- e. In the case of a credit Entry received for credit to an account with Bank (“**On-Us Entry**”), Bank shall credit the Receiver’s account in the amount of such credit Entry on the Effective Entry Date contained in such credit Entry provided such credit Entry is received by Bank at the time and in the form prescribed herein; and
- f. transmit other Entries to the ACH processor by the deposit deadline of the ACH processor, provided: (i) such Entries are completely received by Bank’s cut-off time at the location specified by Bank to Customer from time to time; (ii) the Effective Entry Date satisfies the criteria provided by Bank to Customer; and (iii) the ACH processor is open for business on such Business Day.
- g. Customer agrees that the ACH processor selected by Bank shall be considered to have been selected by and designated by Customer. Customer will receive immediately available funds for any electronic debit entry initiated by it on the Settlement Date applicable thereto.

12. Settlement of Credit Entries and Returned Debit Entries

- a. Settlement for Credit Entries shall occur on the Effective Entry Date by way of a debit to Customer’s Designated Account, unless Customer uses Prefunding as defined herein, in which case the settlement entry will occur on the Processing Date.
- b. Settlement for Debit Entries shall occur on the Effective Entry Date by way of a credit to Customer’s Designated Account.
- c. Settlement for Returned Debit Entries, which are Debit Entries dishonored by the RDFI, shall occur upon Bank’s receipt of the Returned Debit Entry.
- d. Customer agrees to maintain in Customer’s Designated Account sufficient available funds to enable all debit settlements.

- i. Failure to do so will result in the Designated Account being in a state of insufficient funds or overdraft (in bank's sole discretion), governance for which is provided in Customer's Deposit Account Agreement.
- ii. Additionally, with regard to ACH processing Bank in its sole discretion may take any of the following actions in the event of insufficient funds in a Designated Account:
 - a. Refuse to process all Entries, in which event Bank shall have no liability to Customer or to any third party as a result thereof; or
 - b. Process that portion of the credit Entries as Customer has sufficient available funds in the Designated Account to cover, in whatever order Bank in its sole discretion shall elect to process, in which event Bank shall notify Customer as to Entries not processed, whereupon Bank shall have no liability to Customer or any third party as a result thereof; or
 - c. Process all credit Entries. In the event Bank elects to process credit Entries initiated by Customer and Customer has not maintained sufficient available funds in the Designated Account with Bank to cover them, the total amount of the insufficiency advanced by Bank on behalf of Customer shall be immediately due and payable by Customer to Bank without any further demand from Bank. If Bank elects to pay Customer's account in the overdraft on any one or more occasions, it shall not be considered a waiver of Bank's rights to refuse to do so at any other time nor shall it be an agreement by Bank to pay other items in the overdraft.

13. Rejection of Entries

Customer agrees that Bank has no obligation to accept Entries and therefore may reject any Entry issued by Customer. Bank has no obligation to notify Customer of the rejection of an Entry but Bank may do so at its option. Bank shall have no liability to Customer for rejection of an Entry and shall not be liable to pay interest to Customer even if the amount of Customer's payment order is fully covered by a withdrawable credit balance in a Designated Account of Customer or Bank has otherwise received full payment from Customer.

14. Cancellation or Amendment by Customer

Customer shall have no right to cancel or amend any Entry after its receipt by Bank. However, Bank may, at its option, accept a cancellation or amendment by Customer. If such a request is received by Bank before the affected Entry has been transmitted to the ACH Operator (or, in the case of an On-Us Entry, before the Receiver's account has been credited or debited), Bank will use reasonable efforts to cancel or amend the Entry as requested, but Bank shall have no liability if the cancellation or amendment is not effected.

15. Reversals of Entries for Duplicates and/or Errors

- a. General Procedure. Upon proper and timely request by Customer, Bank will use reasonable efforts to effect a reversal of an Entry or File. To be "proper and timely," the request must (i) be made within five (5) Business Days of the Effective Entry Date for the Entry or File to be reversed; and (ii) comply with all of the Rules. In addition, if Customer requests reversal of a Debit Entry or Debit File, it shall concurrently deposit into Customer's Designated Account an amount equal to that Entry or File. Customer shall notify the Receiver of any reversing Entry initiated to correct any Entry it has initiated in error. The notification to the Receiver must include the reason for the reversal and be made no later than the Settlement Date of the reversing Entry.
- b. No Liability: Reimbursement to Bank. Under no circumstances shall Bank be liable for interest or related losses if the requested reversal of an Entry is not effected. Customer shall reimburse Bank for any expenses, losses or damages it incurs in effecting or attempting to effect Customer's request for reversal of an Entry.

16. Prenotification

Customer, at its option, may send prenotification that it intends to initiate an Entry or Entries to a particular account within the time limits prescribed for such notice in the Rules. Such notice shall be provided to Bank in the format and on the medium provided in the media format section of the Rules. If Customer receives notice that such prenotification has been rejected by an RDFI within the prescribed period, or that an RDFI will not receive Entries without having first received a copy of the authorization signed by its customer, Customer will not initiate any corresponding Entries to such

accounts until the cause for rejection has been corrected or until providing the RDFI with such authorization within the time limits provided by the Rules. Customers that choose not to send Prenotification entries are responsible for entries that are misrouted to incorrect accounts.

17. Notice of Returned Entries and Notifications of Change

- a. Bank shall notify Customer by EBIB or by such other means as may be agreed between Customer and Bank in advance of the receipt of a returned Entry from the ACH Operator. Except for an Entry retransmitted by Customer in accordance with the Rules, Bank shall have no obligation to retransmit a returned Entry to the ACH Operator if Bank complied with the terms herein with respect to the original Entry. Customer shall notify the Receiver by telephone or electronic transmission of receipt of each return Entry no later than one Business Day after the Business Day of receiving such notification from Bank.
- b. Bank shall provide Customer all information, as required by the Rules, with respect to each Notification of Change (“**NOC**”) Entry or Corrected Notification of Change (“**Corrected NOC**”) Entry received by Bank relating to Entries transmitted by Customer. Bank must provide such information to Customer within two (2) Business Days of the Settlement Date of each NOC or Corrected NOC Entry. Customer shall ensure that changes requested by the NOC or Corrected NOC are made within six (6) Business Days of Customer's receipt of the NOC information from Bank or prior to initiating another Entry to the Receiver's account, whichever is later.
- c. **Any fines or penalties incurred by Bank as a result of items returned as unauthorized or for Customer's failure to correct entries on the basis of an NOC or Corrected NOC shall be reimbursed to Bank by Customer, typically in the form of Bank's debit to Customer's Designated Account.**

18. Provisional Settlement

Customer shall be bound by and comply with the Rules as in effect from time to time, including without limitation the provision thereof making payment of an Entry by the RDFI to the Receiver provisional until receipt by the RDFI of final settlement for such Entry; and Customer acknowledges that it has received notice of that Rule and of the fact that, if such settlement is not received, the RDFI shall be entitled to a refund from the Receiver of the amount credited and Customer shall not be deemed to have paid the Receiver the amount of the Entry.

19. Customer Representations and Warranties; Indemnity

With respect to each and every Entry transmitted by Customer, Customer represents and warrants to Bank and agrees that:

- a. Each person or entity shown as the Receiver on an Entry received by Bank from Customer has authorized the initiation of such Entry and the crediting or debiting of its account in the amount and on the Effective Entry Date shown on such Entry.
- b. Such authorization is operative at the time of transmittal or crediting or debiting by Bank as provided herein.
- c. Entries transmitted to Bank by Customer are limited to those types of credit and debit Entries set forth in the Enrollment Document or Service Criteria.

20. Inconsistency of Name and Account Number

Customer acknowledges and agrees that, if an Entry describes the Receiver inconsistently by name and account number, payment of the Entry transmitted by Bank to the RDFI may be made by the RDFI (or by Bank in the case of an On-Us Entry) on the basis of the account number supplied by Customer, even if it identifies a person different from the named Receiver, and Customer's obligation to pay the amount of the Entry to Bank is not excused in such circumstances. Customer is liable for and must settle with Bank for any Entry initiated by Customer that identifies the Receiver by account or identifying number or by name and account or identifying number.

21. Data Retention

Customer shall retain data on file adequate to permit the remaking of Entries for ten (10) Business Days following the date of their transmittal by Bank as provided herein, and shall provide such Data to Bank upon its request.

22. Processing Schedule and Methodology

- a. Secure Transmissions. Customer shall electronically transmit files and instructions to Bank via access to Bank's EBIB Service, or by such other means as Customer and Bank might agree in advance.
- b. Format and Content of Entries. All files must be submitted in NACHA format as defined in the Rules.
- c. Timing of Delivery. Customer must transmit Credit and Debit Entries to Bank in accordance with Bank's published transmittal standards as modified from time to time.
- d. Same Day ACH Entries. If Customer has selected Same Day Entries as a processing option via Customer's Service Criteria to Bank, Credit or Debit Entries with an Effective Entry Date on or prior to the date of transmission of the File and which are transmitted to Bank within its established transmittal time window shall be considered to be Same Day ACH Entries and shall be subject to the Same Day ACH fee. ACH transactions with a stale or invalid Effective Entry Date will be settled at the earliest available settlement opportunity which could be same day and shall be subject to the Same Day ACH fee. In accordance with the Rules, IAT Entries are not eligible to be treated as Same Day Entries, and monetary limits as updated by NACHA in the Rules from time to time shall also apply.

SECTION TWO: ACH FRAUD MITIGATION

Customer wishes to prevent from posting or reverse from posting some or all ACH entries in which Customer is the Receiver as identified by the NACHA Rules through Customer's Designated Accounts and Bank agrees to provide such Service. This Section Two sets forth the terms and conditions pursuant to which Bank will provide to Customer the ACH Positive Pay Service outlined herein.

- a. Bank offers the ACH Positive Pay Service only in association with Customer's Designated Accounts. To utilize the ACH Service described herein, Customer must be enrolled in and be an active participant in EBIB offered by Bank.
- b. Customer will indicate on the Enrollment Document for the Service or its Service Criteria thereto the Designated Accounts for which the Service will be provided.
- c. In the event of inconsistency between a provisions of this Section, the Uniform Commercial Code ("**UCC**"), and/or the terms and conditions applicable to the Deposit Account Agreement, the provisions of this Section Two shall prevail.

1. Description of Service

- a. ACH Positive Pay is a Service whereby Bank and Customer exchange information according to the process described herein in order to authorize and/or confirm the payment or return of ACH Debit Transactions presented for payment against a Designated Account of Customer, as said terms are defined below.
- b. As used herein, "**ACH Debit Transactions**" shall mean certain electronic funds transfers, one or more, which settle within a bank or between banks according to specified rules and procedures governed by the Federal Reserve and NACHA, which transfers have the intended result of removing funds from a Designated Account of Customer.
- c. The ACH Positive Pay Service shall be applicable to the Designated Accounts that Customer has indicated on the Enrollment Document for this Service. If a Designated Account does not have sufficient available funds to

pay an ACH Debit Transaction, Bank will not be obligated to pay any ACH Debit Transactions presented against the Designated Account.

- d. The systems which facilitated ACH Debit Transactions and the ACH Positive Pay Service set forth herein are not designed to detect or prevent fraud due to other types of paperless entries (to include wire transfers or other electronic fund transfers) to a Designated Account of Customer.

2. Transmitting and Processing ACH Payment Instructions

Customer shall use EBIB to make inquiries and to provide pay or return instructions to Bank on various ACH Debit Transactions, and Bank shall post such Entries to Customer's Designated Account(s) or reject/unpost such Entries for return to the Originator, depending upon Customer's accept/reject decision. This decision is sometimes referred to as Customer's "**Disposition**" of ACH Exceptions.

3. Notification and Reporting of ACH Debit Transactions

- a. Each business day Bank shall electronically provide to Customer, via EBIB, a list of all ACH Debit Transactions, other than Approved Debits (as defined below), which have been presented to Bank in a report entitled "**ACH Exceptions.**"
- b. The ACH Exceptions will list only ACH Debit Transactions presented to Bank since the previous ACH Exceptions list.
- c. Customer may elect, through an election made via EBIB, to receive an e-mail notification from Bank each time the ACH Exceptions Report is available. Provided Bank receives such instruction from Customer via EBIB, Bank shall send an email to the email address provided by Customer notifying Customer that an ACH Exceptions list is available on EBIB. If Bank does not receive this election via EBIB, then Customer will not receive such an email notification. Irrespective of whether Customer receives an email notification from Bank, it remains Customer's obligation to log on to EBIB and review the ACH Exceptions.

4. Pay Request/Return Request

- a. Each business day before Bank's published cut-off time for this Service, Customer must log on to EBIB to review the ACH Exceptions and to make a pay or return request with respect to the ACH Debit Transactions listed in an ACH Exceptions list. A "**Pay Request**" indicates an ACH Debit Transaction should be paid, and a "**Return Request**" indicates an ACH Debit Transaction should be dishonored and returned.
- b. Customer agrees that if Customer does not timely indicate a Pay Request or Return Request via EBIB as to any or all of the ACH Debit Transactions identified in the ACH Exceptions Report, such inaction on the part of Customer shall be conclusively presumed to be an instruction by Customer to return any such ACH Debit Transaction. In other words, if Customer does not instruct Bank as to any ACH Debit Transaction identified in the ACH Exceptions by the Cut-Off on any given day, Bank shall return such ACH Debit Transaction; and if no instructions are timely received by the Cut-Off for any of the ACH Debit Transactions for a particular day, then Bank will return all such Entries for that day.
- c. Bank shall determine, in its sole discretion, the Return Reason Code, as that term is defined in the NACHA Operating Rules ("**Rules**"), to be used when returning ACH Debit Transactions.
- d. Customer may submit to Bank, via EBIB, advance instructions ("**Advance Instructions**"), in accordance with specific parameters made available by Bank via the EBIB on-line screen instructions, indicating advance approval of particular ACH Debit Transactions ("**Approved Debits**") that are to be paid by Bank.
 - i. Provided it receives such Advance Instructions, Bank will match ACH Debit Transactions that are presented for payment to the Advance Instructions. If the ACH Debit Transaction does not match the Approved Debits received by Bank from Customer, such ACH Debit Transactions will be reported on the ACH Exceptions.

- ii. Any ACH Debit Transaction that conforms to the Approved Debits received by Bank shall be deemed properly payable, will be paid by Bank and will not be reported on the ACH Exceptions.
 - iii. If no Advance Instructions are received by Bank via EBIB, all ACH Debit Transactions will be reported on the ACH Exceptions.
- e. In the event of system failure, either that of Customer or Bank, and a Pay Request, Return Request or Advance Instructions cannot be or are not received by Bank for any reason or Bank cannot process the Pay Request, Return Request or Advance Instructions for any reason, such Pay Request, Return Request or Advance Instructions shall be considered as not received, even if Bank is in possession of the Pay Request, Return Request or Advance Instructions. Bank shall have no responsibility for a Pay Request, Return Request or Advance Instructions that is not received and Bank shall return the applicable ACH Debit Transaction for which no request or instruction was received.

5. Communication

Customer is solely responsible for setting up EBIB, for providing accurate electronic addresses for communication in connection with transactions contemplated in this Section, and for its own internet access equipment and security related thereto.

6. Limit of Liability

- a. **Dispute over Return of ACH Debit Entry.** Customer acknowledges that the return of an ACH Debit Transaction is subject to dispute on the part of the sender. In the event of such a dispute, Bank must act according to the NACHA Rules, and any attachments or appendices thereto now in effect, as may be amended from time to time, as well as all other applicable laws and regulations. Customer, and not Bank, shall be solely responsible for any and all losses, costs, suits, damages, claims, liabilities and expenses (including reasonable attorney fees) arising from or related in any way to the use of the Service by Customer.
- b. **Identification of ACH Transactions.** Customer and Bank acknowledge that ACH transactions are originated according to certain processing Rules of NACHA which require the use of an originator name and originator identification number imbedded in the transaction to identify its source, and this imbedded data is a critical component of Bank's ability to monitor for transactions which Customer desires to review. Bank shall act in good faith to process Customer's instructions entered in EBIB which are actually received by Bank via EBIB. However, if the identifying information in the transaction is inconsistent or is described inconsistently by Customer on EBIB, Bank shall have no responsibility.
- c. **Properly Payable Debit.** Any ACH Debit Transaction that is paid in accordance with the Service shall conclusively be considered properly payable and Customer agrees that Bank shall have no liability to Customer for paying ACH Debit Transactions in accordance with the Service.

SECTION THREE: CHECK POSITIVE PAY/ REVERSE POSITIVE PAY

As used in this section the terms Positive Pay, Reverse Positive Pay, and Check Positive Pay shall always refer to check-based transactions. ACH Positive Pay is a separate service and is covered in this agreement in its own section. To use the Positive Pay Services described herein Customer must be enrolled in and be an active participant in EBIB offered by Bank. Customer agrees that by using the Positive Pay Services offered herein and/or executing the applicable Enrollment Document(s), Customer has read and agrees to all terms, conditions, and provisions of this Agreement, including Enrollment Documents, as well as the Depositor Agreement for Customer's Designated Accounts.

This Section Three sets forth the terms and conditions of the Positive Pay Services. If there is a conflict between the terms and conditions of this Section and the remainder of this Agreement, this Section shall govern the use of Positive Pay.

1. Check Positive Pay Service

Customer may use the Check Positive Pay Service to quickly identify and act upon fraudulent or suspicious checks as well as quickly reconcile Customer's Designated Accounts.

There are two forms of the Service, and Customer will designate their preferred form via the enrollment process. Customer's options are:

- a. Positive Pay – In this form of the Service, Bank will identify exception checks for Customer's review and Disposition (as defined below) on the basis of a comparison with a Customer-provided database of checks Customer has issued.
 - i. A check presented for payment on a Designated Account will be considered an exception if it does not appear in Customer's database or if it varies from Customer's database as to check number or amount based on the Magnetic Ink Character Recognition (MICR) encoding on each check.
 - ii. At Customer's option, a check may also be considered an exception if the payee name does not match Customer's record of the check in Customer's database. **However, due to variations in print quality and the potential for any check to be damaged in the course of collection, Bank's matching of the payee name will be on a "best efforts" basis and Bank will not be liable for its failure to recognize the payee name of any specific check.**
- b. Reverse Positive Pay – In this form of the Service, all checks presented for payment on a Designated Account will be treated as exceptions for Customer's review and disposition.
 - i. When using Reverse Positive Pay, Customer will not provide any data to Bank about checks they have issued.
 - ii. However, Customer may reduce the number of exceptions requiring review by specifying a monetary amount Customer considers material. In this case, Bank will submit for Customer's review only those checks that exceed Customer's amount threshold, and all other checks will be paid.

2. Check Issue Files

For the Positive Pay option, Customer's method for creating and updating its database of legitimate checks will be through Customer's submission of Check Issue Files.

- a. A "**Check Issue File**" (referenced sometimes herein as the "**file**") is a file provided by Customer to Bank which contains data for all outstanding checks issued by Customer against the Designated Accounts which were not previously listed on a Check Issue File. Check Issue Files must be provided by Customer to Bank as a precondition of Bank providing the Service.
- b. The file transmitted to Bank shall constitute the signature of Customer for purposes of determining whether a Presented Check is properly payable. By transmitting the file, Customer expressly warrants that all Presented Checks that match the information in the file are properly payable.
- c. The file must accurately state the check number, issue date, and exact dollar amount on each check drawn on the Designated Accounts, as well as the payee name if Customer has instructed Bank to match that component of each check.
- d. Customer may upload files to Bank's system on a monthly, weekly, daily and/or hourly basis. Before beginning the Positive Pay Service and providing its first file, Customer must provide Bank data of all outstanding checks on the Designated Accounts. For a small number of issued checks, Customer may also choose to enter the check information manually using the Positive Pay feature of EBIB.
- e. Customer may upload files to Bank's system that meet the requirements of Bank that may be established from time to time. Bank shall have the right to reject any file that is presented in a format that cannot be uploaded by Customer or processed by Bank. Bank does not require or specify the use of any type of accounting software to create the file, although Customer may choose to do so if the accounting software can create files that match Bank's requirements.

- f. In order to avoid having a large number of items in the Check Exceptions due to checks being presented before Bank has had an opportunity to match them to the uploaded checks, Customer should upload the file of checks to Bank's system at least one (1) Business Day before a check is delivered to the payee.
- g. In the event of system failure of Customer or Bank, and the file cannot be or is not received by Bank for any reason or Bank cannot process the file for any reason, the file shall be considered as not received, even if Bank has possession of the file. Bank shall have no responsibility for a file that is not received and all checks presented on a Designated Account for which no file is received will be listed on the Check Exceptions as provided below.

3. Matching of Presented Items and Reporting of Exception Issues

Bank shall compare each Presented Check to Customer's database of issued checks (for Positive Pay) or to Customer's amount criterion (for Reverse Positive Pay).

- a. A presented check that complies with Customer's Service Criteria will be considered a "Matched Check" and will pay normally against its Designated Account.
- b. Bank shall provide to Customer, via EBIB, a list of any Presented Checks on the Designated Accounts that do not exactly match Customer's Service Criteria. These will be considered "Exception Checks."
- c. Customer shall review each Exception Check and, through EBIB, provide a Disposition decision prior to Bank's published daily deadline. There are two potential Disposition decisions:
 - i. "Pay" means Customer has examined the Exception Check and deemed it to be legitimate and payable. Exception Checks disposed as Pay will post normally to the Designated Account.
 - ii. "Return" means Customer has examined the Exception Check and deemed it to be not payable. Exception Checks disposed as Return will be reversed from posting to the Designated Account and be returned to the depositor unpaid.

4. Default Disposition

- a. In the event Customer fails to review and Dispose any Exception Checks before Bank's published deadline on any business day, Bank requires Customer to specify a Default Disposition in order for Bank to know whether to Pay or Return the Exception Checks.
- b. Customer specifies their Default Disposition in the instruction Customer provides to Bank via the Service Criteria. Customer's options for Default Disposition are:
 - i. Pay All Exception Checks, or
 - ii. Return All Exception Checks.

5. Failure to Upload File

If Customer selects the Positive Pay Service and at any time fails to upload a file or to manually input the checks issued for any of the Designated Accounts as required, or if Bank for any reason does not receive a file, then all Presented Checks on such Designated Account will appear on the Check Exceptions report. **Continued failure to provide Bank with a Check Issue File could result in a modification of the Service and/or the termination of the Service.**

6. Payment/Return of Checks

- a. Customer may submit instructions through EBIB if it wishes to receive an email notification of the availability of the Check Exceptions. The failure of Customer to receive an email notification for any reason shall not relieve Customer from its responsibility to log on to EBIB to review the Check Exceptions with either Service.

- b. Each Matched Check or Exception Check which Customer authorizes Bank to pay in accordance with this Service will be paid without Bank performing its customary (or any other) check verification procedures. Bank will have no liability for paying such Matched Check or Customer authorized check, even if its serial number or amount is altered, or even if it is a counterfeit, bears a forged or unauthorized signature or was otherwise not validly issued. Customer acknowledges and agrees that each Presented Check which Bank pays in accordance with this Section will be conclusively deemed to be properly payable.
- c. Bank shall not pay any Presented Check for which Bank has received from Customer a “stop payment” order request consistent with the Terms and Conditions agreement between the parties governing the Designated Accounts.

7. Transactions Not Covered

- a. The Service does not cover a Presented Check which Bank has already cashed, negotiated or paid or which Bank is already committed to honor or pay under applicable laws, regulations or rules governing such items.
- b. All transactions presented to Bank for immediate payment, such as Presented Checks presented over the counter (i.e. at a teller window or drive through) to be cashed or paid, will not be matched to Customer’s Service Criteria or sent as an Exception Check prior to payment of such checks. Such items will be paid, even if they would have been Exception Checks if they had been subject to the Positive Pay process.
- c. The Service applies only to MICR encoded paper checks. Therefore, the Positive Pay Services shall not apply to any electronic funds transfer, ACH transaction, or check that has been converted to an ACH transaction that does not contain a serial number. Accordingly, this Section of the Agreement shall not apply to such transactions.

8. Stop Payment and Return Decisions

The Positive Pay Service will not be used as a substitute for Bank’s stop payment service. Customer will follow Bank’s standard stop payment procedures if it desires to return a check that was validly issued. Nothing in this Section will limit Customer’s right to stop payment on any check or Bank’s right to return any check that Customer has authorized Bank to pay in accordance with this Section if Bank determines in its sole discretion that the check is not properly payable for any reason (without Bank’s agreeing to, or being required to, make such determination in any circumstance).

9. Limitation of Liability

- a. Wrongful Honor. Bank’s liability to Customer for any Presented Check erroneously paid by Bank in breach of this Section (“**Bank’s Wrongful Honor**”) shall be limited to the lesser of the amount of the wrongfully paid Presented Check or Customer’s actual damages resulting from Bank’s payment of the Presented Check. Bank retains the right to assert the defense that Customer has sustained no actual damages because Bank’s Wrongful Honor discharged for value an indebtedness of Customer. Bank also retains the right to assert Customer’s failure to exercise reasonable promptness or ordinary care under the UCC. Nothing herein shall constitute a waiver or limitation of the rights of Bank under the UCC.
- b. Wrongful Dishonor. Bank’s liability for wrongful dishonor of a Presented Check shall be limited to the damages for wrongful dishonor recoverable under UCC Articles 3 and 4; provided, however, that Bank shall have no liability to Customer for wrongful dishonor when Bank, acting in good faith, returns a Presented Check: (i) that it reasonably believed was not properly payable; or (ii) if required to do so by the service of legal process on Bank or the instructions of regulatory or government authorities or courts. Customer agrees that Bank exercises ordinary care whenever it pays or returns a Presented Check consistent with the provisions of this Section.

SECTION FOUR: BILL PAYMENT SERVICE

Customer wishes to pay some or all of its bills online from its Designated Accounts and Bank agrees to provide such Service. This Section Three sets forth the terms and conditions pursuant to which Bank will provide to Customer the Bill Payment Service outlined herein.

- a. Bank offers the Bill Payment Service only in association with Customer's Designated Accounts.
- b. To use the Service described herein, Customer must be enrolled in and be an active participant in BIB or EBIB offered by Bank.
- c. Customer will indicate on the Enrollment Document for the Service or its Service Criteria thereto the Designated Accounts for which the Service will be provided.

1. Description of Service

- a. Customer may use the Bill Pay Service to request payment of bills selected by Customer by way of funds available in the Designated Accounts selected by Customer.
- b. To pay a bill via the Bill Pay Service, Customer must provide Bank with a payment request, in the manner prescribed by Bank from time to time, detailing the payment to be made from the Designated Account selected by Customer.
- c. When Customer sends a payment request via internet banking, Bank is authorized to transmit payment in the amount designated by Customer to a payee designated by Customer ("Payee") for estimated delivery on the date selected by Customer ("**Delivery Date**") and to debit the selected Designated Account on such Delivery Date (for electronic payments) or for payments made by check, on the date such check is presented to us for payment.
- d. Customer must log onto BIB or EBIB to utilize the Bill Pay Service described herein.
- e. The Delivery Date selected by Customer must be a Business Day.

2. Setting Up Payees and Payment Requests

- a. For each Payee, Customer must log on to BIB or EBIB and enter the correct Payee name and Payee address (including city, state and zip code) in order to initiate a payment via the Bill Pay Service.
- b. If a Payee has assigned Customer an account number regarding the bill, Customer should enter such account number in the area designated for account number.
- c. Customer must designate the amount to be paid to each Payee and the Delivery Date on which the payment should be delivered.
- d. Customer must further indicate which Designated Account to charge for each payment if there is more than one such Designated Account selected for the Bill Pay Service.

3. Scheduling of Delivery Dates

- a. When scheduling a payment, the Bill Pay Service will default to the earliest possible Delivery Date for each Payee (typically four (4) or fewer Business Days from the then current date) and will not permit Customer to select a Delivery Date prior to that date.
- b. Customer bears sole responsibility for timely entering a payment request and selecting a Delivery Date far enough in advance of the due date on the statement provided by the Payee to ensure timely payment of the statement.

- c. The Delivery Date is only an estimated date and not a guaranty and Customer should enter a Delivery Date that will result in no less than a five (5) Business Day interval between the Delivery Date and the date the payment is actually due. Bank shall have no responsibility for Customer's failure to timely schedule a payment with a Delivery Date sufficiently in advance to ensure timely payment.

4. Non-Recurring and Recurring Payments

Customer may authorize non-recurring payments or recurring payments.

- a. **Non Recurring Payments.** Non-recurring payments are single, one-time payments to a specified Payee.
 - i. A non-recurring payment will be processed for delivery on the Business Day that Customer designates as the Delivery Date.
 - ii. If the designated Delivery Date requires the payment to be processed on the same Business Day that it is submitted, then the payment must be submitted prior to Bank's published cutoff time for Bill Payment on that Business Day.
 - iii. A non-recurring payment submitted after the cutoff time on a Business Day will be processed, at the earliest, on the next Business Day.
 - iv. For non-recurring payments the Bill Payment Service will not allow Customer to designate a Delivery Date that is a not a Business Day.
- b. **Recurring Payments.** A recurring payment is a payment to a specified Payee, which will repeat per the payment request instructions given by Customer. For example, Customer may schedule a payment request for weekly payments, monthly payments, or yearly payments or such other periodic basis as permitted by the Bill Pay Service.
 - i. When a recurring payment is processed, it is automatically rescheduled for the next periodic payment per the payment instructions selected by Customer.
 - ii. Based upon Customer's selected frequency settings for the payment, a Delivery Date is calculated for the next occurrence of the payment. If the calculated Delivery Date is not a Business Day, it is adjusted to be delivered on the last Business Day before the designated Delivery Date. For example, if Customer selects the 5th day of each calendar month, the Delivery Date is automatically set for the 5th day of each month, unless the 5th day is not a Business Day, in which case it will be delivered on the last Business Day before the 5th day.
 - iii. FOR RECURRING PAYMENTS, IF CUSTOMER SCHEDULES A DELIVERY DATE FOR THE 28TH THROUGH THE 31ST OF A MONTH, DELIVERY WILL OCCUR ON THE LAST BUSINESS DAY OF THE MONTH.

5. Bill Payment Delivery

- a. Bank reserves the right to select the method by which funds are remitted to the Payee. Bank may remit payments by electronic funds transfer, paper check or such other means as Bank deems appropriate in its sole discretion.
- b. For payments delivered by mail, the date a payment is credited by the Payee depends upon the promptness and reliability of the U.S. Postal Service and Payee's payment processing procedures. Bank will not be responsible for delays in crediting payments which are the result of Customer's failure to follow a Payee's payment requirements, or for Customer's failure to timely schedule a Delivery Date sufficiently in advance of the date a payment is due, or for delays in any mail service or other exceptions stated in this Section Four.

6. Available Funds

- a. Customer must ensure sufficient funds are on deposit in the selected Designated Account in amounts sufficient to pay for any payment request, as well as any other payment obligations Customer has to Bank.
- b. Customer further agrees that Bank, in its sole discretion, may charge any of Customer's accounts with Bank to cover such payment obligations even if such charge may create an overdraft for such account and Bank may assess the appropriate overdraft fees.

- c. For Bill Payment transactions made by check, if sufficient funds are not available in Customer's Designated Account when the check is presented to Bank for payment, then regardless of whether Bank elects to pay or return the check, Customer's Designated Account will be charged Bank's then current fee for processing insufficient items, whether paid or returned, as applicable.
- d. If Bank elects to honor a bill payment transaction that creates an overdrawn balance, Customer agrees to deposit sufficient available funds to cover the overdraft into the Designated Account or other account by the close of that Business Day. Any overdraft existing at the close of a Business Day is immediately due and payable without notice or demand.
- e. If Bank elects to honor a bill payment that creates an overdraft in Customer's Designated Account or other account, on one or more occasions, bank is not obligated to do so in the future.
- f. Bank reserves the right to charge Customer for any Bill Payment made by check which is returned to bank due to incorrect address information.
- g. As a result of an overdraft or insufficient funds, Bank reserves the right to debit another account owned by the Customer, lower Customer's Bill payment limit and or terminate the Bill payment service.

7. Payment Restrictions

- a. Amount Restrictions. Customer agrees to comply with any monetary limits Bank may place on individual payments or aggregate daily payments.
- b. Payee Restrictions. Bank cannot schedule payment requests to Payees located outside the United States or any of its territories. Customer must not schedule payments otherwise prohibited by law.

8. Exception Payments

- a. The following types of payments are strongly discouraged and will be processed at Customer's sole risk:
 - i. Court-ordered payments (including, but not limited to, child support payments or traffic tickets)
 - ii. Tax payments and other governmental fees
 - iii. Payments to settle securities purchases
 - iv. Transactions authorizing transfers to interest bearing or deposit accounts at Bank.

In no event shall Bank be liable for any claims or damages resulting from Customer requesting and scheduling payments of the above type. The Bill Payment Service Guarantee referenced below, as it applies to any late payment related charges, is void when these types of payments are scheduled and/or processed through the Bill Payment Service.

- b. Bank has no obligation to research or resolve any claim resulting from Customer scheduling one of these types of payments. All research and resolution for any misapplied, posting errors or misdirected payments for these types of payments will be Customer's sole responsibility.

9. Change or Delete Payments/Stop Payments

- a. Customer may delete a non-recurring payment or a recurring payment any time prior to the payment being retrieved by Bank for processing.
- b. The modification of a recurring payment instruction will affect future payments associated with that payment.

- c. A stop payment or ACH reversal cannot be placed on a bill payment that is made electronically once issued. However, a stop payment can be placed on a bill payment transaction by bill payment check in the same manner as a check issued by Customer under the terms of the Deposit Account Agreement.

10. Bill Payment Service Guarantee

- a. If Customer follows the procedures and security precautions described in this Section Four (including, without limitation, scheduling a Delivery Date sufficiently in advance of the date the payment is actually due) as well as help screens or instructions, and BIB or EBIB fails to send a payment so that it is received by the Payee within two (2) Business Days after the designated Delivery Date, Bank will reimburse Customer for a late charge penalty (up to a maximum of \$50.00) paid by Customer to a Payee because the payment was received late.
- b. This will be Customer's sole remedy for any such late payment.
- c. In any and all other events, the risk of incurring any and all late charges or other damages or penalties shall be borne by Customer.
- d. Bank is not liable for any failure to make a bill payment if Customer fails to promptly notify Bank after Customer determines Customer has not received credit from Payee for a bill payment.

SECTION FIVE: BUSINESS CHECK EXPRESS ("BCE") OR BCE DIRECT

Customer wishes to deposit checks to Customer's Designated Account(s) remotely (such as from Customer's place of business) rather than deliver them physically to Bank, and Bank agrees to provide this Service. Customer and Bank agree that the Business Check Express (BCE) and BCE Direct Services are essentially identical, differing only in the method used to capture and transmit remote deposits to Bank; therefore, except as specifically differentiated in writing herein, the two forms of the Service will be equally subject to the terms and conditions of this Section regardless of the Service name used.

1. Description of Service

- a. Customer shall make deposits to Customer's Designated Accounts listed in the Enrollment Document and/or Service Criteria for the Service by endorsing checks and scanning them on a desktop scanner and delivering the images and information required hereby to Bank or Bank's designated processor (a "**Processor**").
- b. The terms Bank and Processor may be used interchangeably when used in relation to any services performed by a Processor on behalf of Bank including, but not limited to, the receipt and processing of images and check data and any notices related thereto.
- c. The scanner must capture an image of the front and back of each Check (as herein defined) to be deposited (each an "**Image**" and, if more than one, "**Images**") in accordance with the Procedures (as herein defined), must read and capture the MICR line on each check and must read and capture all such other data and information as is required by this Section.
- d. After capture of the Images, Customer will transmit one or more files containing the Images, the MICR line from each check and all other required data and information from or pertaining to all checks and other required information (each such file a "**File**" and, if more than one, "**Files**") to Bank.
- e. By default, the means of transmitting each remotely captured deposit will be via the internet using Bank's BCE Service.
 - i. Alternatively, with the prior approval of Bank Customer may elect to transmit the deposits to Bank by other means, such as File Transfer Protocol ("**FTP**"), in which case Customer and Bank must test the transmission process prior to the commencement of the Service.
 - ii. When an alternative means of transmission is used, the Service will be referred to as BCE Direct, rather than as BCE.

- iii. Regardless of whether the deposits are transmitted through the BCE Service or as directly-transmitted BCE Direct deposits, Bank's requirements apply for the establishment of Service Criteria including the setting of deposit limits in accordance with Customer's expected deposit activity.

2. Provisional Credit

Deposits shall be subject to provisional credit and funds availability in exactly the same manner described in GENERAL TERMS AND CONDITIONS for Image Deposit Services.

3. Scanning of Checks and Transmission of Files.

- a. Customer shall properly install and use all software and hardware required by this Agreement or otherwise required for, or related to, the use of the Service.
- b. To ensure accuracy, Customer shall balance the dollar amount of each deposit to the sum of the Checks prior to transmitting the deposit to Bank.
- c. Customer may send multiple Deposits to Bank or Processor throughout the day. The total dollar value of the Deposits sent by Customer to Bank on any day shall not exceed the dollar amount specified in Enrollment Form (the "**Deposit Limit**"). If the total dollar value of the Deposits sent by Customer to Bank on any day exceeds the Deposit Limit, Bank may, at its option, refuse to accept the Deposit that exceeds the Deposit Limit, or Bank may accept and process the Deposit. Customer agrees not to exceed the Deposit Limit.
- d. To be eligible for processing on the day transmitted, Files must be received by Bank no later than Bank's published cut-off time. A Deposit is considered received by Bank when a complete copy of such Deposit has been written on a Bank electronic storage device in conformity with Bank's technical and operational requirements. To meet the cut-off Time, the entire Deposit must be received by Bank prior to the cut-off Time, and the Deposit must successfully pass the edits for conformity with the technical requirements.
- e. For purposes of determining when a Deposit has been delivered and received, Bank's records shall be determinative. A File which is not balanced in accordance with the Procedures or which is received after the Cut-Off Time shall be deemed to have been received on the Business Day following the Business Day on which the File is actually received by Bank.

4. Bank's Right to Audit

- a. Bank reserves the right to audit the security measures used by Customer to ensure that the security measures employed by Customer are sufficient to comply with this agreement, but shall have no duty to do so in the absence of observed potential risk factors.
- b. In Bank's sole discretion, such audits may be performed in person, by written questionnaire to Customer, or incorporated into other instances of Bank due diligence.

5. Image and MICR Quality

- a. Each File transmitted by Customer to Bank shall contain Images of the front and the back of the Checks scanned and remotely deposited by Customer. Each Image of each Check shall be of such quality that the following information can clearly be read and understood by sight review of such Image:
 - i. the amount of the Check;
 - ii. the payee of the Check;
 - iii. the signature of the drawer of the Check;
 - iv. the date of the Check;
 - v. the Check number;
 - vi. the information identifying the drawer and the paying bank that is preprinted on the Check, including the MICR line; and

- vii. all other information placed on the Check prior to the time an image of the Check is captured, such as any required identification written on the front of the Check and any endorsements applied to the back of the Check.
- b. Each Image shall meet all standards for image quality established by the American National Standards Institute (“ANSI”), the Board of Governors of the Federal Reserve or any other regulatory agency, clearing house or association.
- c. Customer shall capture and transmit to Bank the full-field MICR encoding on each Check. In accordance with the Procedures, Customer shall ensure that the following information is captured from the MICR line of each Check:
 - i. the American Bankers Association routing transit number (“RTN”);
 - ii. the number of the account on which the Check is drawn;
 - iii. when encoded, the amount of the Check; and
 - iv. when encoded, the serial number and the process control field of the Check.

6. Receipt of File

- a. Customer agrees that Customer shall be solely liable for, and Bank shall not have any liability whatsoever to Customer for, any File or the Images or other information contained therein that are not received by Bank or for any File or the Images or other information contained therein that are intercepted or altered by an unauthorized third party.
- b. Customer agrees that Bank has no obligation to accept a File and, therefore, may reject any File or the Images or other information contained therein submitted by Customer.
- c. Bank has no obligation to notify Customer of the rejection of a File or the Images or other information contained therein.
- d. Bank shall have no liability to Customer for the rejection of a File or the Images or other information contained therein or for the failure to notify Customer of such rejection.
- e. Upon receipt of a File submitted by Customer, Bank may examine such File and the Images and other information contained therein to ensure that Customer has complied with this Agreement and followed the Procedures. If Bank determines that Customer has not complied with this Agreement or followed the Procedures or if errors exist in the Images or other information contained in the File, Bank, in its sole discretion, may either reject the File or elect to correct the error and accept and process the corrected File (a “**Corrected File**”).
- f. As a form of correction, Bank may credit Customer’s Designated Account for the full amount of the deposit and make any necessary adjustments to the Designated Account to correct the error.
- g. Bank may, at its option, also perform a risk management analysis of one or more Files submitted by Customer to detect potentially fraudulent Checks, and, in its sole discretion, Bank may reject any such File or the Images or other information contained therein.
- h. If after examination of a File and the Images and other information contained therein, Bank determines that Customer has complied with this Agreement and processed and transmitted the File in accordance herewith and with the Procedures, the File is balanced and the Images meet Bank’s requirements, then Bank shall accept the File (an “**Accepted File**”) for deposit to Customer’s Designated Account and electronically notify Customer of receipt and acceptance of the Accepted File for deposit.
- i. Notwithstanding the fact that Bank has accepted a File for deposit, any credit made to Customer’s Designated Account shall be provisional, and Customer shall remain liable to Bank for any errors, inaccuracies, breach of warranties and any other loss sustained by, or claim made against Bank.

7. Collection of Checks

Bank, in its sole discretion, shall determine the manner in which Images shall be presented for payment to the drawee bank. Bank, in its sole discretion, shall select the clearing agents used to collect and present the Images, and Bank's selection of the clearing agents shall be considered to have been designated by Customer. Bank shall not be liable for the negligence of any clearing agent. Collection of Checks is also subject to the Rules and the terms and conditions of Customer's Deposit Account Agreement.

8. Warranties

Customer represents, warrants and covenants the following to Bank:

- a. Checks Deposited. Customer shall only deposit Checks that are authorized by this Agreement, the Procedures and the Deposit Account Agreement;
- b. Image Quality. Each Image transmitted by Customer to Bank contains an accurate representation of the front and the back of each Check and complies with the requirements of this Agreement;
- c. Business Purpose Only. Customer is not a consumer, and the Service shall be used for business purposes only;
- d. No Duplicates. Customer will not: (i) create duplicate Images of the Checks, (ii) transmit a duplicate Image or File to Bank, or (iii) deposit or otherwise negotiate the original of any Check of which an Image was created. Customer further warrants that no subsequent transferee, including but not limited to Bank, a collecting or returning bank, drawer, drawee, payee or endorser, will be asked to pay the original Item from which the Image(s) was created or a duplication of the Item(s);
- e. No Loss. No Subsequent transferees of the Item(s), including but not limited to Bank, a collecting or returning bank, drawer, drawee, payee or endorser, shall sustain a loss as the result of the fact that the Image was presented for payment or returned instead of the original Check;
- f. Information. All information provided by Customer to Bank is true, complete and accurate and properly reflects the business, financial condition and principal partners, owners or officers, of Customer. Customer is not engaged in, or affiliated with, any businesses, products or methods of selling other than those disclosed by Customer to Bank;
- g. Transactions. All Checks and business transactions of Customer are, and will be, *bona fide*. All signatures on Checks are authentic and authorized.

9. Returned Checks

- a. Chargeback of Returned Checks. If Images of Checks deposited by Customer are dishonored or otherwise returned unpaid by the drawee bank, or are returned by a clearing agent for any reason, including, but not limited, to issues relating to the quality of the Image, Customer understands and agrees that, since Customer either maintains the original Check or has destroyed the original Check in accordance with this agreement, the original Check will not be returned, and Bank may charge back an Image of the Check to Customer's Designated Account. Customer understands and agrees that the Image may be in the form of an electronic or paper reproduction of the original Check or a substitute check. Unless otherwise instructed by Bank, Customer agrees not to deposit the original Check if an Image or other debit as previously described is charged back to Customer.
- b. Special Instructions. Customer may request that Bank re-present returned Images of Checks to the drawee or process returned Images of Checks according to instructions provided by Customer to Bank (the "**Special Instructions**"). These Special Instructions may be given to Bank in a separate document in conjunction with or subsequent to the execution of this Agreement. Bank shall not be bound by such Special Instructions, or subsequent written requests to amend them, until such time as Bank has agreed in writing to accept them.

Notwithstanding the fact that Bank has agreed to accept the Special Instructions, Bank may, in its sole discretion, disregard the Special Instructions and charge the returned Check back to Customer's Designated Account to which the Checks were deposited. In the event that Customer has requested that returned Images of Checks be re-presented, in no event will Bank re-present an Image of a Check in excess of the limit established or permitted by pertinent regulations. Customer hereby agrees to pay Bank the fees for processing returned Checks and Special Instructions contained in Bank's then current schedule of fees for such services or as agreed upon in a separate agreement between Bank and Customer.

10. Check Scanning Equipment

- a. Bank, in its sole discretion, may provide Customer, at Customer's request, with check scanning equipment ("**Scanner Equipment**") to be used in connection with the Service. Title to the Scanner Equipment shall remain with Bank and Customer shall keep the Scanner Equipment free of all liens and encumbrances.
- b. Bank or its service provider will arrange for the delivery of the Scanner Equipment to Customer and will provide remote assistance if needed. Customer shall be responsible for examining the Scanner Equipment upon receipt to ensure that it is in good working order. Customer shall have been deemed to accept the Scanner Equipment if it is not returned to Bank within ten (10) days of delivery to Customer.
- c. BANK DISCLAIMS ALL WARRANTIES OF ANY KIND WITH RESPECT TO THE SCANNER EQUIPMENT. BANK PROVIDES THE SCANNER EQUIPMENT TO CUSTOMER "AS IS." BANK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, REGARDING THE SCANNER EQUIPMENT. BANK MAKES NO WARRANTIES REGARDING THE EFFECT THE SCANNER EQUIPMENT MAY HAVE ON CUSTOMER'S DATA, INFORMATION, OR OTHER SYSTEMS AND ACCEPTS NO LIABILITY FOR ANY DAMAGE THE SCANNER EQUIPMENT MAY CAUSE TO CUSTOMER'S OTHER SYSTEMS OR PROPERTY OR FROM ANY LOSS OR CORRUPTION OF DATA OR INFORMATION RESULTING FROM ITS USE. CUSTOMER AGREES THAT REGARDLESS OF CAUSE, BANK IS NOT RESPONSIBLE FOR AND CUSTOMER SHALL NOT MAKE ANY CLAIM AGAINST BANK FOR ANY DAMAGES, WHETHER CONSEQUENTIAL, DIRECT, SPECIAL OR INDIRECT, FOR ANY LOSSES IN ANY WAY CONNECTED WITH THE SCANNER EQUIPMENT. UNLESS OTHERWISE REQUIRED BY LAW, BANK'S TOTAL LIABILITY TO CUSTOMER FOR ANY DAMAGE, LOSS OR LIABILITY IN CONNECTION WITH THE SCANNER EQUIPMENT SHALL NOT EXCEED THE REPLACEMENT COST OF THE SCANNER EQUIPMENT.
- d. Customer shall be responsible for any loss, theft or destruction of or damage to the Scanner Equipment. In the event of any such damage or loss, Customer shall be liable for the repair cost or replacement value of the Scanner Equipment as determined by Bank in its sole discretion.
- e. Upon termination of the Service (whether or not in connection with the termination of this Agreement in whole), Customer, at its expense, shall promptly return the Scanner Equipment to Bank. The Scanner Equipment shall be returned in the same condition in which it was originally provided to Customer, ordinary wear and tear excepted. If Bank fails to receive the Scanner Equipment within fifteen (15) days of termination of the Service, Customer shall be liable for the replacement value of the Scanner Equipment as determined by Bank in its sole discretion.
- f. Customer acknowledges that Bank does not require Customer to use Bank provided Scanner Equipment and that Customer may provide its own scanner and related equipment provided it meets the specifications required for operation in conjunction with the software used by Bank for provision of the Service.
- g. Customer acknowledges and agrees that the terms of this Agreement are an essential element of and integral to the Bank's loan of the Scanner Equipment to Customer at no charge, and that but for Customer's agreement to such terms, Bank would not provide the Scanner Equipment to Customer on such basis.

SECTION SIX: BUSINESS INTERNET BANKING – BASIC (“BIB”) AND ENHANCED (“EBIB”)

1. Description of Service

As used herein the abbreviation BIB will represent both the basic and enhanced versions of the Business Internet Banking service. BIB enables Customer to access Designated Accounts through the Internet to conduct certain banking activities. These activities are grouped as follows:

- a. Basic Services are included with every Service enrollment. These services are transaction summary account balances, history review (by desktop and mobile devices), transaction history export, account-to-account transfers, stop payments, and the delivery of some Bank reports and notices (such as check return items, and statements).
- b. Enhanced Services are not embedded in the EBIB system but EBIB may be used as a secure gateway to them. Enhanced Services are ACH Origination, Check Positive Pay, ACH Positive Pay, Wire Transfer, Controlled Disbursement Reporting, Incoming EDI Service Reporting and such additional enhanced services as may be developed in the future. Each Enhanced Service is governed by its own section of this Agreement and in some cases Bank may require the execution of an Enrollment Document and/or Service Criteria Document to enable setup.
- c. Regardless of whether a Service is categorized as Basic or Enhanced, it shall not be usable by Customer unless and until Customer’s Administrator accesses the service or assigns access to it to at least one User.
- d. Bank may add, remove, or modify BIB Services from time to time, and may categorize or re-categorize such Services in any manner that Bank, in its sole discretion, deems appropriate.

2. Processing Transfers

- a. Transfers from Customer’s Designated Account(s) will be deducted on the date Customer instructs Bank to process them. If the date Customer schedules a Transfer falls on a weekend or holiday, Bank will process Customer’s transaction the next Business Day.
- b. Bank may refuse to act on Customer Transfer instructions if sufficient funds are not available in Customer’s Designated Account on the date Customer instructs Bank to make the Transfer.
- c. Transfers among Customer’s accounts at Bank (internal transfers) and transfers to or from accounts not at Bank (external transfers, such as Wire Transfers or ACH transfers) must be requested by Customer before Bank’s daily cutoff times for those Services, as published by Bank and subject to change from time to time.
- d. If Customer requests a Transfer after the cutoff time, the Transfer will be processed the following Business Day. If Customer schedules a Transfer for a future date, Bank will process the transaction after the close of business on that date, if that day is a Business Day.
- e. Customer is fully obligated to Bank to provide sufficient funds for any Transfers Customer makes or authorizes to be made. If Bank completes a Transfer that Customer makes or authorizes and Bank subsequently learns that Customer has insufficient funds for the transaction, Customer agrees that Bank may reverse the transaction or offset the shortage with funds from any other customer Account to the extent permissible by the applicable law and the terms of any other relevant agreements.

3. Canceling Transfers

Customer may cancel a pending Transfer. However, to do so, Bank must receive Customer’s instruction to cancel prior to the cut-off time on the Business Day the transaction is scheduled to be processed. If Bank does not receive Customer’s instruction to cancel a Transfer before that time, Bank may process the transaction.

4. Transfer from Savings/Money Market Accounts

Debit transfers initiated using BIB count as permitted transactions in account types that have regulatory limits on the number of permitted transactions.

5. Errors and Questions Related to Transfers

- a. In case of errors or questions about Customer Electronic Transfers or Payments, Customer's authorized representative may contact bank at the telephone numbers, email addresses, or mailing addresses published by Bank for such purposes.
- b. When making such an inquiry, Customer must provide:
 - i. the name of the person reporting,
 - ii. the Designated Account number, and
 - iii. the nature of the issue, including a description of any error or the transaction that is in question, the reason why an error is suspected or the reason additional information is needed, and the dollar amount and date of the suspected error.
- c. If the initial report is by telephone, Bank may require a written complaint be sent within ten (10) Business Days.
- d. Bank will advise Customer of the results of any investigation upon request and will address any correctable errors promptly.

6. Secure Messaging

- a. Customer may communicate with Bank using the "Secure Messaging" feature offered as part of the Service.
- b. Customer agrees not to use the Secure Messaging feature to conduct transactions on a Designated Account or to provide Bank with instructions or notice.
- c. Bank may post messages for Customer in the "Secure Messaging" location of the BIB website. Bank may also use e-mail to notify Customer that a new message has been posted.
- d. Each time Customer logs in to BIB, Customer agrees to review all messages.
- e. Customer agrees to keep its e-mail address(es) up to date within the Service.
- f. Customer will be deemed to have received any message upon receipt and opening of the message, or by the next Business Day after the message is posted to the Service or Bank has sent Customer a notification of availability, whichever occurs earliest.
- g. Bank may not immediately receive messages that Customer sends and Bank will not take action based on any requests until Bank actually receives Customer's message and has had a reasonable opportunity to act. Therefore, Customer should not rely on secure messaging if Customer needs Bank's immediate attention. In such cases, Customer should call Bank immediately to ensure prompt action on Customer's request.

SECTION SEVEN: MOBILE BANKING SERVICE

Customer's enrollment in the BIB includes access to Bank's Mobile Banking Service. By using Mobile Banking, Customer agrees to the terms and conditions of this Section Six. If there is a conflict between the terms and conditions of this Section Six and the remainder of this Agreement, this Section Six shall govern the use of Mobile Banking.

1. Description of Service

- a. Mobile Banking enables Customer to view the Designated Accounts and perform certain functions using compatible and supported mobile access equipment, including, but not limited to, a mobile phone, smartphone, tablet, personal data assistant, or other wireless device (each a **"Mobile Device"**) whose network allows Secure Sockets Layer (**"SSL"**)/Transport Layer Security (**"TLS"**) traffic. The Service is available through mobile web browsers (**"Mobile Web Service"**) and downloadable mobile banking applications for Android and Apple devices (**"Mobile Banking Apps"**).
- b. Mobile Banking functionality varies by device used and Bank does not guarantee the availability of all Service features on all Mobile Devices.
- c. Mobile Banking includes the following, provided Customer has compatible wireless hardware and software:
 - i. Access Designated Account balance information;
 - ii. Review Transaction history and perform queries or transaction searches;
 - iii. Make Transfers between Designated Accounts;
 - iv. Make payments to a Payee previously set up using the Bill Pay Service;
 - v. Deposit checks through a Mobile Deposit Service.
- d. From time to time, Bank may develop additional mobile banking services. As such services are developed Customer will have the opportunity to add them to Mobile Banking, provided Customer has compatible wireless hardware and software.
- e. Customer agrees to view any applicable instructions and operating rules and understand how to use Mobile Banking before using Mobile Banking. Customer acknowledges that if it does not use Mobile Banking properly, Mobile Banking may not work.
- f. Customer agrees and understands that Mobile Banking may not be accessible or may have limited utility over some mobile networks, such as while roaming.
- g. Customer acknowledges that Mobile Banking may not work the same with all mobile carriers.
- h. It is Customer's responsibility to understand how to use its Mobile Devices. Bank is not liable if Customer does not use Mobile Banking and/or its Mobile Devices properly.
- i. Not all of the products, services or functionality described in this Agreement are available through the use of a Mobile Device if Customer has not enrolled in such other Services subject to Bank's acceptance criteria.
- j. Information available via Mobile Banking, including balance, transfer and payment information may differ from the information that is available directly through the EBIB Service without the use of a Mobile Device.
- k. Customer agrees that neither Bank nor its service providers will be liable for any errors or delays in the content, or for any actions taken in reliance thereon.

2. Eligibility/How to Access Mobile Banking

- a. To use Mobile Banking, Customer must already be enrolled in and previously have set up access to BIB or EBIB and have a compatible Mobile Device. Devices that have had their security parameters disabled (sometimes called "rooting" or "jailbreaking") are not compatible Mobile Devices.
- b. Mobile Banking is offered as a convenience and is a supplemental service to BIB or EBIB accessed via our website on a personal computer. Mobile Banking is not intended to replace access to BIB or EBIB from

Customer's personal computer or other methods Customer uses for managing the Designated Accounts and services with Bank.

- c. Using Mobile Banking on the Web versus the App.
 - i. If Customer is accessing Mobile Banking via Mobile Web Service, Customer will sign-on in the same manner used when accessing BIB or EBIB on a personal computer. Customer may be required to provide additional information to authenticate Customer identity.
 - ii. If Customer is accessing Mobile Banking using one of the Mobile Banking Apps, Customer will be guided through a registration process the first time Customer opens the Mobile Banking App. During the registration process, Customer will enter Customer's mobile phone number and Security Code as well as any other information Bank requires to authenticate Customer's identity. Also during the registration process, the person registering will be required to agree to an End User License Agreement ("**EULA**"). Customer acknowledges and agrees that the EULA is a legal agreement between the user and Bank's third-party provider only, and that Customer's use of Mobile Banking in relation to the Bank continues to be governed by this Agreement.

3. Customer's Duties and Representations

Customer agrees not to store on Customer's Mobile Device information or data about the Designated Accounts or the Service that might compromise the security of Customer's financial relationship with Bank or, if stored, such information will be encrypted and secured with commercially reasonable security procedures. Such information includes, by way of example and not as a limitation, Designated Account names, numbers, and/or balances, user names, passwords, Social Security Number and/or Taxpayer Identification Number.

4. Mobile Deposit Service

If Customer accesses Mobile Banking via one of the Mobile Banking Apps, Customer may use Bank's Mobile Deposit Service ("**Mobile Deposit Service**"). Customer's use of the Mobile Deposit Service is governed by the terms of this Agreement. Customer acknowledges that email and/or messages displayed on Customer's Mobile Device will be the primary means of communication for the Mobile Deposit Service. Customer is responsible for maintaining a current email address and Customer agrees that Customer will, in a timely manner, review messages and notifications received from Bank and check Designated Account to confirm it reflects recent activity.

- a. The Mobile Deposit Service allows Customer to use the Mobile Banking Apps to make deposits to the Designated Accounts from remote locations (individually a "**Mobile Deposit**"; collectively "**Mobile Deposits**") by taking photos of the front and back of original checks and transmitting the digital images and associated deposit information to Bank or Bank's processor with Customer's Mobile Device.
- b. The acceptability, retention, and destruction of checks subject to remote deposit shall be as defined in the General Terms of this Agreement.
- c. Bank may establish limits on the dollar amount and/or number of Images or Mobile Deposits from time to time.
 - i. If Customer attempts to initiate a Mobile Deposit in excess of these limits, Bank may reject Customer's Mobile Deposit and Customer may deposit the check(s) in a manner consistent with other methods for making deposits provided by the Bank (such as at a branch or ATM or by mail).
 - ii. If Bank permits Customer to make a Mobile Deposit in excess of these limits, such Mobile Deposit will still be subject to the terms of this Agreement, and Bank will not be obligated to allow such a Mobile Deposit at other times.
 - iii. Customer's dollar deposit limit will be disclosed in the Mobile Banking Device App notice.
 - iv. Bank reserves the right to change the limits. Any such change shall be effective immediately and may be implemented prior to Customer's receipt of notice thereof.

- v. Customer acknowledges and agrees that the Mobile Deposit Service is not intended for processing a high volume of checks or large dollar amounts (whether in a single check or in the aggregate). If Customer's remote deposit needs exceed the limits of Mobile Deposit, then Customer should consider Bank's Business Check Express (BCE) Services as an alternative.
- d. Each Image must provide all information on the front and back of the original Check at the time presented to Customer by the drawer (the person or entity from whose account the Check was written), including, but not limited to, information about the drawer and the paying bank that is preprinted on the original Check, MICR information, signature(s), any required identification written on the front of the original Check and any endorsements applied to the back of the original Check.
- e. The image quality must meet the standards established by the American National Standards Institute, the Board of Governors of the Federal Reserve, and any other regulatory agency, clearing house or association.
- f. Endorsements must be made on the back of the Check and include Customer's signature and Customer's account number and "FOR MOBILE DEPOSIT ONLY." Customer acknowledges and agrees that Customer shall be liable to Bank for any loss Bank incurs caused by a delay or processing error resulting from an irregular endorsement or other markings placed on the Check by Customer.
- g. Receipt of Deposit. All Images processed for deposit through the Mobile Deposit Service will be treated as "deposits" under Customer's current Deposit Account Agreement with Bank and will be subject to all terms of the Deposit Account Agreement and any amendments to such Deposit Account Agreement.
- h. To be eligible for processing on the day transmitted, Mobile Deposits must be received and approved by Bank on or before Bank's published cut-off time as amended from time to time. A Mobile Deposit that is received after the cut-off time shall be deemed to have been received on the Business Day following the Business Day on which the Mobile Deposit is actually received by Bank.
- i. When Bank receives an Image, Bank will confirm that Customer has submitted the Image via a message displayed on Customer's Mobile Device. Customer's submission confirmation does not mean that the Image contains no errors or that it has been approved for crediting. A status of "pending" does not indicate that the submitted item has been approved. Customer will not receive a subsequent notification that a submitted Image has been credited to Designated Account.

5. Acceptance of Deposits

- a. Customer agrees that Bank has no obligation to accept a Mobile Deposit and, therefore, Bank reserves the right to reject any Mobile Deposit or the Images or other information contained therein transmitted through this Service, at Bank's discretion, without liability to Customer.
- b. If Customer's submission is rejected, Customer will receive email of such rejection from the Bank. It is Customer's responsibility to check notifications from the Bank for any rejected submissions and contact the Bank to address the reason for such rejection. Customer acknowledges and agrees that Bank shall have no liability to Customer for failing to provide notice of rejection of a Mobile Deposit.
- c. Customer agrees that Customer shall be solely liable for, and Bank shall not have any liability whatsoever to Customer for, any Mobile Deposit or the Images or other information contained therein that are not received by Bank.
- d. Customer agrees to be liable for Mobile Deposits or the Images or other information contained therein that are intercepted or altered by an unauthorized third party or dropped during transmission.

6. Returned Deposits

If Images of Checks deposited by Customer are dishonored or otherwise returned unpaid by the drawee bank, or are returned by a clearing agent for any reason, including, but not limited to, issues relating to the quality of the Image, Customer understands and agrees that, since Customer either possesses the original Check or have destroyed it in accordance with the provisions of Subsection (g), the original Check will not be returned, and Bank may charge back an Image of the Check to the Designated Account. Customer understands and agrees that the Image may be in the form of an electronic or paper reproduction of the original Check or a substitute check. Unless otherwise instructed by Bank, Customer agrees not to deposit the original Check if an Image or other debit as previously described is charged back to Customer.

7. Privacy Policy

Any information Customer shares with Bank while using Mobile Banking is governed by the same privacy policy that governs the Designated Account(s).

8. Bank's Duties

Bank's duties and responsibilities with respect to Mobile Banking are limited to those described in this Agreement, the Deposit Account Agreement and any other agreements governing the Designated Accounts. Bank will use commercially reasonable care in its provision of the Mobile Banking Service.

9. Mobile Banking Limitations

Bank has no liability if Customer breaches any of these Mobile Banking terms. Bank is not responsible for the security, availability, or operation of Customer's Mobile Devices or mobile networks. Access to or use of Mobile Banking may be interrupted, blocked, or restricted due to (for example) technical or other problems with Mobile Banking or Customer's Mobile Devices or networks, possible security breaches, and/or government requirements; data may be lost and/or data may not be received, not timely received, not acted upon and/or not timely acted upon by Bank; and Bank is not liable for damages, losses, and expenses as a result thereof.

10. Export Control and International Use

Customer agrees to comply with United States laws and regulations governing the export of products and information containing encryption ("**Controlled Technology**") by not using Mobile Banking in countries where it is illegal to do so. Without limiting the generality of the foregoing, Customer agrees not to export or re-export any Controlled Technology within the Mobile Banking Service to countries or persons prohibited under the Export Administration Regulations ("**EAR**"). By downloading any products or information from the Mobile Banking Service, Customer is agreeing that it is not in a country where such export is prohibited and that Customer is not a person or entity to which such export is prohibited. Customer is responsible for compliance with the laws of its local jurisdiction regarding the import, export, or re-export of any products or information subject to the EAR. Bank does not make any representation that any content or use of Mobile Banking is appropriate or available for use in locations outside of the United States. Accessing Mobile Banking from locations where its contents or use is illegal is prohibited by Bank. Those choosing to access Mobile Banking from locations outside the United States do so at their own risk and are responsible for compliance with local laws.

SECTION EIGHT: WIRE TRANSFER OF FUNDS USING ONLINE PAYMENT ORDERS

Customer wishes to use Bank's Wire Transfer Service (the "Service") to electronically transfer funds to accounts at other financial institutions, and Bank agrees to provide this service. This Section sets forth the terms and conditions pursuant to which Bank will provide to Customer the Wire Transfer Service when Customer initiates Wire Transfer payment orders via EBIB as outlined herein. THIS AGREEMENT DOES NOT APPLY TO PAYMENT ORDERS INITIATED BY ANY OTHER METHOD, IN THAT SUCH WIRE TRANSFERS MAY BE SUBJECT TO ADDITIONAL OR DIFFERENT AUTHENTICATION REQUIREMENTS.

1. Definitions

In addition to definitions in the General Terms of this Agreement, as used in this Section Eight the following terms shall have the following meanings in the context of Wire Transfer transactions:

- a. **“Wire Transfer”** shall mean an electronic transfer of funds from Customer’s Designated Account(s) to an account at another financial institution, whether said other account is owned by Customer or another entity.
- b. **“Beneficiary”** shall mean the receiver of the Wire Transfer, and by extension will also apply to the receiver’s environment. For example, **“Beneficiary Bank”** refers to the financial institution used by the receiver and **“Beneficiary Account”** refers to the receiver’s account number at their bank.
- c. **“UCC-4A”** shall mean Article 4A of the Uniform Commercial Code, which is the governing law for Wire Transfers.
- d. **“Payment Order”** as defined by UCC-4A and used in this Agreement shall mean Customer’s instruction to Bank to initiate a Wire Transfer on Customer’s behalf.
- e. **“Effective Date”** shall mean the date on which a Wire Transfer is received in the Beneficiary Account. While Wire Transfers are generally considered to be effective on the same Business Day they are originated, certain Wire Transfers may require additional time in which to settle (for example, Wire Transfers sent to a Beneficiary outside the United States generally settle later due to the need to route them through intermediary banks or correspondent banks.)

2. Establishing and Maintaining the Wire Transfer Service

- a. Customer will indicate the Designated Accounts on the Enrollment Document and/or Service Criteria for which the Wire Transfer Service will be provided.
- b. Customer agrees that by using the Wire Transfer Service offered herein and/or executing the Enrollment Document, Customer has read and agrees to all terms, conditions, and provisions of the Agreement, as well as the terms and conditions pertaining to the Designated Accounts.
- c. If there is a conflict between the terms and conditions of this Section Eight and the remainder of this Agreement, this Section Eight shall govern the use of the Wire Transfer Service.
- d. In accordance with procedures established from time to time between Customer and Bank, both parties agree that all **“Funds Transfers,”** as defined in UCC-4A will be processed in accordance with the terms and conditions listed below.
- e. This Section will not apply to transfers which are covered under Federal Reserve Board Regulation E, and the Electronic Fund Transfer Act of 1978.

3. Procedures and Conditions

- a. Unless otherwise agreed in writing and in advance between Customer and Bank, Customer will initiate wire transfers using Bank’s EBIB online banking Service, and therefore must be enrolled as a user of that service.
- b. Customer agrees to strictly follow all procedures and conditions established for EBIB and initiation of wire transfers via EBIB, which may be issued from time to time by Bank and any amendments thereto including, without limitation, all procedures and conditions set forth in this Agreement.

4. Authority to Transfer Funds

Customer authorizes Bank to accept or execute any Payment Order and charge the applicable Designated Account, without limitation as to amount, when such request is received from Customer in accordance with this Agreement. Customer acknowledges and agrees that such Wire Transfer will be conclusively presumed to be a proper transfer

authorization by Customer, and that Bank shall have no responsibility for the accuracy, legitimacy or completeness of the data received from Customer.

5. Wire Transfer Procedures

- a. Bank is hereby authorized to honor, execute and accept each and every Wire Transfer received by it in the name of Customer as sender and initiated by an Administrator or User in accordance with the Security Procedures and other requirements of this Agreement.
- b. If Bank elects to accept a Wire Transfer issued by Customer, Bank shall use reasonable efforts to comply with the Wire Transfer in paying the proceeds to the beneficiary, if Bank is also the beneficiary's bank, or in executing the Wire Transfer if Bank is not also the beneficiary's bank.
- c. Customer shall issue the Payment Order to Bank in a timely manner sufficient to allow Bank to ensure that payment is made to the beneficiary on the payment date.
- d. Bank shall be entitled to deem any person having knowledge of any Security Procedures required in order to initiate Wire Transfers under this Agreement to be a User.

6. Settlement

- a. Bank is not obligated by this Agreement to honor, execute, or accept any Payment Order.
- b. If Bank elects to accept Payment Orders issued by Customer, Customer agrees to settle for all Wire Transfers issued by Customer, Customer's Administrator(s) or User(s), or Wire Transfers otherwise made effective against Customer.
- c. Settlement shall be made by Customer to Bank in any manner specified by Bank. Notwithstanding the foregoing, Bank is hereby authorized to charge the Designated Account designated by Customer as settlement for Wire Transfers issued by Customer.
- d. Customer shall maintain sufficient funds in the Designated Account to settle for the Wire Transfer at the time that the Wire Transfer is issued.
- e. Bank may, in its sole discretion, transfer funds from the Designated Account in excess of the collected balance and thereby create a collected overdraft. In this event, Customer shall promptly reimburse Bank upon demand in the amount of the overdraft together with any interest fees or charges which would otherwise be charged to Customer as a result of an overdrawn account based upon Bank's account rules and pricing schedules.
- f. If Bank elects to pay Customer's account into overdraft on any one or more occasions, it shall not be considered a waiver of Bank's rights to refuse to do so at any other time nor shall it be an agreement by Bank to pay accounts into overdraft.
- g. Bank shall have the right to charge other accounts maintained by Customer with Bank that is not a Designated Account if Bank accepts the Wire Transfer and the Designated Account does not have sufficient balances to settle for the Wire Transfer. Bank may process Wire Transfers in any order convenient to Bank and Bank may charge items, including settlement for Wire Transfers, in any order or sequence selected by Bank.

7. Use of Account Numbers

- a. Customer is notified, and hereby acknowledges, that in executing or otherwise acting on a Wire Transfer Bank shall rely solely and exclusively upon identifying account or identification numbers of a beneficiary, beneficiary's bank or intermediary bank and shall not rely on the name of the beneficiary.
- b. Likewise, acceptance of a Wire Transfer may be made by a beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary.

- c. Customer is liable for and must settle with Bank for any wire transfer initiated by Customer that identifies the beneficiary by account or identifying number or by name and account or identifying number. Bank shall have no duty to detect any inconsistency between the name and number contained in a Wire Transfer and Customer shall be responsible for any inconsistencies.

8. Amendments and Cancellations

- a. A Wire Transfer may be canceled by Customer, provided the cancellation instruction is received by Bank, and verified pursuant to the Security Procedures in effect, at a time and in a manner affording Bank a reasonable opportunity to act prior to Bank's acceptance of the Wire Transfer.
- b. Bank is not obligated to amend or cancel a Wire Transfer after acceptance, but if in Bank's sole discretion, it agrees with Customer to do so, it may condition such amendment or cancellation upon compliance with the Security Procedures.
- c. Any cancellation of a Wire Transfer by Bank shall relieve Bank of any obligation to act on such Wire Transfer and any amendment of a Wire Transfer by Bank shall relieve Bank of any obligation to act on such Wire Transfer in its un-amended form.
- d. Customer acknowledges and agrees that after a Wire Transfer has been accepted by the beneficiary's bank, return of such funds must be authorized by the beneficiary and Bank has no responsibility to procure the return of such funds. If Customer asks Bank to recover funds which Bank has already transferred, Bank shall be under no obligation to do so.
- e. If Customer deposits with Bank an amount reasonably determined in good faith by Bank to approximate the costs and expenses (including attorney's fees) which Bank may incur in attempting to recover the funds transferred, Bank may, in its sole discretion make an attempt to recover the funds. In lieu of such a deposit, Bank may request Customer to provide a bond or other assurance of payment reasonably satisfactory to Bank. Upon such deposit, or the supplying of such other assurance, Bank may take such action as it deems reasonable under the circumstances, including, for example, sending a request to reverse the transfer to any financial institution that received such funds. In no event, however, shall Bank be deemed to have guaranteed or otherwise assured the recovery of any portion of the amount transferred, nor to have accepted responsibility for any amount transferred.

9. Rejection of Wire Transfer

- a. Customer agrees that Bank has no obligation to accept a Payment Order and therefore may reject any Wire Transfer issued by Customer. Bank has no obligation to notify Customer of the rejection of the Wire Transfer issued by Customer but Bank may so notify at its option.
- b. Bank shall have no liability to Customer for rejection of a Wire Transfer and shall not be liable to pay interest to Customer even if the amount of Customer's Wire Transfer is fully covered by a withdrawable credit balance in a Designated Account of Customer or Bank has otherwise received full payment from Customer.

10. Use of Correspondents, Agents, and Systems

- a. Customer agrees that in executing any Wire Transfer Bank may make use of such correspondents, agents and Wire Transfer and communication systems as it deems necessary or desirable to execute such Wire Transfer.
- b. Inasmuch as any Wire Transfer or cancellation thereof may be transmitted by any bank by use of the wire transfer system of the Federal Reserve Bank ("Fedwire"), each Wire Transfer, amendment or cancellation thereof, carried out through a wire transfer system will be governed by all applicable wire transfer system rules, whether or not Bank is a member of the system.

11. Advices/Unauthorized Transactions and Other Errors

- a. Bank shall provide Customer with advices describing each Wire Transfer paid or executed on behalf of Customer.
- b. The default delivery method for such advices shall be online reporting via EBIB unless otherwise agreed in writing between Customer and Bank.
- c. Customer shall notify Bank of any discrepancy between any Wire Transfer advice and its related Wire Transfer, or of any unauthorized transaction or other error on the next Business Day following receipt of any advice or within 30 calendar days of the delivery or mailing by Bank (whichever occurs first) of any statement of account relating to the Designated Account, whichever is earlier, which time limits Customer agrees are reasonable. If notification of an unauthorized transaction or other error is communicated orally, it shall be confirmed promptly in writing.
- d. Customer will be deemed to have received any advices and statements of account that are mailed by Bank five (5) Business Days after such mailing. Bank shall have no liability to Customer for any loss or damage sustained by Customer arising out of any Wire Transfer referenced in a statement of account for the Designated Account or in an individual advice, and no legal proceeding or action shall be brought by Customer against Bank to recover such loss or damage, unless (a) Customer shall have given the written notice as provided for herein, and (b) such legal proceeding or action shall be commenced within the period established by UCC 4A. Customer waives any right to seek or enforce payment of attorneys' fees related thereto.

12. International Wire Orders

- a. Subject to the terms and conditions of this Agreement, and subject to any instructions Bank provides, Customer may use the Service to make funds transfers denominated in U.S. dollars to beneficiaries located outside of the United States.
- b. Such fund transfers may be finally paid to the beneficiary either in the foreign currency of the country to which the funds are transferred, in U.S. dollars, or in other currency, according to Bank policies and procedures, the policies and procedures of the beneficiary's bank, and/or the policies and procedures of any intermediary banks participating in the transaction, subject to applicable exchange rates.
- c. Customer specifically agrees that Bank may, in its discretion, prior to or upon execution of any international Wire Transfer submitted by Customer, convert the U.S. dollar amount to the currency of the destination country at Bank's exchange rate in effect at the time of conversion. It is Customer's responsibility to advise Customer's beneficiary of the possibility and effect of currency conversions in the course of the execution of any Wire Transfer.
- d. If Bank makes any refund of an international Wire Transfer to Customer, Bank will make such refund in the U.S. dollar amount of the transaction. Customer bears all risk of loss due to fluctuations in the rate of currency exchange.
- e. Customer hereby acknowledges and agrees that any and all Wire Transfers issued by Customer under this Agreement are for business purposes only and not for personal, family, or household purposes and are not subject to the provisions of the Electronic Funds Transfer Act and/or Consumer Financial Protection Bureau Regulation E.

13. Furnishing Information

Upon request Customer will provide Bank with any transaction information necessary for Bank to handle inquiries and tracing, or otherwise to comply with applicable laws and regulations relating to Wire Transfers, including but not limited to, dollar amounts, account(s) affected, dates and names of beneficiaries and third parties involved in the transfer.

14. Transactions with Banks

If Customer is a bank (as defined in UCC 4A), and under applicable law Customer is not deemed the originator of the order to which a Wire Transfer relates, Customer agrees to indemnify and hold Bank harmless for any loss or liability owed to such originator to the extent that such loss or liability would not have been incurred if Customer had been an originator.

15. Interest

Bank shall assume no responsibility for lost interest with respect to the refundable amount of any unauthorized transfer or error unless Bank is notified within thirty (30) days of notification by Bank of the acceptance of such transfer.

SECTION NINE: AUTOMATIC SWEEP SERVICES

Customer wishes to use one or both of Bank's Automatic Sweep Services, as indicated in Customer's Enrollment Document and Service Criteria for the Service(s), which are:

- a. Automatic Investment Sweep, which enables Customer to earn interest on collected funds eligible for investing from Customer's Designated Account, and Bank agrees to provide this service.
- b. Automatic Credit Line Sweep, which enables the automatic transfer of funds between Customer's Designated Account and an eligible Credit Line for the purpose of maintaining the balance of Customer's Designated Account at Customer's desired balance.

1. Definitions

For the purposes of this Agreement:

- a. The term "investment" will be used for convenience, even though some of the interest-bearing options available to Customer using an Automatic Investment Sweep will be depository instruments rather than investments.
- b. The term "sweep" will refer to Bank-initiated automatic transfers of funds from one account or instrument to another, or between a deposit account and an approved, eligible line of credit, as determined by Customer's standing instructions.
- c. The term "Credit Line" will refer to a Bank-provided borrowing facility which allows unscheduled advances and payments. For example, most "working capital" credit lines would be eligible to participate in an Automatic Credit Line Sweep, while term loans and Bank-administered lines of credit (such as Asset Based Loans) would not be eligible.

2. Establishing and Maintaining the Automatic Investment Sweep Service

- a. To enroll in and use the service, Customer must identify a demand deposit account (the Designated Account) maintained by Customer at Bank to which the Service will apply. Only non-interest bearing demand accounts are eligible to use the Service.
- b. Customer must also instruct Bank as to Customer's "Target Balance," which shall be an amount of collected balance that will remain in the Designated Account and not transferred by Bank to an interest-bearing instrument.
 - i. Customer acknowledges that the use of a Target Balance is voluntary on Customer's part (unless required by Bank as a condition for the use of other Bank services), and Bank provides this option to accommodate customers who prefer to pay for some or all of their banking services with credit earned on balances rather than direct fees.
 - ii. Customer may change their Target Balance by notifying Bank.
 - iii. Target Balances will include collected funds only. Deposits that are in the process of collection are not considered collected funds and are not eligible to earn interest.

- c. During Bank's daily posting of accounts, Bank will determine the ending collected balance of Customer's Designated Account. If the ending collected balance is greater than Customer's Target Balance, then Bank will transfer the collected funds above the Target Balance into an interest-bearing instrument.

3. Automatic Investment Sweep Methods to Ensure Customer's Access to Invested Funds

To ensure Customer's liquidity, invested funds will be constantly available to Customer via Customer's Designated Account. The manner in which Bank makes the invested funds available varies according to the Investment Option selected by Customer, as defined below. Depending on this selection, Bank will use one of two methods, which are:

- a. Full Sweep – In this transfer method, Bank returns the entire amount swept from the Designated Account back to the Designated Account at the start of business on the next business day, and the Service repeats this sweep-and-return process each business day.
- b. Net Sweep – In this transfer method, Bank transfers only the amount needed to restore the Designated Account to its Target Balance, which could result in additional investments being made, or could result in a return of some or all invested funds to the Designated Account. When this method is used, Bank will reflect Customer's invested balance in the Available Balance of the Designated Account.

4. Customer's Investment Options in an Automatic Investment Sweep

a. Repurchase Agreements.

- i. Repurchase Agreements are investment instruments, are not deposits of Bank, and are not FDIC insured.
- ii. When Bank removes funds via the Service from Customer's Designated Account, Bank will create a Repurchase Agreement in which investment instruments in an investment portfolio owned by Bank or a division or affiliate of Bank are transferred to the ownership of Customer, with an explicit agreement to return the funds to Customer and transfer the underlying investments back to Bank's possession.
- iii. For the Repurchase Agreement investment option, Bank uses the Full Sweep transfer method defined above.
- iv. Bank will provide Customer with Repurchase Agreement certification notices in compliance with requirements of the Securities and Exchange Commission.
- v. Customer's protection from Bank failure is provided by Customer's ownership of the underlying investments, which Customer can liquidate.
- vi. The interest rate paid to Customer is established by Bank and is not based on the interest rates of the individual underlying investments.

b. Interest Bearing Accounts.

- i. Interest Bearing Accounts are deposits of Bank, and are FDIC insured subject to normal FDIC coverage limits.
- ii. When Bank removes funds via the Service from Customer's Designated Account, Bank transfers such funds into an Interest Bearing Account at Bank.
- iii. For the Interest Bearing Account investment option, Bank uses the Net Sweep transfer method defined above.
- iv. The interest rate on the Interest-bearing Account will be Bank managed.

c. Insured Sweep

- i. Insured Sweep is offered by Bank in conjunction with a third party service provider selected by Bank. Insured Sweep results in Customer's swept funds being distributed to interest-bearing accounts at multiple participating financial institutions, always in amounts lower than the FDIC coverage limit of each institution. The purpose of this is to expand FDIC protection for customers who require such protection due to their high balances.
- ii. When Bank removes funds via the Service from Customer's Designated Account, these funds are placed in another account at Bank, at which time the Insured Sweep system distributes them to other participating

banks and performs the accounting functions necessary to ensure that each Customer retains a record of ownership of its own funds.

- iii. For the Insured Sweep investment option, Bank uses the Net Sweep transfer method defined above.
- iv. Customer may exclude the use of any particular participating bank by notifying Bank. An example of why this might be considered would be cases where Customer already maintains accounts at another participating bank, and is therefore already using a portion of its FDIC coverage at that bank.
- v. The interest rate on the Insured Sweep option will be Bank managed.

5. Establishing and Maintaining the Automatic Credit Line Sweep Service

- a. To enroll in and use the service, Customer must identify a demand deposit account (the Designated Account) maintained by Customer at Bank to which the Service will apply. Only non-interest bearing demand accounts are eligible to use the Service.
- b. Customer must also identify a Credit Line maintained by Customer at Bank. Bank, in its sole discretion, will determine if the designated Credit Line is eligible to participate in the Automatic Credit Line Service.
- c. Customer must specify a Target Balance representing Customer's desired balance to be maintained in the Designated Account.
- d. During Bank's daily posting of accounts, if the ending balance of Customer's Designated Account is below Customer's specified Target Balance, then Bank will advance funds from the Credit Line to restore the Designated Account to its Target Balance. If the ending balance of the Designated Account is greater than Customer's specified Target Balance, then Bank will draw funds from the Designated Account and apply them as a payment to the Credit Line.
- e. Bank will not be obligated to perform a scheduled sweep in which funds need to be advanced from the Credit Line if there is insufficient credit remaining in the line to support such a transfer.

6. Order of Operation

If Customer uses both Automatic Investment Sweep and Automatic Credit Line Sweep Services, then Bank will conduct sweep transfers in the order of greatest benefit to Customer, as follows:

- a. At the daily posting of accounts, if the ending balance of the Designated Account is below Customer's specified Target Balance, then Bank will transfer funds from investment to the extent they are eligible, and then advance from the Credit Line only to the extent necessary to eliminate any remaining deficit in the Designated Account.
- b. At the daily posting of accounts, if the ending balance of the Designated Account is greater than Customer's specified Target Balance, then Bank will transfer funds from the Designated Account as payments on the Credit Line, then transfer any remaining funds to investment only if there is no outstanding balance remaining on the Credit Line.

SECTION TEN: ZERO BALANCE/TARGET BALANCE SERVICE

Customer wishes to use Bank's Zero Balance/Target Balance Service (the "Service") to create automated transfers among Customer's Designated Accounts at Bank based on rules set by Customer, and Bank agrees to provide this Service. In this Section, the term "ZBA" also refers to the Service. This Section Ten sets forth the terms and conditions pursuant to which Bank will provide to Customer the ZBA Service outlined herein.

1. Description of Service

- a. This Service causes automated monetary transfers from a Designated Account of Customer (referred to as the "Master Account") to one or more additional Designated Accounts ("Sub-Accounts").

- b. Designation of the Master Account and the Sub-Accounts shall be as instructed by Customer and subject to change from time to time at Customer's request.
- c. For each Sub-Account, Customer will designate a "Target Balance" representing Customer's desired daily ending balance in each Sub-Account. If Customer does not make a Target Balance designation, then the system default Target Balance of \$0.00 will be used.
- d. At the posting of accounts each business day, Bank will compare the preliminary ending balance of each Sub-Account to Customer's designated Target Balance for said Sub-Account, and shall automatically transfer funds from the Master account in the exact amounts needed for the final ending balance of each Sub-Account to equal the Target Balance.
- e. The design of the service anticipates that the automated transfers will always flow from the Master Account to the Sub-Account(s). However, at Customer's option and by way of a standing instruction from Customer to Bank, the Service can also be set to transfer funds from Sub-Accounts to the Master Account in cases where the preliminary posted balance is greater than Customer's designated Target Balance.

2. Availability of Funds

- a. The amounts of transfers will be determined by the Ledger Balance of each Account.
- b. Because the transfers will be generated after the banking business day has ended, funds available to each Sub-Account by way of the Master Account will not be reflected in Bank's online systems throughout the banking business day. For that reason, Bank recommends that Customer establish a nominal Target Balance greater than \$0.00 for Sub-Accounts from which Customer anticipates that some payees will cash checks at Bank's teller windows rather than depositing them.
- c. If transfers generated by the service would overdraw the Master Account, Bank may in its sole discretion make the transfer, make transfers up to the point at which the Master Account balance would be depleted, or make no transfers for that business day.
- d. If funds are available to the Master Account by way of an Automated Investment Sweep Service and/or Automated Credit Line Sweep Service, those Sweep services will function as normal. However by "order of operation" requirements Sweep transactions must be the last transactions posted, so the availability of funds through those services will not be known at the time ZBA transfer amounts are calculated.
- e. Funds in Customer Accounts that are not available to Customer due to garnishment, levy, or similar legal process served on Bank will not be considered available for ZBA transfers.

3. Closed Accounts

- a. If any Sub-Account is closed for any reason then the Service will be considered terminated with respect to the closed account.
- b. If the Master Account is closed for any reason, then the entire Service will be considered terminated for all of Customer's Designated Accounts, unless Customer designated a replacement Master Account prior to the account closure.

SECTION ELEVEN: LOCKBOX SERVICE

Customer wishes to use Bank's Lockbox Service in which Bank acts on Customer's behalf to receive, open, endorse, deposit, and report to Customer any payments submitted to Customer by mail. The use of this Service requires Customer to name at least one Administrator to represent Customer with regard to the Service and to administer Customer's controls over the Service.

This Section Eleven sets forth the terms and conditions pursuant to which Bank will provide to Customer the Lockbox Service outlined herein.

1. Description of Service

- a. As used herein, the terms “payment” and “remittance” will be used interchangeably and shall refer to checks mailed to Customer representing monies owed to Customer by the payer (or “remitter.”)
- b. Bank hereby discloses and Customer acknowledges and accepts that Bank may use third party Lockbox processors of Bank’s choosing to conduct some or all of the operational tasks of the Service, and that when used in this section a reference to Bank, Bank’s facilities, or Bank’s personnel, such reference is expanded to include a third party Lockbox processor providing services at Bank’s direction, its facilities, or its personnel.
- c. Bank will open and maintain a United States Postal System (USPS) Post Office Box to serve as the “Remittance Address” for payments directed to Customer. It shall be Customer’s responsibility to notify its payers about the remittance address.
- d. Customer will be responsible for the USPS rental fee for the Post Office Box, although Bank in its sole discretion may elect to pay the fee to the USPS and add its amount to Customer’s fee for the Service.
- e. On a regular schedule determined by Bank but in no cases less frequently than once per business day, Bank will retrieve the contents of the Post Office Box and transport the contents to Bank’s Lockbox facility. At this time:
 - i. Bank’s Lockbox operators will extract the contents of all envelopes.
 - ii. Each check will be endorsed and deposited to Customer’s account.
 - iii. Any payment information from the check or other contents of the envelope will be captured according to Customer’s instructions (see “Service Criteria” below).
 - iv. Non-payment envelope contents, such as correspondence or other material unrelated to a payment, will be out-sorted for delivery to Customer in accordance with Customer’s instructions.

2. Service Criteria

Various options exist in the Service in order for Lockbox activities to be processed and reported to Customer in accordance with Customer’s wishes. As with some other Treasury Management Services, Customer’s conveyance to Bank of its processing instructions shall be achieved via Service Criteria, which must be reviewed between Customer and Bank to ensure Customer’s instructions are clearly understood. Service Criteria must be submitted and reviewed prior to the commencement of the Service, and any subsequent changes thereto must be in writing and subject to the same type of review as the original Service Criteria.

3. Processing Methods

Bank uses multiple processing methods for Lockbox. For any particular Lockbox, Bank will choose the processing method that, in Bank’s judgement, most closely aligns with Customer’s payment characteristics. This includes such factors as the volume of payments, the monetary value of payments, the pattern of receipt, and the type of remittance documents, if any, that accompany the payments.

4. Ancillary Services

Some Customers prefer to have a single daily consolidated posting file for payments received, even though all of their payments might not be received by mail. To achieve this, Bank offers processing options in which payments received other than by a mailed check to the Lockbox remittance address can be integrated with Lockbox data to unify the posting process. These optional Ancillary Services are:

- a. ELockbox. This Service consolidates payment data from online Bill Payment services into the Lockbox data.
- b. Remote Lockbox. This Service allows Customer to image-capture payments received directly at Customer’s street address or non-remittance mailing address so they can be consolidated into the Lockbox data.

- c. Biller Direct. This service integrates payments made by credit cards and debit cards to be consolidated into the Lockbox data.

5. Stop Files

Stop Files are optional Customer-provided databases of payers/remitters from whom payment should not be accepted. Customer may select this option in the Service Criteria, and if so then Customer and Bank will coordinate setup activities to ensure the proper formatting of the Stop File and the frequency with which Customer will provide it.

6. Data Transmission

Customer may specify via the Service Criteria that Lockbox data be provided to Customer via online download or File Transfer Protocol data transmission. If specified by Customer, then Customer and Bank will coordinate setup activities to ensure the proper formatting of the activity file and the inclusion of all data elements required by Customer. In many cases the required data fields will be captured automatically during the image processing of the check. Otherwise, Customer may specify that Bank conduct "Value Added Data Entry" to capture data elements that cannot be captured automatically.

7. Customer Access to Payment Information

- a. Information about each payment processed in the Service is captured in accordance with the Service Criteria, either by image capture (such as for the image of the check, remittance document, and/or envelope) or by manual data entry (such as for invoice numbers).
- b. This information will be made available to Customer on Bank's Lockbox processing system via the internet.

8. Customer Package

- a. Customer may specify via the Service Criteria the creation of a daily package to be mailed to Customer from the Lockbox Facility on each business day in which the specified contents of such a package exist. In accordance with Customer's instructions the Customer Package may contain any or all of the following.
 - i. Correspondence and other non-deposit material received in the Remittance Address
 - ii. Original payment envelopes
 - iii. Photocopies/images of checks received
 - iv. Hard copy of reports
 - v. Non-processed Exception Checks as defined below
- b. Customer may specify that related material in the Customer Package (for example, a check copy, envelope, and correspondence for each payment) be physically re-associated, and may further specify that such re-associated items be stapled to maintain the re-association during transport.
- c. Items received but not specified for inclusion in the Customer Package will be retained securely by Bank for 90 days and destroyed thereafter.

9. Exception Checks

Bank will process or not process the following "Exception Checks" depending on Customer's instructions via the Service Criteria:

- a. Checks signed over by a third party
- b. Postdated Checks
- c. Stale Dated Checks
- d. Undated Checks

- e. Unsigned Checks
- f. Checks marked “payment in full” or words of similar import.
- g. Foreign checks, which, if specified for acceptance by Customer, will be subject to foreign currency exchange at the exchange rate available to Bank at the time the check is routed for collection.

10. Non-Process Checks

On a best efforts basis, Bank will attempt to identify checks with the following characteristics and withhold them from processing. However, these characteristics are not contained in the MICR-encoded fields of a check, and Lockbox processing is often dependent upon automated processes for the extraction of checks from envelopes and the capture of checks on automated equipment. Therefore, if Bank inadvertently deposits such an item then Bank’s liability shall be limited to reversing the deposit at Customer’s request.

- a. Checks in which the payee name is not a reasonable approximation of a Customer-provided valid payee name.
- b. Checks in which the numeric courtesy amount differs from the written legal amount.

11. Supplemental Documentation

Prior to the commencement of the Service, Customer will provide any additional documentation as Bank might reasonable require to ensure the correct setup of the Service, such documentation to include but not limited to file formats and naming conventions for various databases that might be exchanged between the Parties, data field lists for any Value Added Data Entry, sample payment coupons for Retail Lockbox processing if used, acceptable payee names, and acceptable entity names if Customer is receiving Lockbox deposits for more than one of its legal entities , affiliates, or subsidiaries.

SECTION TWELVE: CONTROLLED DISBURSEMENT SERVICE

Customer wishes to use Bank’s Controlled Disbursement Service to receive from Bank a daily predictive report detailing the monetary amounts of checks that will post to Customer’s Controlled Disbursement Account at Bank’s next posting of accounts, the purpose of such report being to facilitate certain daily cash positioning activities contemplated by Customer such as placing short term investments or drawing from or paying to Customer’s line of credit.

This Section sets forth the terms and conditions pursuant to which Bank will provide to Customer the Controlled Disbursement Service outlined herein. If there is any inconsistency between the Master Agreement and this Controlled Disbursement Service Agreement, then the terms of this Section will control.

1. Definitions

As used in the Section:

- a. Controlled Disbursement Account (or “CDA”) shall refer to a demand account provided to Customer by Bank upon which Customer will draw checks Customer deems to be material in value, including but not limited to Accounts Payable checks. Customer may have more than one CDA.
- b. Controlled Disbursement Report (the “Report”) shall refer to a daily report by which Bank will report the monetary value of checks to be presented for payment through the CDA for the current business day. In addition to the total monetary value of the current day’s checks, Bank in its discretion may also elect to include in the Report a list of the individual checks that make up the total, and said list may contain each check number and/or each check amount.

2. Description of Service

- a. Bank shall make available to Customer an Account Number (or multiple Account Numbers in the event of multiple CDAs) to be used for check writing via the Service.
 - i. Customer acknowledges that any CDA Account Numbers will be assigned to a different Bank Routing and Transit Number from Bank's standard Routing and Transit Number. Customer understands that the use of a unique Routing and Transit Number is essential to the operation of the Service and agrees Bank shall have no liability to Customer arising from Customer's failure to use the assigned Routing and Transit Number.
 - ii. Before reordering checks for use with any CDA, Customer agrees to revalidate the Routing and Transit Number with Bank, as it is sometimes necessary for Bank to change the CDA Routing and Transit Number to ensure the ongoing effectiveness of the Service.
- b. As early as practical on each business day, Bank will provide the Report to enable Customer to predict the amount of cash needed to pay its checks for the day. Along with other factors in Customer's regular checking account (often referred to herein as Customer's "Designated Account") that are already known to Customer, Customer may determine whether to increase or decrease the balance of the account as appropriate. Examples of other known factors in the Designated Account include the current available balance and the monetary value of any same-day transactions (such as Wire Transfers) expected to be issued by Customer.
- c. Customer acknowledges and agrees that for Bank to produce the CDA report as early and as accurately as possible, Customer should as much as possible avoid issuing checks on a CDA that are more likely to be cashed later in the day outside the bank-to-bank check clearing process, such as payroll checks or small value checks such as "petty cash." Likewise, Customer should avoid using a CDA for the distribution of non-check payments, such as ACH and Wire Transfer transactions.
- d. In addition to reporting the estimated check presentment for the day, Bank shall also transfer funds from Customer's Designated Account to enable payment of the checks at the next posting of accounts.
- e. Inasmuch as the determination of daily check clearings is an *estimate* of expected account activity, the parties understand the disbursement account(s) may be periodically overdrawn; in this circumstance, the Bank agrees to waive the normal per-item fee for an insufficient item.

SECTION THIRTEEN: SPECIAL REPORTING

Customer wishes to use Bank's Special Reporting to receive from Bank a daily report or database (the "Service") containing information about transactions of interest to Customer, as specified in Customer's Service Criteria.

This Section sets forth the terms and conditions pursuant to which Bank will provide to Customer the Service outlined herein.

1. Information to Be Provided

The following information is available for Customer's selection:

- a. **BAI Reporting.** BAI data follows the standard format established by the Bank Administration Institute. It contains "status" data such as account balances as well as "transaction" data detailing each specific monetary transaction that posts to Customer's Designated Accounts.
- b. **EDI Reporting.** EDI stands for Electronic Data Interchange; EDI data follows the standard format published by the American National Standards Institute (ANSI). By way of information-only descriptive data appended to ACH transactions received by Customer by the transaction originator, Customer is facilitated in their accounting processes (for example, by the automated posting of Accounts Receivable credits or Accounts Payable Debits.
- c. **Other.** Other information options would be as agreed between Customer and Bank and would involve Bank's developmental effort to create such options.

2. Delivery Method

Via Customer's Service Criteria, Customer may elect to receive special reports via EBIB or via data transmission using file Transfer Protocol, or FTP.

3. Frequency of Delivery

- a. BAI reports/databases are available for each Bank business day.
- b. EDI Reports are available on Bank business days on which ACH transactions containing EDI addenda are received.
- c. The availability of other reports or data would depend on the nature of Customer's request and the design elements applied in Bank's development of other options.

SECTION FOURTEEN: VAULT SERVICES

Customer wishes to use Bank's Vault Services as described herein in accordance with Customer's instructions contained in the Service Criteria document for this Service. This Section sets forth the terms and conditions that apply to Bank's provision of Vault Services.

1. Description of Vault Services

Vault Services are provided by Bank in conjunction with a third party processor (the "Third Party") and are made up of several cash processing options Customer may, at Customer's discretion, choose to use. These options are:

- a. Cash Deposits. In this option, currency and coin generated in Customer's business will be retrieved from Customer's designated premises, transported to Bank or the Third Party, verified as to amount, and credited to Customer's Designated Account, subject to a schedule specified by Customer.
- b. Safe Point Cash Capture. This option is an upgrade to Cash Deposits in which Customer uses a "smart safe" (or multiple smart safes if Customer has multiple cash-gathering locations). A smart safe is a secure cash storage vault that has a cash validation capability. Cash placed in the smart safe by Customer or Customer's employees will be electronically validated and counted, and once per day the total monetary amount of cash in the vault that has not been previously credited to Customer's Designated Account at Bank will be credited. The physical pickup of the cash and delivery to Bank or the Third Party for verification will occur subsequently according to a schedule specified by Customer.
- c. Cash Orders. Customer may request delivery of U.S. Currency in designated denominations as needed to support the cash needs of Customer's business. Cash Orders may be placed by telephone or online with the Third Party. All Cash Orders made by Customer will be communicated to Bank and subsequently charged to the Account designated by Customer and delivered to Customer by the Third Party.

2. Verification of Funds

All disputes over deposit differences will be the responsibility of the Third Party and/or Customer. Customer agrees and acknowledges that the Third Party is Customer's agent and Bank shall have no responsibility or liability to Customer for the outcome of such disputes. The Deposit Account Agreement contains additional terms and provisions relating to verification of and adjustments to deposits, and Customer acknowledges and agrees that such terms and provisions apply to the Service.

3. Smart Safe Cash Capture Terms and Conditions

If Customer elects to use Safe Point Cash Capture:

- a. Customer shall enter into an agreement with the Third Party ("Third Party Agreement") which contains the terms under which the Third Party will provide a Safe to Customer and will provide other services related to the pickup and verification of currency and transmission of the deposit to the Third Party for further transmission to Bank. Customer hereby agrees that Bank shall be a third party beneficiary to the Third Party Agreement.
- b. Customer agrees that Bank's obligations under this Agreement shall terminate upon the termination of the Third Party Agreement.
- c. Customer acknowledges that all hardware and software ("Equipment"), including but not limited to the Safe, shall be provided by the Third Party. Customer shall be solely responsible for obtaining and properly maintaining its Equipment and system requirements, its electrical services, and telephone system, including computer equipment, Internet connectivity, and any other equipment or items necessary to receive the Safe Point Service. Customer agrees that the Third Party is acting as Customer's agent in the capture of the amount of the currency placed in the Safe and transmission of the electronic entry to Bank, and agrees to assume full responsibility and liability for any failure of the Equipment provided by the Third Party.
- d. Customer is solely responsible for maintaining compliance with the requirements of the Third Party, including obtaining any software updates.
- e. The Third Party shall program the smart safe to prepare and transmit the deposit entries to Third Party at a time designated in the Third Party Agreement, which shall not be earlier than midnight of the business day on which the currency is placed in the Safe. Customer acknowledges that the entry shall identify Customer by a location identification number ("LIN"), not by the Customer's account number maintained with Bank, and that Bank shall maintain a conversion table (the "Conversion Table") to convert the LIN to the Customer's account number. Customer hereby authorizes Bank to deposit the amount of the entry to Customer's account number designated in the Conversion Table. Bank shall memo post the entry to Customer's account on the date of receipt of the entry by Bank and the funds shall be reflected in the Customer's available balance on that day.
- f. Customer agrees that Customer shall be liable to Bank for any discrepancies between the amount of credit given to Customer for the Entry and the amount of currency in the Safe when verified by the Third Party and for the amount of any counterfeit currency (collectively "Discrepancies") and Bank may make adjusting entries to Customer's account, even if the adjustment creates an overdraft in customer's account, for any Discrepancies. Customer agrees that the amount of any Discrepancies shall be finally determined by the Third Party and such amount shall be conclusive and binding on Customer.
- g. The currency placed in the Safe shall remain the property of Customer until such time that the Entry is transmitted to the Third Party. Customer acknowledges and agrees that the currency becomes the property of Bank at the time that the Entry is transmitted to the Third Party.
 - i. Notwithstanding the fact that the currency becomes the property of Bank, Customer agrees that Customer assumes the liability for any loss of the currency for any reason including but not limited to fire, theft, flooding, accident or other catastrophe, or war. Customer shall be liable for such loss of the currency until such time as the Third Party signs for and takes possession of the currency.
 - ii. After the currency becomes the property of Bank, if any proceeding under the Bankruptcy Act, as amended, is commenced by or against Customer, or if Customer is adjudged insolvent, or if Customer makes any assignment for the benefit of its creditors, or if a writ of attachment or execution is levied on the Safe and its contents, the currency shall not be treated as an asset of Customer.
- h. Customer hereby agrees that in the event of a malfunction of the Equipment or if for any reason the Third Party is not able to generate and transmit the Entry, Bank shall not credit Customer's account for the amount of the currency placed in the Safe. In such event, Customer agrees that the Third Party shall physically remove the contents of the smart safe, transport the contents to Bank or Bank's agent and otherwise process the transaction as though it were a Cash Deposit and not a Safe Point Deposit.

4. Cash Order Terms and Conditions

- a. Customer must comply with all of Bank's and/or Third Party's policies and procedures regarding the placement and delivery of Cash Orders (collectively, "Cash Order Procedures").
- b. Customer agrees that Customer shall be liable to Bank for all Cash Orders issued in accordance with the Cash Order Procedures even if the Cash Order was not issued by Customer or if Customer disputes the amount of the Cash Order or if Customer claims that an error occurred in the amount of the Cash Order.
- c. Customer bears the risk of loss after the Cash Order shipment is segregated from the general inventory of currency and coin Bank maintains with the Third Party for Cash Order fulfillment.
- d. Customer further acknowledges and agrees that it must directly contract with the Third Party as part of the Third Party Agreement for the pickup and delivery of Cash Orders.
- e. Bank may provide Customer with standing orders which allow the Customer to specify a predetermined recurring standard order on specific days of the week.
- f. Customer authorizes Bank to debit the designated Account on the Business Day that the Cash Order is scheduled to be delivered to Customer by the Third Party. Bank has no obligation to release any cash under the Cash Vault Service unless there are sufficient collected and available Funds in the designated Account to pay for such Cash Order.
- g. Bank must be notified of any discrepancies pertaining to Cash Orders within one (1) Business Day of receipt by Customer of such Cash Order. Customer agrees that failure to notify Bank of any discrepancy is a waiver by Customer of any claim that Customer may have against Bank related to the discrepancy. Customer must return documentation to support a claim of a discrepancy, such as strap, coin, wrapper and/or box.

