



TREASURY MANAGEMENT MASTER AGREEMENT

V8.0

Treasury Management Master Agreement
Treasury Management Services General Terms and Conditions

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Definitions

“Account” means any deposit account, investment deposit account, reserve account, certificate of deposit, commercial loan or any other deposit or loan account that Client has established and maintained with Bank primarily or exclusively for business-related purposes, as identified in any Enrollment Form or as identified by Client through the use of Online Banking.

“Account Analysis” means the process by which Bank determines an earnings credit available to offset Service Fees based on the balances in Client’s Accounts, as described in **Section 1.2**.

“Account Disclosure Agreement” means any terms and conditions, agreements, or disclosures (including without limitation fee schedules) provided to Client relating to any Account.

“ACH Network” means the funds transfer system (network) governed by the ACH Rules, which provides for the inter-financial institution clearing of electronic Entries for participating financial institutions.

“ACH Rules” mean the rules and regulations of the National Automated Clearinghouse Association, as changed from time to time.

“ACH Transaction” means a transaction through the ACH Network.

“Administrative User” is defined in **Section 1.7.C**.

“Agreement” means this Master Treasury Services Terms and Conditions, as agreed upon by Client or its Agent and Bank by an executed Enrollment Form(s), including the terms and conditions of any executed Enrollment Form(s), the Treasury Management Authorization and any other Supplemental Documentation.

“Agent” means an individual, management services company, or other legal entity that is authorized to act on Client’s behalf in connection with the specific Services described on the relevant Enrollment Form and in this Agreement.

“Applicable Law” means all applicable federal, state, or local, laws, executive orders, ordinances, rules, or

regulations, including without limitation all applicable regulations, guidelines, and commentaries issued by the Board of Governors of the Federal Reserve, the Board of Governors of the FDIC, and the Federal Financial Institutions Examination Council, together with all applicable rules or regulations of any clearing house or other organization.

“Attorneys’ Fees” means reasonable attorneys’ fees, costs, and expenses incurred, whether or not a lawsuit or other proceeding is brought, and shall include, where applicable, fees, costs, and expenses incurred by Bank through our inside and outside counsel, whether in trial court, appellate, bankruptcy, arbitration, and regulatory proceedings.

“Authorized Offline Initiator” shall have the meaning described in the Wire Transfer Service Enrollment Form.

“Authorized Representative(s)” means each person authorized (through a document or online instruction in a format required by Bank for such authorization purposes) as the Client’s representative to enter into and perform the applicable Treasury Management service, as well as each person who Bank in good faith believes is such representative.

“Authorized Signer(s)” means the individual that is authorized to effect any transaction in an Account and to designate other individuals to effect certain transactions in an Account.

“Bank” means Pinnacle Bank any Pinnacle Bank branch where Client maintains the deposit Account(s) identified on the applicable Enrollment Form.

“Business” means the Client’s business in whose name an Account is established whether a corporation, general partnership, limited partnership, sole proprietorship, unincorporated association, limited liability company, limited liability partnership, professional corporation, professional association or any other legally established business.

“Business Day” means any calendar day that (i) is not a Saturday, Sunday, or other day on which banks in the State of Tennessee are authorized or required to close and (ii) on which the Bank is open for business.

“Cash” means United States coin and currency.

“Check” means a draft, payable on demand and drawn on or payable through or at a United States office of a bank, whether or not negotiable, that is handled for forward collection or return, including a traveler’s check, cashier’s check or Substitute Check, but does not include a non-cash item payable in a medium other than United States dollars. An instrument may be a check even though it is described on its face by another term, such as money order.

“Check Register” means the check data provided by Client to Bank for purposes of enabling Bank to review checks posted against Client’s Account.

“Master Account” means the Account designated by Client as the Master Account in connection with the Zero Balance Account Services.

“Consumer-Level ACH Data” means the following information with respect to consumer clients of an RDFI gathered by Client for the purpose of initiating ACH transactions: (i) a bank account number together with a bank account routing number; or (ii) the consumer’s name together with the consumer’s social security number.

“Controlled Disbursement Account” is defined in **Section 14**.

“Client” means Bank’s customer requesting deposit account, treasury management and/or letter of credit services either directly or through the use of an Agent, pursuant to this Agreement and one or more Enrollment Forms. The term “Client” also includes a person or entity acting as an Authorized Representative and/or Agent. Client is sometimes herein referred to as “you”. In the event EXHIBIT A is executed, the term “Client” shall include those multiple entities with different tax identification numbers listed in such exhibit.

“Day” means calendar day.

“Designated Account” means an Account held at Bank named in an Enrollment Form as the Designated Account for one or more Services by Client, or if not so named, those Account(s) indicated on the Bank’s records as the Account(s) that are primarily associated with one or more Services.

“Effective Entry Date” is defined in **Section 3.1.G**.

“Electronic Communications” means secured and unsecured electronic mail, fax transmissions and any other form of electronic communication as may be generally accepted in the banking industry.

“Electronic Funds Transfer Act” means the law passed by the U.S. Congress in 1978, which set out the rights and obligations of consumers and their financial institutions regarding the use of electronic systems to transfer funds. This act is implemented in the Federal Reserve Bank’s Regulation E.

“Enrollment Form” means any properly executed enrollment form, application form, or enrollment modification form:

- A. which has been completed by Client, its Authorized Representative or its authorized Agent; and
- B. in which Client requests one or more Services (or modifications involving such Services).

“Entry” means an “Entry” as defined in the ACH Rules, including the data that Bank receives from Client to prepare an ACH transmission.

“Entry Settlement Limit” means the maximum aggregate amount of In-Process Entries permitted to be outstanding at any time, which amount shall be separately communicated to Client by Bank in writing from time to time.

“Equipment” means any equipment provided or required by Bank or a Vendor for use in a Service.

“Fedwire” means the funds transfer system owned and operated by the Federal Reserve Banks that is used primarily for the transmission and settlement of payment orders governed by the Fedwire Regulation.

“Fedwire Regulation” means subpart B of Regulation J of the Board of Governors of the Federal Reserve System, as amended from time to time.

“Fee Schedule” means the schedule of fees published by the Bank from time to time which contains the Service Fees and fees and charges for all other products and services provided by the Bank as further defined in **Section 1.2**.

“File” means, with regard to the ACH Origination Service, a group of ACH entries stored for delivery to an ACH receiving point.

“Indemnity” or **“Indemnification”** means to indemnify and hold harmless the Bank its employees, officers, directors, shareholders, attorneys, and agents (referred to herein both individually and collectively as an “Indemnified Party”) for all liabilities, claims, causes of action, lawsuits, demands, and damages of any nature, including Attorneys’ Fees, whether or not an action is brought, sustained or incurred by the Indemnified Party in connection with the event or transaction to which the duty to indemnify relates.

“In-Process Entries” means the aggregate dollar amount of all credit or debit Entries initiated by Client and in process on any date for which settlement has not occurred with respect to credit Entries, or the applicable period for the return of items has not expired with respect to debit Entries.

“Instruction” means any instruction Client issues to Bank, either electronically, verbally or in writing, to perform certain Services, including without limitation, Online Banking transactions and Requests.

“Licensed Software” means any software required for use by Client in connection with the RDC Service and provided to Client by Bank through the sublicense set forth in **Section 7**.

“Loan Obligation” means an existing loan obligation of Client to Bank and all modifications, renewals and substitutions thereof.

“Master Funding Account” has the meaning set forth in **Section 14**.

“Material Adverse Change” means a change that could result in a material adverse effect on (i) the operations, business or financial condition of Client and its subsidiaries taken as a whole, (ii) the ability of Client to repay any Loan Obligation(s) or otherwise perform its obligations under the Loan Documents, or (iii) Client’s interest in, or the value, perfection or priority of Bank’s security interest in any collateral of Client.

“MICR Line” means the line on the bottom of an original Check, containing information concerning the Check and printed in Magnetic Ink Character Recognition form.

“NACHA” means the National Automated Clearing House Association.

“NOC” has the meaning set forth in **Section 3.1.E**.

“ODFI” or **“Originating Depository Financial Institution”** means a financial institution that originates ACH transactions on behalf of its Clients. ODFIs must abide by the NACHA Operating Rules.

“Offline Request” has the meaning set forth in **Section 6.3**.

“Online Banking Service” or **“Online Banking”** means Bank’s business Internet banking balance reporting and treasury management/cash management service system.

“Online Request” means a wire transfer or ACH Entry request through the Online Banking Service.

“Online Transactions” means Online Requests and/or Entries that the Client initiates through the Online Banking Service as defined in **Section 1.6.B**.

“Operating Account” is defined in **Section 12**.

“Originator” means an “Originator” as defined in the ACH Rules.

“Over limit Entry” means an Entry the amount of which would cause the aggregate amount of In-Process Entries to exceed the Entry Settlement Limit.

“Payment Account” is the Account a Client designates payment of Service Fees.

“RDFI” or **“Receiving Depository Financial Institution”** means a financial institution qualified by NACHA to receive ACH transactions.

“Receiver” means an individual, corporation, or other entity that has authorized an Originator to initiate a credit or debit Entry to an account held at an RDFI.

“Regulation E” means the regulation published by the Federal Reserve Bank to implement the Electronic Fund Transfer Act mandating consumer rights and obligations with regard to electronic fund transfers.

“Repetitive Transfer” means wire transfers in which the receiving bank, payee, and account are the same for each transfer, and only the transfer date and amount vary.

“Repurchase Investment” is defined in **Section 13.1**.

“Repurchase Investment Account” means an internal Bank account into which funds shall be credited and debited to reflect Repurchase Transactions.

“Repurchase Transaction” is defined in **Section 13.1**.

“Request” means a Client’s request to Bank for a wire transfer, or for a cancellation or amendment of a wire transfer, made in the name, or having the unique identifier, of Client as sender requesting that funds belonging to, or under the control of, Client be transferred to a specified account or beneficiary. The term “Request” includes Online Requests and Offline Requests.

“Restricted Information” means any credit card numbers, debit card numbers, social security numbers or government-issued identification numbers.

“Reversal” means a “Reversal” as defined in the ACH Rules.

“Return Entry” or **“Return Entries”** mean any item which cannot be processed and is being returned by the RDFI to the ODFI for correction or re-initiation.

“Security Procedures” means the security procedures (including without limitation the identification codes, encryption, passwords, logon identifications, personal or credit lineation identification numbers, repetitive codes, and other security devices, systems and/or software) applicable to a particular Service agreed to by Client and set forth in this Agreement, the Supplemental Documentation or in an Enrollment Form.

“Service” means each deposit account service or treasury management service described in this Agreement.

“Service Fee” means the charges, fees, and assessments established by Bank from time to time as applicable to each Service, which may include, but is not limited to, fees from any third party agents, Vendors, or contractors engaged to provide services to Bank, and Bank’s cost for providing the service.

“Settlement Date” means the date on which settlement occurs, i.e., an exchange of funds with respect to an Entry is reflected on the books of the Federal Reserve Bank and/or a correspondent bank.

“Settlement Process” means the closing process on each Business Day by which Bank transfers money between the Master Account and the Subsidiary Account to ensure that all items drawn on the Subsidiary Account are paid and that the Subsidiary Account maintains a Target Balance at the end of such closing process.

“Subsidiary Account” means the Account designated on a Zero Balance Account Services Enrollment Form as the Subsidiary Account.

“Substitute Check” means a paper reproduction of the original Check that:

- contains an accurate image of the front and back of the original Check at the time the check was truncated;
- bears the legend, “This is a legal copy of your check. You can use it in the same way you would use the original check.”;
- bears a MICR Line containing all the information on the MICR Line of the original Check, except as provided under generally applicable industry standards for substitute checks to facilitate the processing of substitute checks; conforms, in paper stock, dimension, and otherwise, with generally applicable industry standards for substitute checks; and
- is suitable for automated processing in the same manner as the original Check.

“Sub-users” has the meaning given it in **Section 1.7(c)**

“Supplemental Documentation” means supplemental information provided to Client from time to time by Bank with respect to certain Services, including instructions, Security Procedures, and operational guidelines.

“Sweep Account” means a deposit account designated under the Business Sweep Service, linked to a Bank line of credit and/or Bank deposit account, to or from which balances are moved.

“Target Balance” means the amount specified by Client as the target balance for the Designated Account.

“Uniform Commercial Code Article 4A” means the portion of the Uniform Commercial Code which deals with certain funds transfers, including ACH credit transactions not subject to the Electronic Fund Transfer Act of Regulation E. This law outlines the protections and responsibilities given to the parties to wholesale credit transactions and sets the legal standard for commercially reasonable security procedures to be used in conjunction with those transactions.

“User” or “Authorized User” means an employee or Agent designated by Client’s Administrative User from time to time as being authorized to issue Instructions on Client’s behalf.

“User Manual” means, collectively, any on-line or printed instructions and any licensing or other related agreements regarding any treasury management service as may be amended, modified, and supplemented from time to time.

“Vendor” is a third party that provides Equipment, Licensed Software, or services to Client or Bank.

“We”, “Our” and “Us” means Pinnacle Bank, and as applicable, its officers, employees, directors, shareholders, attorneys, and agents.

“Wire Transfer” means any transfer of funds into or out of a Client’s Account(s), whether accomplished via Fedwire or other wire transfer service.

“Wire Transfer Business Day” means any Business Day, provided however, that the end of the Wire Transfer Business Day is determined by a wire transfer deadline set by Bank and such deadline is subject to change from time to time.

“Wire Transfer Entries” means data the Bank receives relating to the transfer of funds between your Accounts which are authorized to use the Service. It also permits you to issue Instructions to transfer funds from your Accounts which are authorized to use the Service to accounts at other financial institutions.

“You” and “Your” means the Business that owns the Account and/or enrolls for Services and anyone else with the authority to deposit, withdraw, or exercise control over funds in the Account, or in any other way effect transactions in an Account and receive Services hereunder. You also are herein sometimes referred to as Client.

Introduction

Pinnacle Bank offers a variety of deposit account and treasury management services to its Clients. This Agreement sets forth the terms and conditions applicable to all of the Services offered by Bank. By executing one or more Enrollment Forms associated with one or more Services, or by using one or more Services, Client accepts the terms of this Agreement and acknowledges that this Agreement, each Enrollment Form executed by Client or its Agent, and any Supplemental Documentation govern the Services. When Client adds a new Service or any information on an existing Treasury Management Enrollment Form shall become inaccurate, incomplete, or incorrect in any material respect, Client must complete and execute a revised Treasury Management Enrollment Form together with any associated Supplemental Documentation. Client may begin using Services when Bank has received all required and properly executed forms and Client has received and successfully completed any testing or training requirements.

In the event that Client has designated an Agent to act on Client's behalf with respect to this Agreement, Bank will accept all Instructions from such Agent upon receipt of evidence satisfactory to Bank, in its sole discretion, of Agent's ability to act on behalf of Client. Bank may continue to accept such Instructions from an Agent until Bank has received written notice of revocation or termination of such Agent's authority from a representative demonstrating authority to act on behalf of Client, in a form and manner reasonably satisfactory to Bank.

If Client executes any Enrollment Form for a particular Service that references this Agreement, Client agrees that the terms and conditions set forth in this Agreement, as may be amended from time to time, govern such Service(s) Client may currently receive from Bank and shall supersede and replace any prior agreement(s) between Client and Bank governing such Service(s). All Services involving any Accounts remain subject to other agreements concerning such Accounts, including without limitation, any loan agreement and any Account Disclosure Agreement and availability schedules in effect from time to time.

Section 1 of this Agreement applies to all Services. Unless specifically provided otherwise herein, each of **Sections 2 - 15** is applicable only to the specific Service described therein.

Section 1 General Terms and Conditions

1.1 Enrollment and Modification

- A. **Enrollment.** Before Client can enroll in a Service, Client must have executed an Enrollment Form(s) requesting such Service. An Agent may execute an Enrollment Form requesting Services on behalf of Client upon furnishing evidence of Client's authorization, which must be satisfactory to Bank in Bank's sole discretion. Client may add or delete Services by requesting such additions or deletions through the execution of additional Enrollment Forms or such other documentation, acknowledgement and/or contracts for Services as may be required by Bank. Subject to Bank's approval, Client may change the processing instructions for a Service by providing notice to Bank in accordance with **Section 1.5.A**. Bank may accept any Instruction which purports to be from Client's Agent, or an officer or principal of Client, and Bank will not be obligated to verify the authenticity of the requests purporting to be from Client, except as otherwise required by specific Security Procedures pertaining to OLB Transactions (including Online Transactions), Requests, and/or Entries. Bank may require that certain Instructions be in writing and in a certain form. Bank may also require Client to execute a new Enrollment Form, if applicable, reflecting any modifications
- B. **Underwriting.** Client approval for use of any Service may be subject to underwriting criteria established by Bank, which may change from time to time. Bank is required by its regulators to analyze its business Clients' financial information on an ongoing basis. Upon Bank's request, Client agrees to provide Bank: (i) at least annually, with financial statements, tax returns, bank statements (from other financial institutions), and (ii) other such financial, business, and operating documentation as Bank may reasonably request from time to time. By requesting to open an Account with us, or by agreeing to be a signer on an Account, or by obtaining any other Service from us, you agree that we may obtain credit and employment information by any means, including obtaining information from check or credit-reporting agencies and/or from other sources. You also agree that we may obtain credit reports on your Business from time to time in the future

when updating, renewing, or extending your Account. We may do so at the time you open your Account, at any time while your Account is open, or after your Account is closed, if you owe us any amount related to your Account.

- C. **Modifications to this Agreement.** Bank may modify the terms and conditions contained in this Agreement, as applicable to all Services, and/or may modify the terms and conditions for any particular Service (including without limitation the terms and conditions of any schedule, addendum, appendix, or exhibit related to a Service or Enrollment Form), and/or Bank may modify its separate Fee Schedule for banking services (which are in addition to the Service Fees), and/or Bank may modify its schedule containing cut-off times for various transactions (the "Cut-Off Time Schedule") from time to time by doing either of the following: (i) by Electronic Communication, or (ii) delivering notice of the modification to Client in accordance with **Section 1.5.A** (referred to herein individually and collectively as "Notification of Change").

Bank may, in its sole discretion, require additional or new Security Procedures and/or change any Security Procedure(s) from time to time, effective immediately upon Notification of Change. Client's continued use of a Service after Bank has required new or additional Security Procedures, or changed the Security Procedures, shall constitute Client's agreement that such Security Procedures are commercially reasonable for Client. Bank shall not be obligated to act on a communication not transmitted in accordance with the Security Procedures and may refuse to act on any communication where Bank reasonably doubts its authorization, contents, origination, or compliance with the Security Procedures. Bank shall have no duty to discover, and shall not be liable for, errors or omissions by Client. Except for modifications dealing with Security Procedures or other modification that may be required by Applicable Law or by Bank's regulators, any modification(s) of the terms and conditions of this Agreement shall take effect thirty (30) Days after Bank has provided and such modification(s) will be deemed to be accepted and agreed to in their entirety by Client when it uses any of the Services following such period. Such modifications shall not apply retroactively to their effective date.

- D. **Termination.** Bank may immediately suspend or terminate any Service provided to Client for cause without notice if Client or Client's Agent: (a) does not comply with this Agreement, ACH Rules, Applicable Law, or any other agreement between Client and Bank, including the agreement contained in the Account Disclosure Agreement or Supplemental Documentation; (b) becomes insolvent, or files, or has filed against it, any bankruptcy or other insolvency, reorganization, liquidation, or dissolution proceeding of any kind; (c) has a Material Adverse Change occur in its business or financial condition; or (d) fails to provide financial information requested by Bank. Additionally, (i) Bank may immediately suspend or terminate this Agreement or any Service if Bank has reason to believe that Client or Client's Agent has engaged in fraudulent or illegal activity, and (ii) Bank may suspend or terminate a particular Service for cause without notice as more fully set forth in the section of this Agreement applicable to such Service. In addition, Bank may (i) immediately terminate or suspend any Service if any of Bank's third party providers of a Service terminate or suspend such Service, and (ii) terminate this Agreement for convenience and cease providing any Services at any time, in Bank's sole discretion, by providing Client with thirty (30) days' prior written notice. Except as otherwise specifically provided in an Enrollment Form or Supplemental Documentation with regard to a particular Service, Client may terminate any Service for convenience upon written notice to Bank (provided Bank shall have a reasonable time to respond to such notice in terminating the affected Service(s)). The parties agree that, after any termination, this Agreement and the relevant Enrollment Form(s) will continue to apply to all transactions (including without limitation Entries, wire transfers, and Online Transactions) which were initiated prior to termination and that any other terms which, by their nature, should survive termination (including but not limited to Indemnification and limitation of liability provisions), shall survive termination, as applicable.

- E. **Execution.** This Agreement, the Enrollment Form and any Supplemental Documentation may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The

counterparts of this Agreement, the Enrollment Form and any Supplemental Documentation may be executed via “wet” signature or electronic mark and may be delivered using .pdf or similar file type transmitted via electronic mail, cloud based server, e-signature technology or other similar electronic means (including, without limitation, use of an electronic signature service such as DocuSign).

1.2 Payment Terms

Client shall pay Bank the Service Fees established by Bank from time to time and disclosed to Client. Service Fees may be modified by Bank in its sole discretion without any further agreement needed from Client from time to time by providing notice to Client pursuant to **Section 1.1.C**. Service Fees provided pursuant to this Agreement are in addition to fees for other banking services you may receive from us as provided to you in our separate fee schedule (“Fee Schedule”). For Clients who chose Account Analysis statements, Service Fees shall be offset in whole or in part by applying earnings credit obtained through Account Analysis. Earnings credit is calculated by Bank for Client’s Account(s), based on applying a rate established by Bank from time to time to the total of Client’s average monthly positive collected balances. Client may receive an Account Analysis statement, as agreed to by Client and Bank, that will disclose the analyzed Service Fees for the applicable period and the earnings credit rate. Any Service Fees and other costs payable by Client that exceed the earnings credit for the applicable period will be deducted from the Payment Account on a monthly basis. If no Payment Account is designated [on an Enrollment Form], or if the Payment Account does not have sufficient funds, then one or more other Accounts may be used by Bank for payment of Service Fees. Similarly, if Client does not qualify for Account Analysis, Service Fees and other fees for banking services, as provided in the Account Disclosure Agreement, shall be deducted from the Payment Account on a monthly basis, and Client agrees to maintain sufficient funds in the Payment Account to pay such fees as they become due. In addition to Service Fees and other fees for banking services as provided in the Account Disclosure Agreement, Client will be responsible for:

- all Attorneys’ Fees and other costs and expenses Bank may incur in collecting amounts Client owes Bank in connection with any Service;

- the amount of any taxes levied or based on the Service Fees, if any, including without limitation, federal, state, or Credit Lineal privilege, excise, or sales taxes;
- any third-party expenses incurred by Bank on behalf of Client; and
- any additional charges for services you request that are not covered by the Agreement.

No Service Fees will be refunded or prorated if a Service is terminated prior to the end of a month, including any credits related to Account Analysis, which shall be forfeited.

1.3 Legal Actions Affecting the Services

If we are served with a subpoena, restraining order, writ of attachment or execution, levy, garnishment, search warrant, or similar order relating to the Services and/or your Account (each a “Legal Action”), we will comply with that Legal Action. In these cases, we will not have any liability to you if there are insufficient funds to pay your items because we have withdrawn funds from your Account, or if we have in any way restricted access to your funds or the Services in accordance with the Legal Action. Any fees or expenses we incur in responding to any Legal Action (including, without limitation, Attorneys’ Fees and our internal expenses) may be charged against your Account. The list of fees provided elsewhere applicable to your Account(s) and the Services may specify additional fees that we may charge for certain Legal Actions but are not intended to be exclusive nor exhaustive.

1.4 Confidentiality

- A. **General Confidentiality.** Bank will maintain the confidentiality of information obtained from Client in accordance with Applicable Law and Bank’s policies and procedures for safeguarding commercial Client information. All user guides, manuals, data, software, processes, specifications, programs, concepts, techniques, and other information provided to Client in connection with the Services, along with all fee and pricing information with respect to the Services (“Information”), are the proprietary and confidential property of Bank and/or its relevant licensors or suppliers. Client agrees to use the Information only in the manner specified by Bank and in the ordinary course of Client’s business, to return it to Bank upon termination of the relevant Service, and to keep the Information confidential

and limit access thereto only to its Agents, officers, employees, and other representatives who require access in the normal course of their duties and are bound by written confidentiality obligations at least as stringent as Client's obligations hereunder, except to the extent the Information is already in the public domain. In addition, Client may disclose Information to the minimum extent required pursuant to a subpoena, or requirement of a governmental agency or law so long as Client (i) provides the Bank with notice (if permitted by the agency or law) prior to any such disclosure to afford the Bank the opportunity to oppose disclosure, and (ii) takes all reasonable steps to maintain the information in confidence. Client shall notify Bank immediately if any of Information is lost or its confidentiality is reasonably believed to be compromised.

- B. **Exceptions.** This **Section 1.4** does not limit either Bank's or Client's ability to disclose information: (i) with prior approval in writing or fax or e-mail from the other party, (ii) to its attorneys, accountants, auditors or other professional advisors, or to Client's Agents who are under a similar contractual or professional duty of confidentiality, (iii) that becomes public prior to such disclosure through legal means (other than a breach of this Agreement or a breach of obligations of a third party), or (iv) that was in its possession or available to it prior to its receipt in connection with a Service hereunder.

1.5 Communication Terms

- A. **Notices.** All communication and notices provided pursuant to this Agreement will be provided in writing to the other party at the postal, e-mail, fax or other address on any Enrollment Form. Unless we agree otherwise, change of address or name must be made in writing by the Authorized Signer(s). Informing us of your address or name change in any other manner is not sufficient. Notices will be deemed to have been given or made (i) when received, if delivered by hand or courier, or (ii) three (3) Business Days after such notice is deposited in the United States mail, or (iii) if sent by e-mail, express mail or fax, the earliest to occur of its actual receipt by the intended recipient or the Business Day following the day in which it was sent; provided, however, that Bank shall not be deemed to have received an

e-mail or fax until Bank confirms such receipt by returning a fax or e-mail to Client. Any notice or communication sent to you at the postal, e-mail, fax or other address noted in our records shall be effective unless we have received an address change notice from you and have had a reasonable opportunity to act on it. We may impose a service fee if any notice or communication sent to you is returned to us, and we attempt to locate you; however, you understand and agree that we are not required to locate you if you fail to provide an address change notice. If you fail to notify us of a change of address or for any other reason a statement is returned to us, we may destroy the statement and any accompanying items that are returned to us.

- B. **Electronic Communication.** If Client provides an e-mail address for itself or its Agent(s) listed on any Enrollment Form(s) (as updated by Client from time to time), Client consents and agrees to receive information and notices at such e-mail address from Bank via Electronic Communication. Client understands that Electronic Communications are inherently unsecure due to the possibility of error, delay, or observation or receipt by an unauthorized person.
- C. **Death, Incompetence, or Cease of Business.** You shall notify us promptly if an Authorized Signer(s) dies, becomes legally incompetent, or is no longer authorized to act on your behalf. We may continue to honor an Authorized Signer's purported Instructions until we (i) know of his/her death or incompetence, and (ii) have had a reasonable opportunity to act on that knowledge. Regardless of whether we have knowledge of the Authorized Signer's death, unless we are ordered to stop payment by someone claiming an interest in the Account, we may in our discretion pay or certify checks drawn on or before the date of death or legal incompetence for up to ten (10) days after an Authorized Signer's death or legal incompetence. You shall also promptly notify us if the Business merges into another entity, if the Business is dissolved, or if the Business ceases operations for any reason.

1.6 General Security Procedures

This **Section 1.6** shall apply to all the Services offered in the Agreement.

A. **Security Controls.** You shall establish and maintain physical, electronic, and administrative security controls regarding access to banking and funds transfers systems, bookkeeping and accounting functions, the use and safe keeping of all bank checks, unused check stock, Personal Identification Numbers ("PINs"), ATM/debit cards, credit cards, User IDs, passwords, and any other item or instrument related to your Account and/or any Service. You shall immediately notify our Treasury Management Client Support Department at the number provided by Bank in the Supplemental Documentation if any of these systems or items are or may have been lost, stolen, or used without your authorization, or if you believe there is an error on your periodic Account statement. You are responsible for reasonable security and control measures for your Account including but not limited to:

- maintaining written internal policies and/or procedures for handling and securing bank related information;
- reviewing all statements and other documents received from Bank immediately upon receipt;
- securing check stock and limiting access to only those who have check writing authorization; periodically auditing unused check stock;
- instituting dual controls standards for handling check stock;
- reviewing Account activity daily through Online Banking in addition to monthly reconciliation; never leaving your computer unattended while using Online Banking. Once your banking is completed, signing off, and closing your browser before leaving your computer;
- never sharing your Online Banking User ID/password, or other Account information (including your Account number & ATM PIN). Sharing this information constitutes a misuse and therefore all transactions initiated by those with whom you shared information will be considered as authorized by you, regardless of whether you intended those transactions to be made;
- limiting the number of your employees authorized by you to have Online Banking access and issuing separate User IDs and passwords for each of your Authorized Users; and

- reviewing information provided by the Bank from time to time regarding recommendations involving Account security.

B. **Review of Statements.** You must promptly review your statements, checks, debit slips, items, and any other records sent or made available to you (whether by mail, at our offices or electronically) to determine whether any debit to your Account was improper, unauthorized, suspicious, or fraudulent because of an unauthorized drawer's signature, alteration or unauthorized endorsement on an item or withdrawal request or for any other reason (collectively, "Unauthorized Debit"). You must provide written notice to Bank of an Unauthorized Debit immediately upon discovery and in no event more than fourteen (14) days after the first statement containing the first Unauthorized Debit was sent or otherwise made available to you. Such notice shall include identifying the Unauthorized Debit by item number, amount, payee, date, and the reason that you are objecting to the Unauthorized Debit and any other information that we may request. If you fail to timely discover and report an Unauthorized Debit, you will be precluded from asserting against us (i) the Unauthorized Debit (if we prove that we suffered a loss by reason of your untimely report) and (ii) any other Unauthorized Debit by the same wrongdoer (if paid in good faith by us before we received your report and after you have had a reasonable time not exceeding fourteen (14) days after the first statement containing the first Unauthorized Debit was sent or otherwise made available to you). If the previous sentence applies and you prove that we failed to exercise ordinary care in paying the item constituting the Unauthorized Debit, which failure substantially contributed to the loss, then the loss will be allocated between you and us according to the extent to which each of you and we failed to exercise ordinary care. For avoidance of doubt, Bank shall be deemed to have exercised ordinary care if it effected any Online Banking request, Entry, intra-Account transfer, Online Banking stop payment request, or other funds Online Banking transfer (any of which, an "OLB Transaction") with User IDs and/or passwords associated with the Client and/or Client's Users, unless Client first provided notice of Unauthorized Transactions involving such User IDs and/or Passwords and

Bank had reasonable time to act upon such notice. If you elect to review your statements electronically via the Internet, you authorize us to retain and copy at our expense all checks, drafts, debits, and credit advice for the Account. After the original documents have been copied, they will be destroyed, but will be available for viewing online for a period of one (1) year. Copies of items are maintained by us as required by law. The same restrictions for notifying us about an unauthorized signature, unauthorized endorsement, or alteration, as contained in this Agreement, apply to electronic statements.

C. **Unauthorized Activity.** If you report an Unauthorized Debit and we believe that your Account has been the target of criminal activity, we may restrict access to your compromised Account, issue replacements for lost or stolen checks, PINs, ATM/debit cards, credit cards, User IDs, passwords or other items or instruments, but only after you have provided such proof and security or Indemnification as we may require. In addition, we may decide in our sole discretion to close your Account and have you open a new account to help prevent future losses. Client will regularly and promptly review and verify all information provided to it concerning the Services, including without limitation Account statements, reports, Check payment records, adjustments, charges, and/or other billing statements, and other transactions and, within a reasonable time (which in no event will be greater than fourteen (14) days) will notify Bank of any error or discrepancy between Client records and any Bank notice or statement, or any Unauthorized Debit. Unless otherwise required by Applicable Law, Client's failure to notify Bank of such error, discrepancy, or Unauthorized Debit within fourteen (14) Days after the first statement containing the first Unauthorized Debit was sent or otherwise made available to you shall relieve Bank of any liability.

D. **Errors and Questions.** You must notify us immediately if you discover or believe an Unauthorized Debit or error occurred on your Account(s). Notices and questions concerning transactions completed with one or more of the Services should be directed to the phone number and/or address designated by Bank in its Supplemental Documentation.

E. **Claim of Loss.** If you claim a credit or refund because of an Unauthorized Debit, you shall cooperate with us in the investigation of the loss, including giving us an affidavit of indemnity and any other information we may require concerning your Account, the transaction, and the circumstances surrounding the loss. You shall promptly notify law enforcement authorities of any criminal act related to the Unauthorized Debit and provide to us a copy of the police report. You must also agree to prosecute the perpetrator to the fullest extent of the law. We will have a reasonable period of time to investigate the facts and circumstances surrounding any claim of loss. If in our commercially reasonable judgment we determine after the investigation that you failed to exercise reasonable care in securing checks, passwords, or otherwise violated our required Security Controls or Online Banking Security Controls, then we shall not be liable for such Unauthorized Debit.

F. **Recovery from Third Parties.** You shall not waive any rights you have to recover a loss stemming from an Unauthorized Debit against anyone who is obligated to repay, insure, or otherwise reimburse you for your loss. You shall pursue your rights, or at our option, assign them to us so that we may pursue them. Any liability we may have to you will be reduced by the amount you recover, or are entitled to recover, from these other sources.

G. **Contact by the Bank.** No Bank employee, or any company affiliated with the Bank, will contact you via e-mail or phone requesting your account information or security information. If you are contacted by anyone requesting this information, please contact the Bank immediately.

1.7 Security Procedures for Online Banking Service

This **Section 1.7** shall apply to all Services offered in the Agreement that are accessed via Online Banking. In the event of a conflict between **Section 1.6** and this **Section 1.7**, this **Section 1.7** shall control.

A. **Use of Security Procedures.** Bank and Client agree to use the Security Procedures set forth in this **Section 1.7** (in conjunction with additional Security Procedures, if any, contained in the Supplemental Documentation or an Enrollment

Form with regard to a particular Service) in connection with the Services offered in the Agreement that are accessed via Online Banking or the Internet. Client agrees that such Security Procedures are commercially reasonable for Client, and Client shall be bound by any Instructions, Entries, wire transfer Request, fund transfer, transaction, service change order, or any other communication that is acted upon by Bank in accordance with the Security Procedures. Client acknowledges and agrees that the Security Procedures are not for the purpose of detecting errors in the transmission or content of any information, Entries, wire transfer Request, fund transfer, transaction, service change order, Instruction, or any other communication transmitted by Client. No security procedure for the detection of any such error has been agreed upon between Bank and Client. If Client selects certain security procedures to use in connection with a Service and the selected security procedures provide less protection than other Security Procedures offered by Bank, Client understands and agrees that (i) Client waives the protection afforded by the Security Procedures it declined to select, (ii) the security procedures selected by Client shall be deemed to be commercially reasonable, and (iii) Client shall indemnify and hold Bank harmless from and against all losses and liabilities relating directly or indirectly to Client's use of such security procedures selected by Client. Bank reserves the right to issue new Security Procedures through the use of Supplemental Documentation and/or Enrollment Forms, in connection with particular Services that allow OLB Transactions, and/or (ii) establish additional security through the use of other types of multi-factor authentication. Bank reserves the right to audit Client's compliance with the Security Procedures at any time and at Client's expense, and to mandate controls or suspend Services until Client complies with such Security Procedures.

- B. Client Review of Security Procedures.** Client agrees to review and implement all Security Procedures available in connection with Online Banking, including procedures to protect the confidentiality of its authentication credentials (such as User IDs and passwords of Authorized Users). In addition, the Bank may post important security notices on its website and/or send Client

and/or Authorized Users security related notices or reminders; Client agrees to read all such security notices. Client agrees to notify Bank in the event that Client's use of Online Banking would be better served by a level of security that exceeds that offered by the Online Banking Service. If Client fails to notify the Bank, Client acknowledges and agrees that the Security Procedures of Online Banking are appropriate for its needs and will provide Client with a commercially reasonable degree of security against unauthorized use.

- C. Administrative Users.** You can use Online Banking for online access to other Services, such as the ACH Origination Service or Wire Transfer Service. As part of your enrollment in the Online Banking Service, you agree to select and identify to us, in the Online Banking Enrollment Form, one or more "Administrative Users", who will be shown on our records as the authorized Administrative Users for your Services (including without limitation the Online Banking Service, ACH Origination Service, and Wire Transfer Service). You agree that only designated Administrative User(s) may: (i) add additional Users (each a "Sub- User") to gain access via Online Banking for your enrolled Services; (ii) provide each Sub-User with a unique User authentication credential; and (iii) grant each Sub-User access to additional Services. You agree to have each Sub- User use a unique authentication credential for connection to Online Banking.
- D. Authorized Users.** You certify and warrant that each individual signing the Enrollment Form for Services has been properly authorized and empowered to do so and the Administrative User(s) you appoint has been properly authorized and empowered to add additional Sub-Users for your Services or any part of the Services, and that we may rely without inquiry or liability upon the instructions of the Administrative User(s). You warrant and represent to us that those Sub-Users added to your Services by the Administrative User have your full authority to be added as a Sub-User for the Services.
- E. Authentication Credentials Protection.** The Client shall establish and maintain procedures to safeguard against unauthorized OLB Transactions. Client agrees to: (1) limit access to authentication credentials to persons who have a need to know

such information; (2) closely and regularly monitor the activities of employees who access Online Banking; and (3) prohibit its employees and agents from initiating OLB Transactions without proper supervision and adequate controls. The Client warrants that no individual will be allowed to initiate OLB Transactions in the absence of proper supervision and safeguards and agrees to maintain the confidentiality of the Security Procedures and any authentication credentials, passwords, PINs, codes, security devices and related instructions provided by Bank in connection with the Security Procedures described. Client acknowledges that no person from Bank will ever ask for any Passwords, and that Bank employees do not need and should not ask for authentication credentials. Client shall change its user authentication credentials at least every ninety (90) days (or such shorter period as may from time to time be established by Bank) and whenever anyone who has had access to an authentication credential is no longer employed or authorized by Client to use Online Banking. Bank may require Client to change its authentication credential at any time.

- F. **Authorized Transactions.** Client hereby acknowledges that any Administrative User of the Client designated under the Agreement shall be granted authority to: (i) authorize one or more Sub-Users to initiate transactions via Online Banking, including but not limited to Requests via Online Banking; (ii) authorize one or more Sub-Users to initiate ACH Entries via Online Banking; (iii) authorize one or more Sub-Users to initiate intra-Account transfers; (iv) authorize one or more Sub-Users to initiate stop payment requests via Online Banking; (v) authorize one or more Sub-Users to initiate and/or terminate wire transactions via Online Banking; (vi) establish unique temporary authentication credentials for each Online Banking Service Sub-User, which will require immediate change by Sub-User at first login; and (vii) establish limits on each such Sub-User's authority to access Account information and conduct transactions. Client is solely responsible for the actions of its Administrative User, the authority the Administrative User gives others to act on its behalf, and the actions of any Sub-User who uses the Services. Any OLB Transaction effected with User IDs and/or passwords associated with the Client and/or

Client's Administrative User or Sub-User shall be deemed to be authorized transactions, including without limitation transactions resulting from phishing attacks, spoofed websites, malware, trojan viruses, or other third party attempts to compromise confidential Account information under your control or the control of your employees and/or agents. You agree that you and/or your Administrative User shall remove User access to the Online Banking Service for all persons no longer authorized to have such access. If any of your Administrative User or other Users gives an unauthorized person his/her authentication credential, you are responsible for all transactions that person performs using your Services. All transactions that unauthorized person performs, even those transactions you did not intend or want performed (including without limitation fraudulent transactions), shall be deemed to be authorized transactions and you shall have no recourse against us relating to such transactions. Client acknowledges that it may have multiple Accounts for which it authorizes access to the online Services, which may or may not have the same tax identification number or social security number. Client further acknowledges that Client alone is responsible for monitoring access to such Accounts by its officers, employees, and Agents, and that Bank shall have no liability for any Client employee, Administrative User, Agent, Agent employee, or other User gaining unauthorized access to any Accounts, or performing unauthorized transfers between any Accounts or any intentional or fraudulent misconduct. Authorized Users may communicate with the Bank using the secure e-mail service available through Online Banking. Bank shall be entitled to rely on any written notice or other written communication contained in a secure e-mail purported to be from an Authorized User, which is received via the Online Banking Service, and such communication shall be deemed to be authorized by Client.

- G. **Authentication Credential Revocation.** The Bank will establish a limit on unsuccessful attempts to use an authentication credential, and access to Online Banking will be denied if a User exceeds such limit. To re-establish authorization to use Online Banking, non-Administrative Users must contact the Administrative User to have the authentication credential reset or obtain a new

temporary authentication credential. Administrative Users must either use the function in Online Banking or contact Online Banking Client Support to have the authentication credential reset or obtain a temporary authentication credential. For Client's protection, Authorized Users should sign off after every Online Banking session and close their Internet browser to ensure confidentiality.

- H. **Online Services Support.** Client understands that Bank may only work with Client-designated Administrative Users for support of the Online Banking Services, including without limitation the online wire transfer services and the ACH Origination Service.
- I. **Keeping Administrative User Documentation Current.** The Client is responsible for keeping their Administrative User information current with Bank and shall promptly contact Online Banking Client Support to update Administrative User documentation when any changes occur involving Client's Administrative User(s) responsibilities involving Online Banking. This information is provided to Bank upon initial set up of the Online Banking Service.
- J. **Security Procedures for Online Transactions.** Bank and Client agree that the Security Procedures involving Online Transactions initiated through Online Banking shall be as follows: (i) both a User ID and password associated with Client, Client's Administrative User, or a Sub-User (any of whom would be deemed an Authorized User) must be used to gain access to Online Banking; (ii) in the event unusual login or transaction activity is detected, Bank shall use a limited number of challenge questions to help verify the identity of the individual attempting to access Online Banking; and (iii) authentication hardware and/or authentication software (either of which, a "Security Token") shall be used, which Security Token generates one-time passwords, and such one-time passwords must be entered before access to Online Transactions via Online Banking is granted. Bank, in its sole discretion, may (i) establish additional Security Procedures through the use of Supplemental Documentation and/or Enrollment Forms, in connection with particular Services that allow Online Transactions; and/or (ii) establish additional security through the use of

other types of multi-factor authentication.

- K. **Computer Network Protection.** Client shall be solely responsible for maintaining commercially reasonable accounting, network security, and computer security audit policies and procedures with regard to computers and networks used to access Online Banking. Client shall monitor Accounts on at least a daily basis and immediately notify Bank of any suspicious activity, including without limitation unexpected authentication credential resets, unknown transactions, suspected User credential compromises, suspected embezzlement, or any other circumstances that might compromise Client's computer(s), network, or Account security. In accessing Services through Online Banking, Client shall provide annual training to its employee(s) as part of Client's internal security program.
- L. **Notice of Unauthorized OLB Transactions.** If the Client believes or suspects that any such information or instructions have been known or accessed by unauthorized persons, the Client agrees to notify Bank immediately (by phone or electronic mail) and follow such immediate notification with written confirmation. The occurrence of unauthorized access will not affect any OLB Transactions made in good faith by Bank (i) prior to receipt of such notification, or (ii) within a reasonable time period after such notice, and Bank shall have no liability for the same.
- M. **Hardware and Software Maintenance.** Use of the Services is at your own risk. You are responsible for the installation, maintenance, and operation of your computer, Internet browser software, and other software, including without limitation, maintaining current software upgrades and applying critical security patches. You shall be responsible for internal and external intrusion testing of your network system, as well as systemic or operational risk contingency planning with regard to your network system. You are also responsible for maintenance and connectivity of telecommunication with your ISP (Internet service provider). Additionally, it is your responsibility, and you agree to maintain up-to-date anti-virus, anti-spyware, and anti-malware programs and firewalls on all of your systems.

N. **Limitation of Liability.** The risk of error, failure, or non-performance of the Online Banking Service is solely your risk and includes the risk that you do not operate or maintain your computer or software properly. Bank shall not be responsible for any error in the transmission or content of an OLB Transaction. We make no warranty to you regarding your computer(s) or about any software, including any warranty of merchantability or fitness for a particular purpose. We are not responsible for any errors or failures from any malfunction of your computer or the software, nor are we responsible for any electronic virus, spyware, or malware that you may encounter, whether associated with the use of the Services or otherwise. We have no liability to you for any damage or any other loss, whether direct or consequential, which you may suffer or incur by reason of your use of your computer or any software, and you agree to indemnify, defend, and hold harmless the Bank for any losses or liability incurred by the Bank resulting from your failure to maintain your computer and software as required hereunder.

O. **Dual Control.** Client dual controls are required with regard to Online Requests and initiation of ACH Entries (i.e., more than one individual in the Client's organization must approve ACH Entries and and/or Online Requests) and for avoidance of doubt shall be considered to be part of the Security Procedures set forth in **Section 1.7.A**. It is strongly recommended by Bank that Client require dual controls with regard to its other Online Banking transaction functions, as doing so will help to maintain a higher level of security. Client understands and agrees that Bank shall not be liable in any way for any losses stemming in whole or in part from Client's decision to forego dual controls with regard to Online Transactions. Client understands and agrees that (i) Client's decision to forego dual controls with regard to Online Banking transactions functions represents a rejection of Bank's security procedure, (ii) Client's decision to use single control of Online Transactions functions (in conjunction with the other Security Procedures described in **Section 1.7.A** shall constitute an acceptance of an alternative security procedure under Uniform Commercial Code § 4A-202(c) (the "Alternative Procedure"), and (iii) Client agrees to be bound by any Online Banking transaction, whether or not

authorized, issued in its name and accepted by the Bank in compliance with the Alternative Procedure.

P. **Telephonic Verification of Online Transactions**
Bank may, in its sole discretion, use callbacks from time to time to verify Online Transactions initiated through Online Banking. Client agrees that Bank's use of callbacks for Online Transactions is not required under the Agreement, Bank's failure to use callbacks to verify any Online Transactions shall not be deemed to be a violation of the Security Procedures set forth in the Agreement and/or any Schedules thereto, and Bank's failure to use a callback on any transaction shall in no way be the basis for a claim of liability by Client against Bank.

1.8 Compliance with Security Procedures

If an Online Banking transaction (or a request for cancellation or amendment of an Online Banking transaction) received by Bank purports to have been transmitted or authorized by the Client, it will be deemed effective as the Client's authorized Online Banking transaction (or request) and the Client shall be obligated to pay to Bank the amount of such Online Banking transaction, even if the Online Banking transaction (or request) was not authorized by the Client, provided that Bank accepted the Online Banking transaction in good faith.

If an Online Banking transaction (or request for cancellation or amendment of an Online Banking transaction) received by Bank was transmitted or authorized by Client, Client shall pay to Bank the amount of the Online Banking transaction, whether or not Bank complied with the Security Procedures referred to in this Agreement with respect to that Online Banking transaction and whether or not that Online Banking transaction was erroneous in any respect or whether that error would have been detected if Bank had complied with such procedure.

1.9 Data Breach

Client agrees that it shall adopt and implement commercially reasonable policies, procedures, and systems to receive, store, transmit, and destroy Consumer-Level ACH Data and all other consumer data in a secure manner and to protect against data breaches involving Consumer-Level ACH Data or any other consumer data ("Data Breaches"). In the event

Client becomes aware of or suspects a Data Breach, it shall (i) notify Bank and cooperate with any investigation conducted by Bank, Bank's federal or state regulators, law enforcement authorities, and/or the "ACH Operator" (as defined in the ACH Rules), and (ii) immediately commence and diligently pursue an investigation of the circumstances to determine (1) if a Data Breach has actually occurred, (2) the scope of the Data Breach, including the type and amount of data affected, (3) the risk that the affected data will be misused, and (4) what steps are necessary to prevent further unauthorized access to Consumer-Level ACH Data and all other consumer data.

Client's notification to Bank shall include the following findings concerning the Data Breach incident:

1. approximate cause(s) of the breach incident;
2. approximate date of the breach incident;
3. approximate size of the affected population (victims);
4. the type of data exposed; and
5. the routing and transit numbers (RTNs) of the affected RDFI accounts.

1.10 General Terms and Conditions

- A. **Authorization Changes.** Client agrees that only those persons authorized pursuant to the procedures contained in this Agreement and the Enrollment Forms may initiate and/or verify Instructions with Bank. Changes by Client in any information supplied to Bank, or any changes in the designated account numbers, or authority of the persons named on Enrollment Forms or Supplemental Documentation, shall not be binding upon Bank until Bank has received actual written notice of the changes at the address of Bank designated in **Section 1.5.A** of this Agreement and has had reasonable time to implement them. If such written notice pertains to changes to Administrative Users or other individuals named in Enrollment Forms or Supplemental Documentation provided to Bank, such notice shall be (i) accompanied by Client's corporate resolution approving such change, (ii) signed by an officer of Client authorized to sign on behalf of the Client by corporate resolution, or (iii) upon Bank's request, accompanied by documentation that evidences Client's authorization of such change. Bank may rely on any notice regarding changes to Administrative Users or other individuals named in Enrollment

Forms or Supplemental Documentation provided to Bank that appears to be in conformity with any of the three conditions set forth in the preceding sentence.

- B. **Authorized Signers** You represent, and agree, that the Authorized Signer(s) on your Account(s):
1. is fully authorized to sign all documents in the capacity stated therein;
 2. has furnished all documents necessary to evidence his or her authority; and
 3. will furnish any other documents in such form as we may request from time to time.

We are not required to recognize any corporate resolution or other agreement affecting the Account that is not on our form. Any change in Authorized Signers will not be effective against us until three (3) Business Days after our receipt of the documents effecting the change, although we may recognize such change earlier in our sole discretion. We have no duty whatsoever to monitor or ensure that the acts of the Authorized Signer(s) are for the benefit of Client.

- C. **Maintenance of Account.** The Client shall maintain with Bank at least one demand deposit or commercial checking Account for the purpose of providing available funds and for deposit of received funds in connection with the use of the Services. The Account shall be subject to the terms of the Account Disclosure Agreement and this Agreement, including without limitation the terms of the deposit Service. Unless Bank otherwise requires the Client to maintain collected funds, the Client shall maintain sufficient available funds in the Account(s) to support any transaction initiated under the Services and to cover any fees the Client is obligated to pay under this Agreement. If at any time there are not sufficient collected funds in the Account to cover all outstanding transactions and other payment obligations of the Client under this Agreement, the Client shall immediately pay Bank, on demand, the amount of any deficiency in such outstanding transactions and obligations.
- D. **Bank's Reliance; No Review.** Bank is entitled to rely on any Electronic Communication, notice, document, or Instruction believed by it in good faith to be genuine and correct and to have been given, signed, and/or sent by Client or on behalf of

Client by its Agent, and shall not be obligated to review or otherwise verify the authenticity of the information (or, except as otherwise required by specific Security Procedures pertaining to Online Banking transactions, Requests and/or Entries, the identity of the provider of such Instruction), and Bank will not be liable to Client and Client shall indemnify and defend Bank for and against any claim, loss, damage or expense (including reasonable attorneys' fee) for the consequences of any such reliance.

E. Rejections and Refusals to Execute Instructions.

Bank may reject or refuse to accept, process, or act upon (or may delay accepting, processing, transmitting, executing or acting upon) any Instruction (including without limitation any Online Banking transaction) that Bank in good faith believes for any reason to be (i) unauthorized, incomplete, ambiguous, erroneous, or redundant; (ii) not in accordance with the Security Procedures (including without limitation, where the Online Banking transaction and/or identity of the purported Administrative User or other Service User cannot be verified in the sole and absolute discretion of Bank); (iii) otherwise not in accordance with the provisions of this Agreement, the Enrollment Form (including, without limitation, any schedule, exhibit, or addendum to this Agreement or any Enrollment Form), the User Manual, or any other agreement governing Client's relationship with Bank; (iv) in violation of any then applicable statute, rule, regulation, order, or government policy to which Bank or the Account(s) is (or, in Bank's sole opinion, may be) subject; (v) in excess of Client's collected and available funds on deposit in the applicable Account(s) or the amount available to Client under any credit facility immediately available from Bank; (vi) in excess of any limitation on Bank upon its intra- day net funds position established pursuant to then-applicable Federal Reserve guidelines; (vii) in violation of any provision of any then- applicable risk control program of the Federal Reserve or Bank's federal or state regulator; or (viii) involving funds the ownership of which is in question. For these purposes, funds are not considered to be available if such funds are (or Bank reasonably believes such funds may be) subject to a hold, dispute, encumbrance, or legal process preventing their immediate withdrawal, or if Bank otherwise believes that a transfer of

such funds would not be final and irrevocable. Notwithstanding the foregoing or anything else herein, Bank will have no obligation hereunder to detect any unauthorized, erroneous, or otherwise impermissible requested Instruction. Bank may, in its sole discretion, notify Client of its rejection or refusal to accept process or otherwise act upon an Instruction.

F. Status of Parties. The relationship of Bank, on the one hand, and Client and its Agent, on the other hand, is solely that of independent contractors. Neither Bank nor Client will be considered to be an employee or agent of the other. Nothing contained in this Agreement will be construed to create any partnership or joint venture between Bank and Client.

G. Standard of Care. Bank's duties and responsibilities are limited to those specifically described in this Agreement and the Enrollment Form(s). Bank will exercise commercially reasonable and ordinary care in performing its obligations, unless otherwise expressly provided herein or required by Applicable Law. Bank makes no warranty, either express or implied, to Client with respect to any service or product provided or to be provided hereunder, as further described in **Section 1.10.N**.

H. No Extension of Credit. Neither this Agreement nor the provision of any Service, nor the terms of any Enrollment Form or Supplemental Documentation will be construed to obligate Bank to create an overdraft, pay any amount in excess of Client's collected and available funds in any applicable Account, or lend money or otherwise advance funds to or on behalf of Client, unless expressly set forth in a written agreement between Client and Bank.

I. Release; Force Majeure. Unless otherwise required by expressly Applicable Law, Bank will not be liable for, and Client hereby releases Bank from any responsibility for, any loss arising directly or indirectly, in whole or in part, from any of the following causes: (i) any act, failure to act, or delay in acting on the part of any person not within Bank's control, including but not limited to Client or its Agent, (ii) the negligence or misconduct of Client, any Agent, or any other officer, employee or agent (apparent or

otherwise) of Client, (iii) any inaccuracy or ambiguity in any information given to Bank (including, without limitation, any incorrect, incomplete, or untimely information) by Client, (iv) any error, failure, or delay in the provision of any Service, execution of any Instruction, or performance under any Enrollment Form or other instruction that is caused by any natural disaster, market volatility, market trading volumes, an act of governmental or military authority, legal constraint, fire, flood, earthquake, windstorm, other natural calamity, war, riot, civil unrest, act of terrorism, labor disturbance, strike, lockout, inability of Bank to obtain labor, materials or transportation in a timely manner, electrical, communication, telecommunication, word processing or computer failure, or interruption of service (whether hardware, software, or both) and which failure or delay in performance is not within the direct and reasonable control of Bank, or (v) any other cause or circumstance beyond the reasonable control of Bank.

J. **Liability of Client.** Client shall be liable for any loss or damage resulting directly or indirectly from Client's breach of this Agreement or to which Client's negligence contributed, or which resulted from unauthorized, fraudulent, or dishonest acts by Client's current and/or former employees, Agents, Authorized Representatives, Authorized Offline Initiators, Administrative Users, Users, or any third party except loss or damage involving a third party when the loss or damage is a direct result of Bank's gross negligence or willful misconduct. Examples of such liability of Client include, but are not limited to, instances when one of its current or former employees, Agents, Authorized Offline Initiator, Administrative User, or User effects one or more Instructions to Client's detriment, or when any unauthorized Transaction is effected through Online Banking.

K. **Indemnification of Bank.** Client, including without limitation, a Client acting in its capacity as an agent on behalf of a third party, shall indemnify, reimburse, and otherwise hold harmless Bank, its affiliated companies, and its officers, employees, and agents for any and all costs, losses, claims, taxes, expenses (including but not limited to reasonable attorneys' fees), liabilities, and damages of any kind or nature incurred or sustained by Bank (i) as a result of a breach by

Client of any representation, warranty, covenant, or obligation in this Agreement, (ii) the negligence, fraud, or willful misconduct of Client, its employees, independent contractors, Agents, Users or Authorized Offline Initiators, (iii) the failure of Client to comply with any Applicable Law, or (iv) in the performance of Services for Client (including without limitation Services provided for an Agent). Any claim for indemnification will be submitted by Bank to Client in writing, along with a summary of the facts constituting the basis of such claim. This indemnification obligation is in addition to, and not in lieu of, any indemnification obligation(s) set forth elsewhere in this Agreement.

L. **Right of Set Off.** Bank may, without prior notice or demand, set off any amount to which it may be entitled under (i) Section 1.10K, (ii) any other terms or conditions of this Agreement, or (iii) any other agreement between Client and Bank (all or any of the foregoing (i) –(iii) herein, a "Debt"), against any amounts or obligations owed to Client (including without limitation any Account held at Bank), whether under this Agreement or otherwise relating to the Services or pursuant to another agreement between Client and Bank. The exercise of this right by Bank, whether or not ultimately determined to be justified, will not constitute a breach, or an event of default under this Agreement or under any other agreement between Bank and Client. Neither the exercise of, nor the failure to exercise, this right will constitute an election of remedies or limit Bank or any of its affiliated companies and/or officers, employees, and agents in any manner in the enforcement of any other remedies that may be available to them hereunder. Bank may use the money from the Accounts to pay the Debt even if Bank's withdrawal of the money from such Accounts results in a loss of interest, an interest penalty, or dishonor of checks or other items or orders. Bank may use the money in any of the Accounts to reimburse Bank for Debt owed by the Business or the Authorized Signer(s). In the case of a Business that is a partnership, each partner or joint owner of the Account agrees that Bank may use all or any portion of the money in the partnership or joint Account to satisfy any one of their individual obligations to Bank. Similarly, each partner agrees that Bank may use the money in his or her individual Accounts to satisfy obligations relating

to or arising from the partnership's Account. In the case of a Business that is a sole proprietorship, the owner agrees that Bank may use the money in his or her individual and/or joint Account(s) to satisfy obligations relating to or arising from the sole proprietorship's Account. If the Debt arises from a note, any due and payable debt under such note includes the total amount of which Bank is entitled to demand payment under the terms of the note at the time Bank exercises its right of setoff, including any balance owing to Bank on the due date upon which Bank properly accelerates under the note. Client shall indemnify Bank in connection with Bank's exercise of its right of setoff.

- M. **Client Representations and Warranties.** Client represents and warrants to Bank that Client is duly organized in accordance with the laws of the jurisdiction of its organization, and that each person executing the Treasury Management Authorization, the Agreement, Enrollment Form or any other document relating to this Agreement is properly authorized to do so by Client. Client acknowledges and agrees that Bank is entitled to rely on such signatures as conclusive authority to enter into this Agreement and obtain the applicable Service. Client also covenants to Bank each time Client uses a Service, that: (i) Client is validly existing and in good standing under the laws of the jurisdiction of its organization; (ii) Client's assent to this Agreement is authorized and that its obligations hereunder are Client's legal, valid, and binding obligations; (iii) each person signing documents on behalf of Client, including its Agent, has the requisite power and authority and has taken all necessary action to execute and deliver the Instructions, and to perform Client's obligations under this Agreement and each Service used by Client; (iv) any consent or authorization of any governmental authority or third party required to be obtained by Client in connection with this Agreement or any Service used or performed pursuant to this Agreement has been obtained; (v) the Services are not intended to and will not be used by Client for purposes in violation of Applicable Law; (vi) Client is not acting on behalf of or transmitting funds to or from any party subject to sanctions enforced by U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC"); (vii) Client is utilizing the Service solely for commercial use and not for any personal,

family, or household purposes; (viii) if Client is acting in its capacity as an Agent, Client is a duly authorized Agent for the principal Client and has the power and authority to use the Services on behalf of the principal Client; and (ix) Client shall not to attempt to circumvent any hardware or software employed by the Bank or any Vendors to prevent unauthorized access to the Services and/or associated software, including without limitation modifications, decompiling, disassembling, and reverse engineering thereof.

- N. **Disclaimer of Bank Warranties, Limitations on Liability.** BANK HEREBY DISCLAIMS ANY WARRANTIES, EXPRESS OR IMPLIED, RELATED TO THE SERVICES, INCLUDING ALL WARRANTIES AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR ANY OTHER WARRANTY AS TO PERFORMANCE, ACCURACY OR COMPLETENESS, OR SUITABILITY OF ANY SERVICES FOR CLIENT, OR AS TO ANY EQUIPMENT OR SOFTWARE PROVIDED BY BANK OR THE COMPATIBILITY OF BANK'S SOFTWARE, EQUIPMENT OR COMMUNICATION INTERFACES WITH CLIENT. BANK MAKES NO WARRANTY THAT ANY SERVICE WILL MEET CLIENT REQUIREMENTS OR WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR- FREE. BANK MAKES NO WARRANTY THAT THE RESULTS THAT MAY BE OBTAINED WILL BE ACCURATE OR RELIABLE OR THAT ANY ERRORS IN ANY REMOTE BANKING SERVICE OR TECHNOLOGY WILL BE CORRECTED.

Client acknowledges that the Services are provided by Bank without representation or any of the warranties discussed above and that Bank is not responsible for determining the accuracy, timeliness, or completeness of information provided to Bank by Client or any third party. IN NO EVENT WILL BANK BE LIABLE TO CLIENT FOR ANY LOST PROFITS OR THIRD-PARTY CLAIMS OR ANY CONSEQUENTIAL, SPECIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS) FROM ANY CAUSE WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATING TO, CONNECTED WITH OR PERTAINING TO EITHER THIS AGREEMENT OR THE PERFORMANCE OR NON-PERFORMANCE OF ANY SERVICES HEREUNDER.

These limitations will apply whether or not the likelihood of such losses or damages was known or

should have been known by Bank, and regardless of the legal or equitable theory of liability advanced by Client. Client's exclusive remedy for any cause whatsoever and regardless of the form of action (whether in contract or in tort, including negligence) will be limited to the actual, proven damages of Client that are the immediate and direct result of an action or failure to act by Bank constituting gross negligence or willful misconduct. BANK'S LIABILITY SHALL IN NO EVENT EXCEED AN AMOUNT EQUAL TO THE FEES PAID BY CLIENT FOR THE SERVICES DURING THE THREE MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM.

O. **Third Party Service Providers.** Provision of certain Services is dependent upon the Bank's ability to provide access to third party vendor networks. In the event any third party network is unavailable or in the event the Bank determines, in its discretion, that it is unable to continue providing any third party network access, the Bank may suspend or discontinue the related Services or may provide the Services through an alternate third party network. You acknowledge and agree that we may disclose and/or provide access to your confidential information and your Customer's confidential information, including but not limited to nonpublic personal information, to our vendors as necessary for us to provide Services. The Bank shall not be responsible for any acts or omissions in connection with the conduct of any third party vendors.

P. **Compliance with Law.** Client will (and will ensure that its Agents will) comply with all Applicable Laws in connection with the Services. Client shall indemnify and hold Bank harmless for any and all fines and assessments imposed on Bank as a result of any alleged violations of Applicable Laws. Client acknowledges that it will not generate transactions that violate Applicable Law. This includes, but is not limited to, sanction laws administered by OFAC. It shall be the responsibility of Client to obtain information regarding such OFAC enforced sanctions. (This information may be obtained directly from the OFAC Compliance Hotline at 800-540-OFAC, or from the OFAC's home page site at www.ustreas.gov/ofac.) Client agrees that the performance of any action by Bank to debit or credit an Account or transfer funds otherwise

required by this Agreement, ACH Rules, or Uniform Commercial Code Article 4A is excused from the performance of such action to the extent that the action is inconsistent with Applicable Law, including the obligations of Bank under OFAC or any program administered by the United States Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN"). Client warrants and covenants that all actions taken by Client in connection with this Agreement, including the preparation, transmittal, and settlement of Online Banking transactions and payment orders, shall comply in all material respects with Applicable Law.

Q. **Unlawful Internet Gambling Prohibition Notice.** Compliance with the Unlawful Internet Gambling Enforcement Act of 2006 ("UIGEA") and the implementation of Regulation GG issued by the Board of Governors of the Federal Reserve System and the United States Department of Treasury, prohibits certain transactions within your Account.

"Unlawful Internet gambling" is defined in UIGEA as placing, receiving, or otherwise knowingly transmitting a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable federal or state law in the state or tribal lands in which the bet or wager is initiated, received, or otherwise made. "Restricted transactions" are defined in Regulation GG to be transactions in which funds are knowingly accepted by gambling businesses in connection with participation by others in unlawful Internet gambling. Restricted transactions are prohibited from being processed through this Account or any Account you hold with our institution. Restricted transactions generally include, but are not limited to, those in which credit, electronic fund transfers, checks, debit card or credit card transactions, or drafts are knowingly accepted by gambling businesses in connection with the participation by others in unlawful Internet gambling. Internet gambling will generally be considered to be unlawful unless verifiable authorization is obtained by an appropriate state or tribal authority.

We may block or reject any such "restricted transactions", as defined in Regulation GG.

Further, we reserve the right to block or close any Account which we believe is in receipt of such transactions.

- R. **Client's Records.** Without limiting any obligations of Client to retain records as specifically set forth in this Agreement with respect to a Service, Client will retain and provide to Bank, upon request, all information necessary to remake or reconstruct any deposit, transmission, File, or Entry for thirty (30) days following such transaction.
- S. **Audit and Review.** Client agrees, upon reasonable notice by Bank, to permit Bank to audit, inspect, and review its policies and processes for purposes of ensuring Client's compliance with this Agreement, the ACH Rules, and Applicable Laws and regulations. Client acknowledges that Bank may from time to time require that Client develop and adopt internal controls and processes related to ACH origination, wire transfer procedures, or Internet banking practices as mandated by Bank as a condition to Bank's agreement to continue providing the Services to Client.
- T. **Governing Law.** Notwithstanding the place where this Agreement may be executed by any of the parties, the parties expressly agree that this Agreement shall in all respects be governed by, and construed in accordance with, the laws of the State of Tennessee, without regard for its conflict of laws doctrine.
- U. **Venue; Jurisdiction; Service of Process.** Any legal action or proceeding arising out of or relating to this Agreement must be brought in the courts of the State of Tennessee, and Client hereby irrevocably submits to the jurisdiction of such court in any such action or proceeding. By executing any Enrollment Form or utilizing any of the Services, Client irrevocably consents to the service of any and all legal process, summons, notices and documents out of any of the aforesaid courts in any such action, suit or proceeding by mailing copies thereof by overnight or certified mail, postage prepaid, to Client at its address provided for notices in accordance with **Section 1.5.A**. If any dispute arising out of this Agreement or any action or proceeding to enforce a judgment based on a cause of action arising out of this Agreement is arbitrated or litigated between the parties hereto, the prevailing party shall be

entitled to recover its reasonable costs of suit, including reasonable legal fees in addition to any other relief to which it may be entitled.

- V. **No Waiver.** No failure or delay on the part of Bank or Client to exercise any right hereunder will operate as a waiver of such right, nor will any single or partial exercise by Bank or Client of any right hereunder preclude any other or further exercise thereof, or exercise of any other rights.
- W. **Severability.** Any provision of this Agreement, any Enrollment Form or any Supplemental Documentation which is unenforceable will only be ineffective to the extent of such unenforceable provision, without invalidating the remaining provisions of the document.
- X. **JURY TRIAL WAIVER.** Client and Bank hereby knowingly, voluntarily, intentionally, and irrevocably waive the right either of them may have to a trial by jury in respect to any litigation, whether in contract or tort, at law or in equity, based hereon, or arising out of, under, or in connection with, this Agreement and any other document or instrument contemplated to be executed in conjunction herewith, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party hereto. This provision is a material inducement for Bank entering into this Agreement. Further, Client hereby certifies that no representative or agent or Bank, or Bank's counsel, has represented, expressly or otherwise, that Bank would not, in the event of such litigation, seek to enforce this waiver of right to jury trial provision. No representative or agent of Bank, or Bank's counsel has the authority to waive, condition, or modify this provision.

Section 2 Online Banking Service

This Section 2 sets forth the terms and conditions of Bank's Online Banking Service. This Section supplements the terms of the Online Banking and Bill Payment Agreement between Client and Bank (the "OLB Agreement"). In the event of a conflict between the terms of this Agreement and the OLB Agreement, this Agreement shall govern. **Sections 2.1** through **2.3** are general terms that apply to all Clients enrolled in the Online Banking Service. Client may include certain additional specified Services in the Online Banking

Service by requesting such ability on the related Enrollment Form. **Section 2.4** applies to Client only if, and to the extent that, Client has requested and Bank has approved Client for participation in the Service described in such Section.

2.1 Internet Treasury Management Access

- A. **Online Banking Service.** By using the Online Banking Service, Client, through its Administrative User, Agent, or Users, may request that Bank accept and act upon Instructions. Bank will carry out such Instructions in accordance with and subject to this Agreement. All terms and conditions of the Enrollment Forms and Account Disclosure Agreement governing those Services will apply to such Services as delivered through the Online Banking Service, except to the extent such terms and conditions are inconsistent with this **Section 2**, in which event this **Section 2** will control.
- B. **Access and Equipment.** Bank will provide Client with access to the Online Banking Service for the Accounts as authorized by Client or its Agent. Bank assumes no liability whatsoever and makes no warranty of any kind as to the hours of access and/or the performance of the Online Banking Service. To utilize the Online Banking Service, Client will provide, at its own expense, connection via an Internet service provider, computer hardware, operating systems, and software that meet the minimum requirements set by Bank, as set forth on the Bank's website.
- C. **Stop Payment.** Client authorizes Bank to accept stop payment orders from Client through the Online Banking Service and the transmitted stop payment order (an "Online Stop Payment Request") will be deemed the equivalent of a written stop payment order in accordance with the Account Disclosure Agreement. An Online Stop Payment Request issued with regard to a funds transfer or item must be provided to Bank (i) in accordance with any instructions and/or disclosures regarding Online Stop Payment Requests within Online Banking and (ii) within a reasonable amount of time and in such manner as to allow Bank a reasonable opportunity to act on the stop payment order prior to acting on the funds transfer or item. Without limiting the foregoing, Bank will not be liable for honoring a

funds transfer or item within one (1) Business Day of receiving a stop payment order for the funds transfer or item. You shall indemnify us in connection with our refusal to pay such funds transfer or item. From time-to-time, the Online Banking Service may be inoperable. If requested by Bank, you will confirm any stop payment order in writing within fourteen (14) days of an oral stop payment order, or within seven (7) days of Bank's request, whichever is later. After six (6) months, a stop payment order will terminate and must be renewed in order to continue in effect. Bank may pay any item that is presented following the lapse of any stop payment order. If you place a stop payment order, you shall pay a fee in the amount set forth in Bank's then-current Fee Schedule.

2.2 Balance and Transaction Reporting

The Balance and Transaction Reporting Service described in this **Section 2.2** will be available for all Accounts. With this Service, Client may review online the balances of Accounts, transactions on Accounts, and images of Checks paid from Accounts. Client has responsibility for verifying information available to Client through the Balance and Transaction Reporting Service, and Client must notify Bank of any discrepancy no later than the next Business Day immediately following the Business Day during which such information becomes available.

2.3 Balance Inquiries and Account Transfers

You may use Online Banking to (i) check the balance of your Accounts and (ii) transfer funds among your Accounts at Bank ("Intra-Account Transfers"). By initiating Account Transfers, you represent and warrant that you are legally entitled (i) to make the Account Transfers in question, and (ii) to control of and/or access to the external account(s) to which funds are being sent. All withdrawals and transfers are subject to availability of funds in your Account and to any special limitations for the particular type of account described in your deposit Account Disclosure Agreement or in other Account agreements and/or disclosures you receive from Bank.

We strive to provide complete, accurate, and timely Account information through Online Banking. However, unless otherwise required by law, we will not be liable to you if any such information is unavailable, delayed, or inaccurate. Balances shown in your

Accounts may include deposits that are subject to verification by us. The balance shown may also differ from your records due to deposits in progress, outstanding checks or other withdrawals, payments, or charges. A transfer request may not result in immediate availability because of the time required to process the request. There may be situations that cause a delay in an update of your balances. Bank will use the most current collected balance immediately available at the time of a transaction on which to base its approval or denial of said transaction.

2.4 Check Positive Pay

A. **Service Description.** There are two different Check Positive Pay Services described in this **Section 2.4**. The Standard Positive Pay Service and the Payee Positive Pay Service both permit Client to identify exception items and instruct Bank whether to pay or return the items, except that the Payee Positive Pay Service (unlike the Standard Positive Pay Service) allows for the payee name to be checked against the Check Register data (described in **Section 2.4.B** below). The Bank recommends that Client use services such as the Check Positive Pay Services. If the Client fails to do so, it may be liable on certain charges and losses that would have otherwise been prevented by proper use of such Services.

B. Requirements and Deadlines.

- i. Bank's ability to provide the Standard Positive Pay Service and/or Payee Positive Pay Service is dependent upon Client's delivery of Check Register data, consisting initially of all outstanding checks on the Designated Account(s), if any. The Check Register data shall contain the check issue date, check number, and the dollar amount (as well as the payee, if the Payee Positive Pay Service is used) of each check issued, for each Account covered by the Service (the "Critical Information") and may be transmitted through Online Banking or other file delivery methods set forth in the Enrollment Form. Bank shall not be liable for mistakes stemming from erroneous Check Register data provided by Client.
- ii. As additional Client checks are issued, Client must submit supplemental data to update the Check Register data on file at Bank. Such data,

with regard to any particular check or checks, shall be delivered to Bank on the day prior to the Check release date.

- iii. Bank shall match Client's cumulative Check Register data file with Bank's own record of checks posted against Client's Account each day. This match shall occur following each daily posting cycle.
- iv. Based on the matching process described in **Section 2.4.B.iii.** above, each Business Day Bank will provide Client with the ability to view all Exception Items via Online Banking. For the Standard Positive Pay Service and/or Payee Positive Pay Service, an "Exception Item" is defined as (1) any check which has posted against Client's Account where there is no match in the Check Register data file provided to Bank by Client, or (2) any check which has posted against Client's Account where there are one or more discrepancies between the Check's issue date, Check number, or dollar amount (or payee, if the Payee Positive Pay Service is used) as compared to the data in the Check Register data file provided to Bank by Client.
- v. If Client has provided payee name (for Standard Positive Pay Service users) or other non-Critical Information in the Check Register file, that information is considered available for Client's records only and is not verified by Bank when matching posted checks against Client's Check Register file. With regard to the Standard Positive Pay Service, Client remains liable for the detection of alterations of payee's name on all Checks paid against Client's Account(s). Images of exception checks will be provided via Online Banking.
- vi. All Exception Items will be available for Client review and decision each Business Day. Client is required to review all Exception Items each Business Day. While an email alert may be provided for convenience to alert for Positive Pay Exception Items, the responsibility remains on Client to verify Exception Items prior to the cut off time. ALL DECISIONS TO RETURN ANY EXCEPTION ITEM(S) THAT HAVE POSTED AGAINST CLIENT'S ACCOUNT ON A BUSINESS DAY SHALL BE COMPLETED WITHIN

ONLINE BANKING THE SAME BUSINESS DAY.

- vii. Upon review of all Exception Items found in Online Banking, Client may direct Bank to pay or return any individual Check provided Client's decision is received via Online Banking before the deadline on the same Business Day. Any Exception Items that are not decisioned in Online Banking by Client by the deadline each Business Day will be processed in accordance with the Client's default instructions indicated in the enrollment form for the service. The default instructions are to either (i) pay all Exception Items, or (ii) return all Exception Items.
- viii. Client's use of the Standard or Payee Positive Pay Services depends on the Check numbers being magnetically pre-printed (encoded) on Client's Checks in the proper location. Bank reserves the right to terminate any and/or all of the Positive Pay Services if the general quality of the check stock and magnetic encoding does not meet the standards of the American National Standards Institute Accredited Standards Committee X9, Financial Services ("Standards"). Bank shall not be liable for any Positive Pay Service inaccuracies or errors due to the use by Client of Checks that do not meet the Standards.
- ix. In the event that a Check is presented for payment over the counter at a Bank branch, the Bank shall not be obligated to cash the Check if the Bank cannot contact the Client for payment decision regarding the Check. Bank shall not be liable for any loss to the Client if a check is not paid over the counter when the Client cannot be reached for confirmation. Notwithstanding any other provision of this **Section 2.4**, the liability for any loss stemming from a Check that is accepted over the counter at a Bank branch is governed by the Client's Account Disclosure Agreement, unless Client previously instructed Bank to accept certain Checks or classes of Checks over the counter, in which case Bank shall bear no liability for acting in accordance with Client's instructions. Otherwise, Bank's liability for teller-cashed Checks shall neither be increased nor decreased by the terms of this **Section 2.4**.

C. Client Acknowledgments

- i. Client authorizes Bank to return or pay any Check in accordance with Client's instructions and the established procedure of Bank.
- ii. Client acknowledges that Bank shall have no liability for return of an Exception Item if the Client did not instruct Bank to pay such check.
- iii. Client acknowledges that the Service does not preclude the operation of Bank's standard check, which may cause a Check to be dishonored even if Client's instructions or the procedures established in this Agreement do not otherwise require Bank to return such check.
- iv. Client acknowledges that it must fulfill its responsibilities in connection with the Service on each Business Day whether or not Client is open for business.

D. Liability

- i. If an Account is enrolled in a Positive Pay Service, in the event that Bank erroneously pays a Check against Client's Account for which Client properly and in good faith instructed Bank, to return, Bank shall correct such error at Bank's expense.
- ii. CLIENT SHALL INDEMNIFY AND HOLD HARMLESS BANK AND ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND ASSIGNS FROM ANY DAMAGES, LOSSES, FINES, FEES, TAXES, LEGAL EXPENSES, OR ACTIONS AT LAW ARISING FROM THE RETURN (DISHONOR) OF ANY CHECK IF SUCH RETURN RESULTED FROM THE ACCURATE APPLICATION OF CLIENT'S PAY/RETURN INSTRUCTIONS.

Section 3 Automated Clearing House (ACH) Origination Service

3.1 ACH Origination Service

This **Section 3** sets forth the terms and conditions relating to the Automated Clearing House Origination Service (the "ACH Origination Service") and is applicable only to Clients who have executed an Enrollment Form requesting the ACH Origination Service (this includes the ACH Origination Service Enrollment Form and/or the ACH Electronic File Transfer Service Enrollment Form). Clients who wish to receive the ACH Origination Service must have a deposit Account with the Bank and be enrolled in the

Online Banking Service. By using the ACH Origination Service, Client may transfer funds by means of Entries which may be sent through the ACH Network or processed directly by Bank. Capitalized terms used in this **Section 3** that are not otherwise defined in this Agreement will have the meanings provided in the ACH Rules.

- A. **Types of Entries.** Bank will transmit debit and/or credit Entries initiated by Client to the ACH Network as provided in the NACHA Operating Rules (referred to as the “ACH Rules” or “NACHA Rules”) and this Agreement. Specific ACH products predominately offered by the bank include: Direct Deposit Payroll, Pre- authorized Payments and Deposits, Cash Concentration, and Corporate Trade Payments. Bank can offer ACH services for all Standard Entry Class Codes, with the exclusion of International ACH Transaction.
- B. **ACH Rules.** Client agrees to comply with and be bound by the current ACH Rules in existence, which may be amended from time to time. It is recommended that Client purchase a copy of the updated NACHA Rules & Guidelines annually by visiting <http://www.nacha.org>. Free limited access to the basic NACHA Rules in read- only format may be obtained by visiting www.achrulesonline.org. The duties of Client set forth in this Agreement in no way limit Client’s obligation to comply with the ACH Rules. Any fines or liabilities imposed against Bank for a violation of the ACH Rules caused directly or indirectly by an action and/or inaction of Client shall be paid by Client. Costs associated with ACH Rules publications and/or association membership will be the responsibility of Client. If Client utilizes third- party vendors or processors, Client shall take such measures as may be necessary to ensure compliance with the ACH Rules by such vendors and processors. Unless there is a separate agreement between Client and Bank specifically governing Client’s actions as a Third Party Sender, Client shall not act as a Third Party Sender, as defined in the NACHA Rules.
- C. **Audit of Client’s Responsibilities and Evidence of Authorization.** The Bank has the right to audit the Client’s compliance with this agreement and the ACH Rules. This includes all Client obligations such as, but not limited to, obtaining all consents and authorizations required under the ACH Rules and retaining such consents and authorizations for

two years after they expire.

- D. **Pre-notifications.** Client may send prenotifications three banking days prior to initiating the first entry to a particular account. Client agrees not to initiate live dollar Entries until at least three (3) business days following the Settlement date of the pre-notification Entry. After the Client has received notice that any such entry has been rejected by the RDFI, the Client will not initiate any entry to such customer prior to making necessary corrections.
- E. **Notifications of Change.** Bank will notify Client of all Correction Entries (“COR”), which are commonly referred to as Notification of Change (“NOC”) Entries, received by Bank relating to Entries transmitted by Client, by secure email no later than two (2) Business Days after the Settlement Date of the NOC. Client agrees to make the changes submitted within six (6) Business Days of the receipt of the NOC information or prior to the next “live” Entry, whichever is later. If the NOC is incorrect, Client will generate a Refused NOC Entry and deliver it to Bank within fifteen (15) Days. For an NOC in response to a prenotification entry, the Client must make the changes prior to originating a subsequent entry if the bank receives the NOC by opening of business on the second business day following the settlement date of the prenotification entry.
- F. **Transmission of Entries and Security Procedures.** Client will transmit all Entries to Bank on or before the deadlines provided to Client in Supplemental Documentation. Client will conform all Entries to the format, content, data encryption, and other specifications contained in the ACH Rules. Client authorizes Bank to transmit all Entries received by Bank from Client in accordance with the terms of this Agreement and to credit or debit such Entries to the specified accounts. If Entries are initiated through Online Banking, the Security Procedures regarding Online Banking set forth in this Agreement shall apply. If Entries are initiated outside of Online Banking using a method set forth in the Enrollment Form, the Security Procedures regarding such method set forth in the Enrollment Form shall apply. Client warrants and covenants (i) that no individual will be allowed to initiate transfers in the absence of proper

supervision and safeguards, (ii) that Client shall take reasonable steps to maintain the confidentiality of the Security Procedures and any passwords, codes, security devices, and related instructions provided by Bank in connection with the Service, and (iii) that Client shall comply with all applicable Security Procedures.

- G. **Delivery Specifications.** The deadlines for delivery of Credit Entries, Debit Entries and Same Day ACH Entries are set forth in the Cut-Off Time Schedule.

Effective Entry Date—The “Effective Entry Date” (contained in the company/batch header Record(s) of the ACH input File) is a date specified by Client on which it intends an Entry to be posted and settled. The Effective Entry Date must be a future date and must be a Business Day. The Effective Entry Date may be, but is not necessarily always, the same date as the settlement of funds.

File Format—All ACH input Files must be in the standard ACH format based on the NACHA Rules.

- H. **Inspection.** Upon reasonable notice from Bank to Client, Bank shall have the right to inspect Client’s books and records and to make on-site visits to any and all Client locations with regard to all information deemed by Bank to be necessary or pertinent to Client’s use of the ACH Origination Service provided by Bank under this Agreement. Information subject to Bank’s right of inspection shall include (but not be limited to) all information maintained by Client with respect to Client’s Customers, vendors and processors (including audits) if, in the opinion of Bank, Client’s relationship with such Client Customers is materially related to Client’s ACH transaction activity conducted through Bank under this Agreement. Physical site visits may be conducted by Bank or its Agent to ensure notification and communication processes and disclosure requirements are being followed with respect to those addressed in the ACH Rules.
- I. **Bank Obligations.** In a timely manner and in accordance with the ACH Rules, Bank will process, transmit, and settle the Entries received from Client which comply with the terms of this Agreement, including the Security Procedures. Bank shall have no obligation to transmit Entries if Client is in default or breach of any of its

obligations under this Agreement or any other agreement with Bank, including, without limitation, any obligation to pay Bank.

- J. **Warranties.** Client warrants and covenants to Bank: (i) that any Entries originated by Client shall be in compliance with the ACH Rules, as well as any warranties Bank is deemed by the ACH Rules to make with respect to such Entries; and (ii) that Client shall cooperate in any investigation by Bank with respect to errors alleged by consumers involving Entries received from Client, including without limitation alleged errors under Regulation E. Without limiting the foregoing, Client also warrants and covenants that: (a) each Entry is accurate, is timely, has been authorized by the party whose account will be credited or debited, and otherwise complies with the ACH Rules; (b) each debit Entry is for an amount which, on the Settlement Date with respect to such Entry, will be due and owing to Client from the party whose account will be debited, is for an amount specified by such party to be paid to Client, or is a correction of a previously transmitted erroneous credit Entry; (c) Client has received an authorization from the Receiver authorizing it to make prearranged debits from the Receiver’s bank account, a copy of that authorization has been given to the Receiver, and at the time an electronic Entry is processed by us and any receiving banks, the authorization has not been terminated with respect to such electronic Entry; (d) Client is not acting on behalf of or transmitting funds to or from any party subject to sanctions enforced by U.S. Department of Treasury’s Office of Foreign Asset Control (“OFAC”), and (d) Client will comply with the terms of the Electronic Funds Transfer Act and Regulation E, if applicable, or Uniform Commercial Code Article 4A, if applicable, and shall otherwise perform its obligations under this Agreement in accordance with Applicable Law. Client covenants that any RCK Entries, ARC Entries, BOC Entries, WEB Entries, and TEL Entries originated by Client shall be in compliance with all warranties made by Bank pertaining to such Entries exchanged through the ACH Network. Client shall indemnify, defend, and hold Bank harmless against any loss, liability, damage, claim, demand, suit, action, cause of action, cost or expense (including, without limitation, attorneys’ fees, costs, and expenses) resulting from or arising out of any

breach of any of the foregoing warranties, covenants, or agreements.

K. **Data Retention.** Client shall retain data on file adequate to permit remaking of Entries for a period of three (3) Days after midnight of the Effective Entry Date, Client agrees to retain sufficient Entry data on file for reprocessing Entries and to provide such data to Firm immediately upon request. Without limiting the generality of the foregoing provision, Client specifically agrees to be bound by and comply with all applicable provisions of the ACH Rules regarding the retention of documents or any record, including, without limitation, Client's responsibilities regarding all items, source documents, and records of authorization.

L. **Data Passing.** Client agrees not to disclose the Receiver's account number or routing number to any third-party for such third-party's use, directly or indirectly, in initiating a debit Entry that is not covered by the original authorization.

M. **Provisional Credit.** Client acknowledges that the ACH Rules make provisional any credit given for an Entry until the financial institution crediting the account specified in the Entry receives final settlement. If such financial institution does not receive final settlement, it is entitled to a refund from the credited party and the originator of the Entry shall not be deemed to have paid the party.

Bank shall notify Client whether Entries shall be in the form of balanced or unbalanced Files. If Bank requires a balanced File, then Bank shall control when and where offset Entries occur. If Bank requires that Entries shall be in the form of an unbalanced File, then this means an Entry contains only the originating items for that Entry without any corresponding offset or settlement transaction.

N. **Pre-Funding Requirements.** Bank reserves the right to require that Client pay Bank in immediately available funds at the time of transmittal or at any time prior to settlement the amount of each Entry submitted by Client. Bank shall determine whether such pre-funding is required based on criteria established from time to time by Bank, which may be changed by Bank at any time in its sole discretion. Bank will

communicate directly to Client if pre-funding is required and, if requested by Client, will provide Client with an explanation of its pre-funding criteria.

O. **Correction of Errors.** Client is responsible for the accuracy of the data Client submits to initiate Entries through the ACH payment system, and Client must submit to us corrected data if Client discovers an error. If Client submits to us corrected data not later than the times established by Bank in the Cut-Off Time Schedule, we will make commercially reasonable efforts to process the corrected data in the same manner as the original data; provided however that, in as much as the original data will have already been processed and released, Client acknowledges that we cannot guarantee such corrections.

P. **Settlement.** Client will maintain a deposit Account with Bank at all times during the term of this Agreement and until the period for Return Entries has expired. Client will maintain in the Account immediately available funds sufficient in amount to cover all credit Entries originated and returns of debit Entries originated. Client authorizes and instructs Bank to debit its Account in the amount of each File and to make deposits, withdrawals, and transfers to and from Client's Accounts as appropriate or necessary in connection with any of the ACH services provided by Bank under this Agreement. Client represents and warrants that it shall only initiate Entries through the Service that post against Client's deposit Account(s) at Bank. In the event any Entry is returned in accordance with the ACH Rules by a Receiving Depository Financial Institution after Bank has provided credit, Client shall, promptly upon demand, repay Bank the amount of the Return Entry.

Q. **Settlement Discrepancies.** The periodic statement issued by Bank for Client's Account will reflect Entries credited and debited to Client's Account. Client agrees to notify Bank within a reasonable time not to exceed ten (10) Days (except where Applicable Law provides a sixty (60) Day review period) after Client receives a periodic statement of any discrepancy between Client's records and the information in the periodic statement. Client and Bank agree to cooperate with the other party in performing loss recovery efforts in the event either party may be liable to

the other for damages.

Client shall have no right to cancel or amend any Entry/File after receipt of such Entry/File by Bank. However, Bank may, in its sole discretion, use commercially reasonable efforts to act on a request by Client to cancel an Entry/File before transmitting it to the ACH Network or processing it as an on-us Entry. Bank shall have no liability if it fails to effect the cancellation.

Client shall reimburse Bank for any expenses including, but not limited to, reasonable attorneys' fees or costs, losses, or any other manner of damages Bank may incur in effecting or attempting to effect Client's request for the reversal of an Entry.

- R. **Rejection of Entries.** Bank may reject any Entry/File, including an on-us Entry, which does not comply with the requirements of **Section 3.1.B** of this Agreement, and Bank may reject any Entry if Client is not otherwise in compliance with the terms of the Agreement, including but not limited to the Security Procedures. Bank shall notify Client of such rejection no later than the Business Day such Entry would otherwise have been transmitted by Bank to the ACH Network or, in the case of an on-us Entry, its Effective Entry Date. It shall be the responsibility of Client to remake any Entries or Files rejected by Bank or the ACH Operator.
- S. **Return Entries.** Bank shall promptly notify Client by secure email of the receipt of a Return Entry from the ACH Operator. Bank shall have no obligation to re-transmit a Return Entry if Bank complied with the terms of this Section with respect to the original Entry. Client authorizes Bank to charge back to Client's designated Account the amount of any Return Entry as soon as relevant information is made available to Bank. Client will promptly provide immediately available funds to indemnify Bank if any debit Entry is returned after Bank has permitted Client to withdraw funds in the amount thereof or if any adjustment memorandum that relates to such Entry is received by Bank. Please see Bank's applicable fee schedule for any fees associated with return items.
- T. **Reversals.** Client may initiate a reversing Entry or File of Entries for erroneous or duplicate

transactions, as permitted by the ACH Rules. In doing so, Client represents and warrants to Bank that Client has initiated the Entries or Files within five (5) Business Days of the original Entry or Entries and within 24 hours of discovery of the error. Client also represents and warrants to Bank that the account holder of a reversing Entry has been notified of the reversal, and the reason for the reversal, no later than the settlement day of the reversal. For both reversing Entries and Files, Client shall be responsible for and shall indemnify Bank against and hold all parties to such transaction(s) harmless from any claim, demand, loss, liability, suit, action, damage, cost and expense arising out of or in connection therewith.

- U. **Name and Account Number Inconsistency.** Client acknowledges that, if an Entry describes the Receiver inconsistently by name and account number, payment of the Entry may be made as provided in the ACH Rules on the basis of the account number even if it identifies a party different from the named receiver, and Bank shall not be liable for making any such payments.
- V. **Liability.** Bank shall not be responsible for acts or omissions of any third party, including but not limited to, any Federal Reserve Bank, courier service, its Vendors, transmission or communications facility, the National Automated Clearing House Association, the Receiving Depository Institution any other party, including those authorized by Client, involved with the processing of any credit or debit Entry Client originates, nor shall it be held liable for the failure of a third party to process, credit, or debit any such Entry, or for other such acts or omissions. Client shall be liable for all fines levied against Bank by the National Automated Clearing House Association for any violation of the Rules arising from Client's negligence or intentional misconduct.
- W. **Exposure Limits.** Client shall comply with the monetary File limits established by Bank. Bank will review and adjust limits as needed from time to time (including, without limitation, any such limits as set forth in the ACH Origination Service Enrollment Form.

3.2 Over limit Entries

Bank generally reserves the right to limit the nature and amount of any preauthorized debit/credit Entries processed under this Agreement, or to refuse to process any debit/credit Entries under this Agreement if, in Bank's sole judgment (i) there is reasonable cause to believe that any Entry will be returned or will not settle in the ordinary course of the transaction for any reason, (ii) to do otherwise would violate any limit set by the applicable clearing house association or any governmental authority or agency to control payment system risk, or (iii) a preauthorized credit Entry or the return of a preauthorized debit Entry would create an overdraft of Client's Account(s). If any of the foregoing actions are taken by Bank with respect to a particular preauthorized debit/credit Entry, Bank will notify Client as promptly as practicable, but in no event later than two (2) Business Days after its decision.

3.3 Same Day Entries

A credit or debit Entry with an Effective Entry Date of the date of, an invalid date, or a date prior to the date of the transmission of the Entry or File to Bank and received by Bank prior to the applicable cut-off time set forth in the Cut-Off Time Schedule shall be considered a Same Day Entry. If Client is originating Same Day Entries, Client will not submit Entries with the same Effective Entry Date, to any single transit routing and account number exceeding \$1,000,000.00. If Entries exceed \$1,000,000.00 to any account, the Entries will be converted to next available Business Day settlement. In addition to any other fees that Client is obligated to pay Bank, Client hereby agrees to pay Bank the Same Day Entry fee established by Bank from time to time for Same Day Entries transmitted to Bank by Client ("Same Day Entry Fee").

3.4 Non-monetary Same Day Entries

- A. **Pre-notification Entries.** Non-dollar Pre-notification Entries are eligible for same day settlement and will be assessed a Same Day Entry Fee.
- B. **Return Entries.** Return Entries will not be eligible for same day settlement regardless whether the forward Entry was processed as a Same Day ACH Entry.
- C. **Reversals.** Client may initiate a reversing Entry or File of Entries for erroneous or duplicate transactions, as permitted by the Rules. Such

Entries received prior to the relevant Same Day ACH Entry delivery deadline are eligible for same day settlement subject to the eligibility requirements set forth in **Section 3.3** of this Agreement for ACH forward Entries (e.g., must not exceed \$1,000,000 per Entry, etc.). A Reversing Entry processed the same day is subject to the Same Day Entry Fee. The Effective Entry Date of a debit Entry to reverse a credit Entry must not be earlier than the Effective Entry Date of the credit.

Section 4 ACH Debit Block/Filter Services

This **Section 4** sets forth the terms and conditions for the ACH Debit Block/Filter Services ("ACH Debit Block/Filter") and applies to Clients who have executed an Enrollment Form for such Services. Clients who wish to receive ACH Debit Block/ Filter must have a deposit Account at the Bank. The ACH Debit Block/Filter Services are services offered by Bank that help monitor and/or block ACH Entries that are presented for posting to Client's Account(s). With ACH Block/Filter, the Client may elect to either (i) place an ACH Debit Block against all ACH Debit Entries presented against one or more Designated Accounts ("ACH Block"), or (ii) place an ACH Debit Block against all ACH Debit Entries presented against one or more Designated Accounts, except those Entries that meet the Guidelines, as defined below ("ACH Filter"). Bank will reject any non-compliant Entry presented against a Designated Account pursuant to the executed Enrollment Form accepted by Bank (each of which, a "Non-Compliant Entry"). Each Non-Compliant Entry will be returned to the respective Originator with the "Corporate Client Advises Not Authorized" return code. If Client elects ACH Debit/Block Filter, Client agrees not to authorize any third party to originate ACH Debits to a Designated Account, unless Client is receiving the ACH Filter service and a "Client ID" is obtained for such third party pursuant to ACH Filter service procedures.

ACH Filter service. With ACH Filter, Client must provide the required information to Bank regarding allowable ACH Debit Entries that are able to be presented against Client's Account (the "Guidelines"). Such Guidelines may include, without limitation, the originating Client and maximum dollar amount. In the event Client elects the ACH Filter service, Client shall make arrangements with its business partners to obtain their respective "Client IDs", which will be necessary for operation of the service. With ACH Filter, any ACH Debit Entry that presents against Client's Account that matches a

“Client ID” will automatically post to such Account. In contrast, any ACH Debit Entry that presents against the Account that does not match a “Client ID” will be returned with the “Corporate Client Advises Not Authorized” return code.

In the event Client elects to receive Bank’s ACH Debit Block/Filter Services, Client agrees to provide Bank with an ACH Debit Block/Filter Services Enrollment Form via e-mail, fax, or other delivery method. Bank shall verify the authenticity of each Enrollment Form received via a telephone call to the phone number(s) of one or more authorized account signer(s) as identified on the Client completed Corporate Resolution on file at Bank for such purpose (each an “Authorized Agent”). Client agrees that (i) this is a commercially reasonably Security Procedure, (ii) Bank may rely on any ACH Debit Block/Filter Services Enrollment Form authenticated in this manner, (iii) any Non-Compliant Entry paid in accordance with such Security Procedure will be deemed effective against the Client, which shall be obligated to pay to Bank the amount of such entry even though the entry was not authorized by the Client, and (iv) Bank shall not be responsible for the rejection of any Non- Compliant Entry if Bank believes, in good faith, that the person it has telephoned as part of the authentication procedure is not an Authorized Agent. Client agrees to hold Bank harmless from any loss incurred as a result of placing an ACH Debit Block on Designated Account(s). An ACH Debit Block remain in effect until Bank has received notice (in accordance with the notice requirements set forth in **Section 1.5.A.**) from Client informing Bank otherwise and Bank has had a reasonable amount of time to act upon such notice.

Section 5 Accounts Payable Automation Service

This **Section 5** sets forth the terms and conditions of Bank’s Accounts Payable Automation Service. Clients who wish to receive Accounts Payable Automation must have a deposit Account at Bank and execute an Enrollment Form for the Service.

5.1 Service Description

Accounts Payable Automation generally refers to the suite of accounts payable processing products and/or services offered by the Bank. Accounts Payable Automation includes the Accounts Payable Automation Service and Integrated Payables Service, as more fully described below (collectively, the “Accounts Payable

Automation Services”). Client’s usage of Accounts Payable Automation or any of its services and/or functionality is subject to Bank’s approval and periodic modification of the services, in Bank’s sole discretion. Further, any use of Accounts Payable Automation is subject to the terms of the Client’s applicable Account agreements.

5.2 Accounts Payable Automation Service

- A. **Description.** The Accounts Payable Automation Service provides Client with the ability to:
- Automate the receipt, review, approval, and payment of Client’s vendor (“Client Vendor”) invoices, and the generation and delivery of Request Files (defined below) to Bank for settlement against Client-designated Account(s); email remittance materials to the applicable Client Vendor providing the details Client Vendors need to post payments in their accounts receivable systems (“Remittance Materials”), and (if the Client uses Bank’s Positive Pay Services) deliver files to the Bank containing data regarding issued checks generated through Pinnacle Payables, and
 - Generate scheduled and/or ad hoc reporting and analytics.
- B. **APIs.** Usage of the Accounts Payable Automation Service requires implementation of an application program interface (“API”) between the accounting software used by Client and the Accounts Payable Automation Service. Bank maintains, and periodically updates as new software is added, a list of the accounting software supported through the Accounts Payable Automation Service. In the event Client’s accounting software is not currently supported, Client may request consideration for development of a custom API; however, nothing herein obligates Bank to grant such request. In the event the parties decide to develop a custom API, fees may apply and will vary based on the complexity of the APIs needed.
- C. **Client Vendor Invoices.** Bank shall not be responsible for the content, veracity or correctness of any Client Vendor invoice or other document directed by a Client Vendor to you, or whether an invoice or other document is misdirected or not received within the Accounts Payable Automation Service.

5.3 Integrated Payables Service

Subject to Bank's prior approval and periodic modifications of available services/functionality, the Integrated Payables Service allows Client the ability to electronically submit Request Files containing payment requests via multiple payment methods directly into the system. Integrated Payables does not require usage of any API with Client's accounting software.

5.4 Request Files

Request Files generated through Accounts Payable Automation are requests to initiate payment through one or more payment channels to Client-designated vendors ("Payment Requests"). Payment Requests generated through Accounts Payable Automation are subject to the applicable terms and conditions of the associated Bank service(s) used in conjunction with such payment methods (for example, your agreements with the Bank governing services including, but not limited to, ACH originations, business online banking, positive pay, deposit accounts, and/or credit cards, collectively, the "Service Agreements") including any relevant Security Procedures set forth in such Service Agreements as well as the Security Procedures set forth in this Agreement. By submitting a Payment Request through Pinnacle Payables, Client agrees to be bound by such Payment Request and liable to Bank for Bank acting on such Payment Request in accordance with the Security Procedures. In the event of a conflict between this Agreement and the Service Agreements applicable to the particular payment method, this Agreement (including, without limitation, the Security Procedures set forth herein) shall control. The Security Procedures governing ACH originations for Accounts Payable Automation are set forth in the Supplemental Documentation.

5.5 Available Payment Methods

Subject to Bank's approval and/or applicable limits as well as all applicable Service Agreements, Client may be entitled to use the following payment methods through Pinnacle Payables: ACH, check, and credit card Accounts at the Bank. Payments using credit card accounts shall be effected through the use of virtual credit card transactions. ACH payments are originated from Client's Account and are directly transmitted through the Bank. Checks are issued directly from the Client's Account, printed with the Client name, address and Bank Account information, and mailed first class. Credit card payments are sent to designated Client

Vendors. Bank may, at its sole discretion, make additional payment methods available in the future.

5.6 Account Access

Client will use Bank's business online banking service to view and/or access Account information and other Account-related services. If Client is unable to access Accounts Payable Automation or any functionality thereof, for any reason, Client should promptly contact Bank for support at the number provided by Bank in the Supplemental Documentation.

5.7 User Setup and Maintenance

- A. To use Pinnacle Payables, Client must appoint at least one individual as an Accounting Manager and one individual as a Payment Authorizer (both roles generally described below and defined within the system) with the authority to manage and take certain actions on Client's behalf within Pinnacle Payables.
- B. To establish, modify, or delete Client's Accounts Payable Automation users ("Payables Users"), Client must complete and submit a Setup Form or other documents, as Bank may require.
- C. Generally, there three (3) Payable User roles within Pinnacle Payables:
 - i. **Accounting Manager.** The key functions available to an Accounting Manager are:
 - 1. Management of:
 - a. Payment approval workflows, such as single approval and dual approval thresholds;
 - b. Invoice approval workflows, such as tiered approval rules, access privileges, invoice approval requirements, and invoice approval routing rules;
 - c. Payment-related, Client Vendor defaults such as email address to which Remittance Materials are to be sent, default payment method, banking information associated with default payment method, default general ledger ("GL") expense account to which this Client Vendor's approved invoices are posted;
 - d. Client's documents (i.e., management of Client's Accounts Payable

Automation inbox where invoices are submitted and/or captured);

2. Invoice GL account coding and review;
3. Approve invoices as valid for payment which automatically posts invoice to Client's accounting software (when appropriate);
4. Select valid invoices for payment; and
5. Research any paid or unpaid invoice.

ii. **Payment Authorizer.** Payment authorizers or "Approvers" are responsible for releasing payments selected by the Accounting Manager; however, payment authorizers do not have the ability to edit payment information.

iii. **Invoice Approver.** Payable Users who can only view, approve, or reject invoices as valid obligations of Client.

D. Once Payable Users are established or modified in accordance with Client's instructions, Bank does not monitor or oversee the actions of these Payable Users; therefore, Client should use extreme caution when selecting and authorizing the individuals to serve as Payable Users. Client agrees that all actions taken by its Payable Users are binding on Client, and all such persons are Client's agents for purposes of use of Pinnacle Payables, each authorized to act individually or in concert. Any access to Accounts Payable Automation through use of a valid user identification and authentication process shall be deemed to be duly authorized, and the Bank will carry out any instruction given regardless of the identity of the individual who is actually providing such instruction. You shall notify us at once in writing if any Payable User is no longer authorized to give instructions or confirmations and we shall not be liable or responsible to you until we receive written notice that the Payable User is no longer authorized and we have had time to act on the notice. In addition, (i) Bank shall not be liable to the extent Client receives the benefit of any Payment Request, even if such Payment Request is otherwise erroneous; and (ii) Bank shall not be liable if Client fails to timely report any error or discrepancy reflected in a periodic statement or if Client fails to report a breach of the Security Procedures.

E. The fact that Bank is aware of, or may be made aware of, or could have discovered, any limitation on access to Pinnacle Payables, does not make Bank obligated to enforce or attempt to enforce any limitation. Client understands that each Payable User may use Accounts Payable Automation without regard to any restrictions otherwise applicable to an Account, including without limitation, restrictions involving Account payments. For example, each Payable User will be able to use Accounts Payable Automation (i.e., generate Payment Requests) regardless of whether they are also authorized signers on the applicable Account's signature card or authorized users of the Bank's ACH origination service.

5.8 Client Security

You are responsible to maintain the security of the Payable User identification and passwords of all persons authorized to access the designated Accounts through Pinnacle Payables. You are responsible to maintain the security of your equipment and to regularly update the current version of your software to maintain the level of security we may require and at least a commercially reasonable level of security. You are required to maintain commercially reasonable internal controls, including, but not limited to, segregation of duties, to protect your business. We shall not be liable to you for any loss arising by reason of your failure to maintain your software or your internal controls.

5.9 Processing Schedule

Each payment you initiate will have a "Send On" date, which represents the business date by which you want to initiate the payment. Upon payment initiation, Accounts Payable Automation will process the payment on the "Send On" date if possible or the next Business Day.

5.10 Data Accuracy and Account Number Processing

You are responsible for the accuracy of the data transmitted to us using Pinnacle Payables. You understand when using Accounts Payable Automation to initiate payment orders, you must identify the account number that will receive the funds from the order, each beneficiary of the order and each beneficiary's bank. We, any intermediary bank and the

beneficiary bank may process a payment order solely on the basis of the account number even if that number does not correspond to the named beneficiary or the beneficiary's bank.

5.11 Compatibility and Client Systems

You understand that while we determine the third-party accounting systems and software compatible with Pinnacle Payables, we are not responsible for these systems, software, or computer hardware you choose.

5.12 Third Party Software and Systems

We will not be liable or responsible to you for any errors or loss or unauthorized access to your Accounts attributable to the third-party accounting system or software or computer hardware. To the extent you enter into any end-user agreement with a third-party software or service provider relating to your Account(s), you shall be responsible for compliance therewith, and you will hold us harmless and indemnify us for any loss or expense we sustain as a result of your use of the third party software or service or as a result of your breach of any such end-user agreement.

5.13 Accessing Pinnacle Payables

To access Pinnacle Payables, Client must have high-speed Internet access from sufficiently powerful computer hardware and appropriate software, including Bank- supported Internet browsers.

5.14 Availability

Bank may cause Accounts Payable Automation to be temporarily unavailable to Client, either with or without prior notice, for site maintenance, security, or other reasons, in Bank's sole and absolute discretion, and Client acknowledges that factors beyond Bank's reasonable control, such as telecommunications failure or equipment failure, may also cause Accounts Payable Automation to be unavailable to Client. In such event, Client must make alternative arrangements for scheduled transactions and Client will be responsible for maintaining procedures and facilities to enable Client to do so if Accounts Payable Automation is unavailable to Client.

Section 6 Wire Transfer Service

This **Section 6** sets forth the terms and conditions of Bank's Wire Transfer Services. Clients who wish to receive Wire Transfer Services must have a deposit Account at Bank and execute an Enrollment Form for the Service.

6.1 Access

A Client may submit Requests to Bank via the Online Banking Service (as defined in **Section 2**) or through other methods as set forth in this Section, on the Wire Transfer Service Enrollment Form and/or on the Online Banking Service Enrollment Form, subject to any applicable Supplemental Documentation relating to the Service. Bank may accept and process any and all wire transfer Requests that have been initiated in compliance with the applicable Security Procedures. All wire transfers are governed by this Agreement, Regulation J of the Federal Reserve Board, OFAC regulations, and all other Applicable Laws.

6.2 Scope

- A. **Terms and Conditions.** Client agrees to submit Requests to Bank in accordance with the terms and conditions of this Agreement. If there is a conflict between or among Sections of this Agreement applicable to the Wire Transfer Services, this **Section 6** shall control with respect to wire transfers.
- B. **Service Description.** Client authorizes Bank to transfer funds to and/or from any Designated Account(s). All wire transfer transactions involving Designated Accounts are subject to this Agreement. Bank, subject to its then current Security Procedures, will execute wire transfers in accordance with Requests, whether such Requests are delivered (i) in writing by an Authorized Offline Initiator (as defined in the Wire Transfer section of the Service Enrollment Form) at one of Bank's branches, or (ii) through Online Banking. Enrollment in the Online Banking Service is required for Online Requests. Sufficient funds must be immediately available in the Account specified in the Request at the time the Request is made. Bank will only transfer collected funds, and Bank reserves the right to refuse any transfer involving uncollected funds. Bank will not search for funds in Accounts other than the one(s) specified in the Request.

- C. **Fedwire Notice.** In connection with Client's use of Bank's wire transfer services under this Agreement, Client hereby agrees to the following: (i) Bank may use Fedwire when acting upon Client's Request; (ii) Any subsequent bank may use Fedwire when carrying out Client's Request; and (iii) The rights and obligations of Bank and Client in a wire transfer intended to carry out Client's Request, any part of which is carried out through the use of Fedwire, are governed by Fedwire Regulation.

6.3 Security Procedures

Requests may be initiated by Client in one of the following ways: (i) via Online Banking (an "Online Request"), after Client has enrolled in the Online Banking Service, (ii) via in person wire transfer Requests at a Bank branch, (iii) via telephonic wire transfer Requests, (iv) via email wire transfer Requests, and (v) via faxed wire transfer Requests (each of (ii) through (v), an "Offline Request"). The Security Procedures set forth in **Section 1.7** of this Agreement and in the Supplemental Documentation shall govern Online Requests and the Security Procedures set forth in the Supplemental Documentation shall govern Offline Requests. Client agrees that such Security Procedures are commercially reasonable. Client agrees that Bank will use the relevant procedures prior to accepting Client's Request, including but not limited to Client furnishing to Bank the completed Enrollment Form which shall include the names of, and any limitations placed on the authority of, Authorized Representatives and Authorized Offline Initiators designated by Client to authorize (and, where applicable, to verify) Requests. Client may request assignment of substitute PINS or other security codes at any time in order to maintain the integrity of the authentication procedures. Client will furnish to Bank in writing the name of the person designated by Client ("Designated Representative") to receive and distribute authorization and security code information to the appropriate Authorized Representatives. Client agrees that Bank will be entitled to rely conclusively upon the authenticity of all wire transfer Requests that, if given telephonically, may include the PIN of Client's Authorized Representative, or if applicable, include other verification of Client's identity. Bank shall have no duty to obtain further verification of any such Request unless attached herein. Bank is hereby authorized to record any telephone conversations with Client involving a Request. The decision to record any

telephone conversation shall be solely within the Bank's discretion and Bank shall have no liability for the failure to do so.

Client furthermore agrees that any Request acted upon by Bank in compliance with the relevant Security Procedures, whether or not authorized by Client, shall be deemed to be Client's authorized Request. If a Request (or request for cancellation or amendment of a Request) received by Bank was transmitted or authorized by Client, Client shall pay to Bank the amount of the Request, regardless of whether: (i) Bank complied with the Security Procedures referred to in this Agreement with respect to that Request, (ii) that Request was erroneous in any respect, or (iii) that error would have been detected if Bank had complied with such procedure.

6.4 Responsibilities

- A. **Payment to Bank.** Unless otherwise agreed to in writing, Client must pay Bank the amount of the wire transfer, plus any applicable fees, before Bank will execute Client's Request. Fees applicable to wire transfers are set forth in Bank's Fee Schedule, and are subject to change from time to time at the sole discretion of Bank. If Bank accepts a Request, Bank may receive payment by automatically deducting from any Designated Account of the Client the amount of the payment order, plus the amount of any expenses and charges for Bank services in execution of such Request. Bank is entitled to payment on the payment or execution date. Unless the Request specifies otherwise, the payment or execution date is the Wire Transfer Business Day on which Bank receives the Request. The Request is completed upon acceptance by the beneficiary's bank. Client's obligation to pay the Request is excused if the funds transfer is not completed, but Client is still responsible to Bank for any expenses and charges for Bank services. However, if Client instructs Bank to route the wire transfer through an intermediate bank, and Bank is unable to obtain a refund because the intermediate bank that Client designated has suspended payments, then Client is still obligated to pay Bank for the Request. Client will not be entitled to interest on any refund Client receives because the beneficiary's bank does not accept the payment order. In the event there are not sufficient available funds in a Designated Account to cover

the Client's obligations under this Agreement, the Client agrees that Bank may debit any Account maintained by the Client with Bank or any affiliate of Bank, or that Bank may set off against any amount it owes to the Client, in order to obtain payment of the Client's obligations under this Agreement.

B. Acceptance and Execution of Request by Bank.

Client's Request is considered accepted by Bank when Bank executes it. Client acknowledges that Bank maintains deadlines for accepting wire transfer Requests. If Client's Request is received prior to the applicable deadline, it will be executed by Bank that Wire Transfer Business Day. A Client's Request received after the applicable deadline may be executed the next Wire Transfer Business Day. Wire transfer deadlines are subject to change from time to time at the sole discretion of Bank without notice to Client. No instructions or other restrictions limiting Bank's acceptance of Client's Request(s) shall be effective unless accepted and agreed to in writing by Bank. However, Bank at its option may elect to act consistently with such instructions or other restrictions which it believes in good faith were made by Client.

C. Rejection of Wire Transfer. Bank has no responsibility to accept any incoming wire transfer for Client's benefit. Likewise, Bank has a right to reject Client's Request for an outgoing wire transfer for any reason whatsoever, including, but not limited to, (i) insufficient funds or insufficient collected funds in the Account specified in the Request, (ii) Bank's inability to execute the Request due to not receiving a properly executed or certified resolution or certificate of authority regarding an Account, or (iii) if Bank is unable to verify the authenticity of Client's Request. Bank will notify Client by phone, mail, or e-mail if it rejects the Client's Request. If Bank does not execute Client's Request, Bank shall not be liable to Client or any third party for any damages, losses, liabilities, expenses, or costs, whether direct or indirect, relating in any way to Bank's decision not to execute any such Request.

D. Cancellation or Amendment of Wire Transfer Request. Client may not be able to cancel or amend a Request after it is received by Bank. However, Bank may in its sole discretion use

reasonable efforts to act on Client's Request for cancellation or amendment. Bank shall have no liability if such cancellation or amendment is not effected. Furthermore, Client agrees to indemnify and hold Bank harmless from any and all damages, liabilities, costs, losses, and expenses Bank may incur in attempting to cancel or amend any wire transfer (including without limitation reasonable attorneys' fees and costs).

E. Repetitive Transfers. If Client determines that Requests have become repetitive, the Client may set up a Repetitive Transfer template via Online Banking. The template is available to all Sub-Users that have been delegated the authority to initiate Requests. Client agrees that Bank may execute Requests stemming from the Repetitive Transfer template and such Requests shall be deemed to be authorized by Client, and Bank shall in no event be deemed negligent and Bank shall not be liable for any losses, damages or expenses incurred by Client resulting from Bank's implementation of any repetitive Request.

F. Erroneous Requests. Client acknowledges and agrees that when Client provides Bank with a name and account number when requesting a wire transfer, that payment may be made solely on the basis of the account number, even if the account number identifies a beneficiary different from the beneficiary named by Client. Client furthermore agrees that its obligation to pay the amount of the wire transfer to Bank is not excused in such circumstances. Likewise, wire transfers received by Bank for Client's benefit may be paid by Bank solely on the basis of an account number. Client agrees that Bank shall not be responsible for any delay arising out of Bank's attempt to reconcile inconsistencies between name and account number, or otherwise investigate suspected irregularities.

G. Provisional Payment. Any credit Bank gives to Client for a wire transfer is provisional until Bank receives final payment for the entire amount of the wire transfer. If Bank does not receive final payment for the wire transfer, Client agrees to refund to Bank the amount of the transfer.

H. Erroneous Execution. If Bank receives an order to pay Client, and Bank erroneously pays Client more than the amount of the payment order, Bank is

entitled to recover from Client the amount in excess of the payment order, regardless of whether Client may have some claim to the excess amount against the Originator of the order.

- I. **Account Statements.** All wire transfers will be reflected on Client's periodic Account statement. In some cases, Bank will also notify Client in writing, electronically, or by a report produced by one of Bank's information reporting services. Client should review each statement or other such Bank notice for any discrepancies in connection with wire transfers. If Client thinks a wire transfer is wrong or needs more information about a wire transfer, Client must promptly contact Bank in accordance with Client's applicable Account Disclosure Agreement.
- J. **Objection to Payment.** If Bank gives Client notice that reasonably identifies a Request issued in Client's name as sender that Bank has accepted, executed, and received payment for, Client cannot claim that Bank is not entitled to retain such payment unless Client notifies Bank of its objection to the payment within fourteen (14) days of Bank's notice to Client.
- K. **Method Used to Make the Wire Transfer.** Bank may select any means for the transmission of funds which it considers suitable, including but not limited to Bank's own internal systems, Fedwire, the Society for Worldwide Interbank Financial Telecommunication (SWIFT), correspondent banks, or intermediary banks.

You may designate in an Online Request the particular electronic funds transfer system and the intermediary banks, if any, to be used by us in connection with the wire transfer transaction. If you do not so designate, we will choose the funds transfer system and intermediary banks, if necessary, to complete the wire transfer transaction. Notwithstanding your designation, we may use any funds transfer system to execute an Online Request, without prior notification to you, if we in good faith determine that (i) it is not feasible to follow your designation, or (ii) that following it would unduly delay completion of the wire transfer transaction.

Each funds-transfer system may be governed by its own operating rules and regulations, and wire

transfer transactions under this Agreement shall be subject to the rules and regulations of the applicable funds transfer system, including all interbank compensation rules governing the settlement of claims for compensation or adjustments of errors between member banks. Each funds transfer and/or communications system selected by us in executing a wire transfer instruction shall be deemed acceptable to Client and shall be considered the agent of Client.

6.5 Special Conditions for Transfers Outside the United States

- A. When providing wiring instructions for a foreign wire transfer, you represent and warrant that the transaction does not violate the Foreign Assets Control Regulations of the United States Treasury Department, any other laws of the United States, the regulations of any governmental agency, or any other Applicable Laws.
- B. If a wire transfer is to be made in United States dollars to an account outside the United States, then, unless otherwise expressly stated, our foreign correspondent may, in its sole discretion, make payment to or credit the account of the beneficiary of the funds transfer in local funds at the place of payment at the correspondent's rate of exchange on the date that payment is made or credited.
- C. If the wire transfer is to be made in a foreign currency, we will provide the necessary exchange into foreign currency required to effect the transfer. If the funds transfer is not effected, we will not be liable to refund to you any amount in dollars (i) in excess of our then current buying rate for such exchange which may be returned to and received by us from our correspondent, or (ii) in excess of the dollar amount actually recovered and received by us, less our fees and expenses.
- D. The Online Banking Service allows for future dating of domestic wire transfers; however, we do not permit foreign currency wire transfers to be future dated. We reserve the right to cancel any foreign currency wire transfer that is future dated at any time before the wire transfer is executed. If, in our discretion, we elect to process a foreign currency wire transfer that has been future dated, we reserve the right to modify the exchange rate

applicable to the wire to equal the exchange rate in effect on the date the wire transfer is sent.

- E. Foreign currency wire transfers initiated after the daily wire transfer cut-off time will be dated on next Business Day. These will not be considered to be future dated; however, if the current day's exchange rate does not equal the next Business Day's exchange rate, we reserve the right to modify the exchange rate to equal the exchange rate in effect on the date the wire transfer is sent or to cancel the wire transfer.
- F. You understand and agree that intermediary correspondent banks may assess additional fees, which could affect the net amount received by the beneficiary of the wire transfer.

6.6 Liability

Bank shall not be liable for any damages arising from or relating to Client's use of Wire Transfer Services other than Client's lost interest and Client's expenses directly related to Client's Request only upon Bank's gross negligence or willful misconduct. . Compensation for loss of interest will be, at Bank's option, in the form of an adjustment to Client's Account(s) to reflect the average balance on Client's Account Analysis that would have resulted had no error or delay occurred, or by a direct credit to Client's Account, not to exceed Bank's actual cost of funds for the period and amount in question. The adjustment will be computed on a daily basis. Client hereby agrees that Bank is not liable for the actions of any intermediary, regardless of whether or not Bank selected the intermediary.

Section 7 Remote Deposit Capture Service

This **Section 7** sets forth the terms and conditions relating to the Remote Deposit Capture Service (the "RDC Service") and is applicable to Clients who have executed a Remote Deposit Service Enrollment Form. Clients who wish to receive the RDC Service must have a deposit Account at the Bank. The RDC Service allows the depositing of the Clients' Checks through the Internet through use of equipment leased from, purchased from or otherwise approved by Bank and software provided by Bank, based on information submitted by the Client to Bank. Clients may also utilize the RDC Service by sending electronic files to Bank using transmission methods specified in the Enrollment Form and formatted in the file format specified in the

Enrollment Form (such files, "Transmission Files").

7.1 Use of Remote Deposit Capture Service

Subject to the terms and conditions of this Agreement, Bank grants to Clients enrolled in the RDC Service a non-exclusive right to utilize the RDC Service through the Internet and/or through use of software provided by Bank or its Vendor, and to use Bank's (or its Vendor's) proprietary materials for the term of this Agreement. The RDC Service activities include the ability to scan the Client's paper Checks to create electronic files (the "Images") and electronically transmit such Images to Bank, and for Bank (in conjunction with its Vendor) to use electronic information, including images and MICR information, captured from these Images to process transactions as image replacement documents, as permitted under the Check Clearing for the 21st Century Act, or as check image exchange items ("CIE Items"). The RDC Service is provided by Bank and its Vendors for access and use by the Client, and as a condition of such provision by Bank, Client agrees to comply with all existing and future operating procedures used by Bank and/or its Vendors for processing of transactions and with all Applicable Laws and applicable clearing house rules affecting the use of checks, drafts, and ACH transactions, including without limitation the ACH Rules.

7.2 Transmission and Security

- A. Using the Licensed Software provided by Bank and/or Transmission Files, as well as Equipment either leased from, purchased from, or approved by, Bank for use with the RDC Service (any of which, the "RDC Equipment"), Client shall create Images from the Checks and the associated MICR data and shall transmit such Images to Bank Client agrees that Bank is providing the RDC Equipment and Licensed Software on an "AS IS and WHERE IS" basis without any representations or warranty of any kind, including but not limited to any warranties for a particular purpose. Client agrees to be responsible for maintaining all Equipment.
- B. The Bank shall provide the Client with an administrative and gateway user name and password and administrator instructions in a user's manual. The Client may appoint an individual ("RDC Administrator") with the authority to: (a) determine who will be authorized to use the RDC Service; (b) establish separate

passwords for each user (each an “RDC User”); and (c) establish limits on each RDC User’s authority to access information and conduct transactions. The Client shall be responsible for the actions of its RDC Administrator, the authority the RDC Administrator gives others to act on its behalf, and the actions of the persons designated by the RDC Administrator to use the RDC Service. For Clients not using Transmission Files, such procedures, along with certain security protocols built into the Licensed Software and security provisions set forth in this Agreement, shall constitute Security Procedures for transmitting Images through the RDC Service, which Client recognizes and agrees are commercially reasonable. For Clients using Transmission Files, any relevant security procedures contained in the Enrollment Form shall constitute Security Procedures for transmitting Images through the RDC Service, which Client recognizes and agrees are commercially reasonable. Client shall transmit Images only in accordance with the Security Procedures. Client will be bound by any transmission (whether or not actually authorized) which is transmitted through use of the RDC Equipment and Licensed Software or via Transmission Files. Bank may accept for deposit any Images transmitted to Bank through use of the Licensed Software or Transmission Files, and Bank shall have no liability to the extent that the transmission of the Images was not authorized. If Client exports data from the Licensed Software to another system or software, Client recognizes that the data retained in the copy will not be encrypted or stored in an encrypted form and Client shall be responsible for the security of such data.

7.3 Processing

Bank will process, encode, endorse, and deposit into the Account, Checks submitted by Client through the RDC Service on each Business Day up to the cut-off deadlines set forth in the Cut-Off Time Schedule. Such processing services shall be performed by Bank in accordance with Bank’s internal procedures and all Applicable Laws.. Bank is making the Service available to the Client to allow the Client to create Images of the paper checks received from the Client’s Customers and to then electronically transmit these Images, or the information removed from the Image as a source document, for the purpose of having remote deposit

transactions initiated. As such, the Client’s Customers will not receive their original cancelled paper checks through the check clearing system. Bank will not examine Checks and/or Images to verify any data or dates. Bank will process the imaged Check according to the amount entered by Client, if applicable, or by the numeric amount shown. If the numeric amount is unclear, Bank may process the imaged Check according to the written amount, and Bank may correct the amount entered by the Client, but is not required to do so.

Checks made payable to the Client or any reasonable derivation thereof are acceptable for deposit. Certain checks are not supported through the remote deposit capture channel. These items include but are not limited to: third party checks, foreign checks, substitute checks, government bonds, checks payable in a medium other than U.S. Dollars, U.S. State or other savings bonds. If the Check is ambiguous or does not have the necessary information to be processed by Bank, Bank will treat the check as an exception. If a Check is treated as an exception, it will be forwarded by Bank to the Client, and not deposited or otherwise reflected in the Client’s Account. Bank will disregard any notation on a Check containing “paid in full” or other restrictive notation, whether preprinted or handwritten, and treat any such Check as though such notation did not appear thereon.

7.4 Provisional Settlement

Images are not deposited until accepted for deposit by Bank. Deposits of Images are provisional, and may be returned for insufficient funds or other reasons, including, without limitation, claims that the substitute check created from the transmitted data does not meet legal equivalence requirements under Applicable Law, or that the transmitted data is incomplete or inaccurate. Bank shall have no responsibility for the delayed return of a substitute check that includes any message text or other information added by Client in the depository bank endorsement area on the Image. Images transmitted to Bank for deposit and received by Bank on a day other than a Business Day or after established cutoff deadlines shall be treated by Bank as received on the next Business Day.

7.5 Reporting

Bank will make reports regarding the RDC Service available through a web portal (the “RDC Portal”). Specifically, Bank shall make available from time to

time a report stating the total amount deposited into an Account, as well as a listing of individual items deposited, which the Client may access through the RDC Portal.

7.6 Use of Remote Deposit

If applicable, Client agrees to enter in the amount of the Check, using the written amount of the Check, into the relevant data field associated with the RDC Service. Client agrees to abide by all procedures for using the RDC Service, including, but not limited to, the archiving and destruction of the original Check, as described herein below.

7.7 Check Retention and Destruction

- A. **Check Retention.** After being processed through the RDC Equipment, the original paper checks will remain with the Client, who shall use a commercially reasonable method to securely store all checks for a period of sixty (60) days after the date of deposit.
- B. **Data Destruction.** Checks retained by the Client shall be destroyed between sixty (60) days and ninety (90) days after the date of deposit. After they have been securely retained for a period specified in this **Section 7.7.B** the Client, in an area limited to select personnel, and prior to discarding, shall destroy Checks in a manner rendering unreadable all data containing or relating to material containing account information. For physical documents such as Checks, such destruction shall include shredding the documents using a cross-cut shredder. For electronic data, destruction shall include methods such that the information cannot practically be read or reconstructed. For example, (i) “fixed” internal magnetic storage, such as computer hard drives, (ii) external “mini” and “micro” hard drive storage, (iii) USB “flash drive” devices and plug-in memories, and (iv) “write-many” optical media, such as CD- RWs and DVD-RWs, shall be cleaned by software that uses an over-writing or “wiping” process to over-write all usable storage locations. “Write once” optical media, such as CD-Rs and DVD-Rs, cannot be overwritten and shall therefore be physically destroyed by shredding or with scissors.

7.8 Software, Internet, and Hardware

The Client will comply with all software, Internet, and hardware requirements outlined in the Supplemental Documentation, as provided by Bank and as may be updated by Bank from time to time in its sole discretion. Equipment leased by Client for use with the RDC Service is the property of Bank, and therefore must be returned to Bank within fifteen (15) calendar days if the Client discontinues the RDC Service as outlined in this Agreement, or should this Service otherwise be terminated. In the event the leased Equipment (or any other Equipment provided by the Bank that Client has not purchased) has not been returned within fifteen (15) days of the date of termination, Client shall make payment to Bank in an amount equivalent to Bank’s replacement cost for the Equipment as established by Bank. Client shall not, directly or indirectly, engage in any of the following activities except as may be expressly permitted by Applicable Law: (a) modify, create derivative works of, rent, lease, or otherwise permit third parties to use the Licensed Software or Equipment; (b) input, upload, transmit or otherwise provide to or through the Licensed Software, any information or materials that are unlawful; (c) remove, delete, alter or obscure from any Licensed Software or Equipment: any trademarks, warranties or disclaimers, or any copyright, patent or other intellectual property or proprietary rights notices or (d) use the Licensed Software or Equipment other than in accordance with this Agreement and in compliance with all Applicable Laws.

7.9 Representations and Warranties

With respect to each and every Check that the Client uses to create an Image for use with the Service (each an “Underlying Check”) and every Image that the Client delivers to Bank for credit to its Account (each a “Remote Item”), the Client represents and warrants to Bank that: (a) the Client shall be bound by and comply with all procedures and operating guidelines established by Bank, contained herein or subsequently created by Bank in its sole discretion; (b) the Client assumes responsibility for any Check or Image that is transmitted which for any reason is not paid; (c) the Client is a person or entity entitled to enforce the Check; (d) all signatures on the Check are authentic and authorized; (e) neither the Check nor the Image is counterfeit; (f) neither the Check nor the Image has been altered; (g) neither the Check nor any image of the Check has been paid; (h) no depository bank, drawee, drawer, or endorser will receive presentment or return of, or otherwise be charged for, an item transmitted as

a Remote Item, or any Check or item derived from such Remote Item, such that said person will be asked to make a payment based on an item that it has already paid; (i) the Client shall properly endorse each Check and deposit said Check to an Account at Bank that matches the name of the Client; (j) the Client shall deposit only Checks as defined in Regulation CC of the Federal Reserve Board of the United States ("Regulation CC"); (k) the Client shall deposit only Checks made payable to the Client; (l) the Client shall not deposit Checks drawn on the Client's account; (m) neither the Check nor the Image thereof is subject to a defense or claim in recoupment that can be asserted against the Client; (n) the Client has no knowledge of any insolvency proceeding commenced with respect to the Client or in the case of an unaccepted Check, the drawer; (o) only Checks drawn on financial institutions in the United States of America or Images of such Checks shall be deposited using the Service; (p) all Images meet any standards for image quality established by the American National Standards Institute, the Board of Governors of the Federal Reserve System, or any other regulatory agency, clearing house, or association that oversees funds settlements; (q) Bank will not sustain a loss because the Client has deposited an Image; (r) all information provided by the Client to Bank is complete, accurate, and true; (s) the Client has complied with all applicable rules, regulations, and laws with respect to deposit of the Check; (t) files submitted by the Client to Bank do not contain computer viruses; (u) the Remote Item is a digitized image of the front and back of the Underlying Check and accurately represents all of the information on the front and back of the Underlying Check as of the time Client converted the Underlying Check to a Remote Item; (v) the Remote Item has supporting documentation retained by you which shows the item is payable and authorizes the payee to charge and collect the monies owed; (w) the Remote Item contains all endorsements applied by parties that previously handled the Underlying Check in any form for forward collection or return; (x) only paper originals of genuine qualified items have been scanned for remote deposit; (y) Bank will not suffer any loss as a result of Client's retention or destruction of the paper originals of Remote Items; and (z) the Client has performed and will perform all of its obligations under this Agreement.

7.10 Image Quality

Client acknowledges that it is solely responsible for the quality of the image of each Check scanned for deposit

to a Designated Account. Should Bank determine in its sole discretion that the image quality of any Check electronically transmitted by Client to Bank to be deposited to a Designated Account is such that such Check cannot be processed ("Rejected Check"), then Client may either re-image the Check and resubmit same for deposit to the Designated Account or Client may deposit the original of any such Rejected Check. In no event shall Bank be obligated to process any imaged Check for deposit to a Designated Account unless the image quality thereof is acceptable to Bank, regardless of the number of times Client may re-image and resubmit such re-imaged Check for deposit. Client acknowledges and agrees that Bank adheres to the policy that the "legal amount recognition," meaning the amount of the Check written in words, shall prevail over the "character amount recognition," meaning the amount written in numbers, in determining the correct amount of any Check scanned and submitted electronically by Client for deposit in the Designated Account, and Client agrees to be bound by the amount as so determined.

7.11 Exposure Limits

Client shall comply with the monetary daily and/or weekly deposit file limits established by Bank from time to time in its sole discretion, based on its risk criteria (including, without limitation, any such limits as set forth in the Enrollment Form).

7.12 Liability

If Bank fails to credit any of Client's Accounts utilized in connection with the RDC Service in accordance with the terms of this Section as of the date such credit was earned, upon discovery or notification of such error, Bank will properly credit such Account, but Bank shall not incur any liability therefore, including any loss resulting from failure by Client to invest the amount of funds not properly credited to the Account. Further, Bank shall not be liable if:

- Through no fault of Bank, the Client's Customer does not have enough money in his or her account to make the transfer or payment.
- The RDC Equipment or the RDC Service is not working properly and the Client knew about the malfunction when the Client initiated use of the Service.
- The Client's Customer's depository institution mishandles or delays handling ACH Transactions

or CIE Item transactions initiated by Bank.

- There is an error on the Client's Customer's paper check.

7.13 Indemnification

In addition to any indemnification obligations of Client set forth elsewhere in this Agreement, Client shall indemnify, reimburse, or otherwise hold harmless Bank, its affiliated companies, its employees, its directors, its shareholders, and its agents for any and all costs, losses, claims, taxes, expenses, liabilities, and damages (including reasonable attorneys' fees and costs) (collectively sometimes herein, "Losses") incurred or sustained by Bank in the following events, provided there has been no gross negligence or intentional misconduct by Bank with respect to same in connection with or related to this **Section 7**, including, but not limited to all Losses resulting directly or indirectly from (i) transmittal or payment of any Image, without regard to whether Client actually authorized such transmittal, (ii) payment of a fraudulent Remote Item by Bank that would have been detected on the Underlying Check through the Underlying Check's security features, but otherwise could not be detected because the Underlying Check was transmitted to Bank via an Image, and (iii) a breach by Bank of its representations and warranties under Applicable Law that is caused, directly or indirectly, by an Image that would not have otherwise been breached had Client transmitted the Underlying Check to Bank without the use of RDC Services.

7.14 Intermediaries

Bank may act on any communication and provide the RDC Service using any payment system or intermediary organization it reasonably selects. Bank's performance of the RDC Service is subject to the rules and regulations of any such system or organization. Bank may engage third parties to provide the RDC Service. Bank shall have no obligation to disclose arrangements with third parties to Client or obtain Client's consent thereto. Client authorizes the transfer of Client information to its Vendors who are providing services and/or product in connection with the RDC Services, agents and representatives of Bank or agents of Client for use in connection with the RDC Service or as required by Applicable Law.

7.15 Discrepancies

Client shall immediately notify Bank via phone or e-mail of any error in connection with the RDC Service and any discrepancies between any records maintained by Client and any notice Client receives from Bank with respect to the RDC Service, and Client shall provide Bank with any information it may reasonably request in connection therewith. Client agrees that fourteen (14) calendar days after Client's receipt of the relevant notice is a reasonable time for Client to notify Bank of errors or discrepancies, unless any other agreements between Bank and Client or Applicable Laws provide for a shorter period. Failure of the Client to notify Bank within said time period of any such discrepancies shall preclude the Client from asserting any claims for damages or other liabilities of any nature against Bank based upon or arising in connection with such discrepancies. Bank shall have the right to correct the amount in the data field for any Check that has an incorrect amount to be consistent with the image of the Check. Notwithstanding the foregoing, Client agrees that if Client has complied with its obligations under this Agreement and Bank at any time discovers that the legal amount of the Check is different than the amount that has been credited to Client's Account, Bank will make the necessary adjustment to the Account to correct the discrepancy.

7.16 Inspection

Upon reasonable notice from Bank to Client, Bank shall have the right to inspect Client's books and records and to make on-site visits to any and all Client locations with regard to all information deemed by Bank to be necessary or pertinent to Client's use of the RDC Service provided by Bank under this Agreement. Information subject to Bank's right of inspection shall include (but not be limited to) all information maintained by Client with respect to Client's Customers (which Client hereby represents and warrants to Bank that Client has received all necessary consents as may be required by Applicable Law to allow Bank to so inspect), vendors and processors (including audits) if, in the opinion of Bank, Client's relationship with such Client's Customers is materially related to Client's RDC transaction activity conducted through Bank under this Agreement. In addition, Bank, in its sole discretion, may from time to time require Client to provide a written acknowledgement of its compliance with the RDC Service requirements.

The following is a partial list of Client requirements, all of which are subject to audit by Bank:

- All RDC Service scanning equipment shall be maintained in a secure area and used only for the RDC Service.
- Computer equipment used to operate RDC Service software and/or prepare File Transmissions shall be regularly updated and patched for security (including use of and updating of firewall, virus protection, malware protection, anti-spam protection).
- Appropriate steps shall be taken to ensure that all RDC User identification information, passwords, authentication methods and any other applicable security procedures issued to Client's employees are protected and kept confidential.
- All checks scanned shall be original items, appropriately payable to the Client, and shall be properly endorsed prior to scanning.
- Images of each deposit made with RDC shall be reviewed internally prior to transmission to ensure high image quality.
- Original checks shall be properly secured after being scanned, and shall be physically destroyed after being held for at least 60 days, but not more than 90 days.
- All Client staff shall understand the need for proper user security, password controls and separation of duties.

7.17 Effect of Termination

Any termination of RDC Services will not affect obligations arising prior to termination, such as the obligation to process any Checks or CIE Items, including returned items that were in the process of being transmitted or collected prior to the termination date. Within thirty (30) days after termination of this Service, Client will return or destroy all copies of the Licensed Software, as well as any documentation, manuals, and instructions relating to the RDC Service in its possession or under its control, and will, upon request, certify in writing that it has returned or destroyed all such copies. In addition, Client will keep its Account at Bank open until the later of (i) 60 days after the date of termination, or (ii) final payment with respect to all processing fees, and Client will keep in such Account an amount of immediately available funds sufficient to cover any remaining outstanding Checks or other items. If any such outstanding Checks or returned items exceed the amount immediately available in the Account, Client will promptly pay such excess to Bank

upon demand. Client will also continue to retain Underlying Checks deposited in Client's Account by means of the RDC Service for the proper retention period. Client shall forward such Checks to Bank upon request, provided such Checks have not been destroyed pursuant to **Section 7.7**.

Section 8 Lockbox Services

Bank may agree to provide Lockbox Services to assist clients in expediting receipt of checks and other payment instruments ("Remittances"). If so, Client will have its clients or client forward items to a special post office box designated by Bank ("Lockbox"). Prior to initiation of any Lockbox Service, Client must establish and maintain a demand deposit account with Bank ("Lockbox Account"). Some Lockbox Services are common to all Lockbox clients and some are optional.

8.1 Lockbox Account

Client understands and agrees that the Agreement covers the Lockbox Service and does not cover the handling or the processing of checks drawn on any accounts Client may have with Bank. Except as modified by the Agreement, Remittances processed through the Lockbox remain subject to the terms and conditions of the Deposit Agreement. (For example, Client remains subject to its obligations on Remittances to the same extent as would be the case if checks were delivered by Client to Bank for direct deposit to an account with Bank, and items returned to Bank or a third party services provider after Lockbox processing may be charged against Client's account in the same manner as set forth in that Deposit Agreement.)

8.2 Post Office Box

Client shall direct Client Customers or Clientele to mail payments to a special post office box(es) designated by Bank (i.e., the Lockbox /post office box(es) listed in the Enrollment Form). "Clientele" refers to an account debtor or anyone contributing contents to the Lockbox or the Lockbox Account. Bank may change the name or address of the Lockbox Account post office box at its sole discretion. Bank may designate more than one post office box and designate the receivables that are to be deposited in one or more of the Lockbox post office boxes. Bank or its agent shall pick up the Lockbox contents each Business Day and administer such contents according to the Lockbox Processing Procedures.

8.3 Payee Designation

The payee designation on Lockbox Account checks should be a reasonable variation of the Client's business name. (Example Jake's Bike Shop, Jake's or any reasonable variation). If payee is not a reasonable variation, the Check may not be deposited. Notwithstanding the foregoing, Client agrees that unless Client provides a listing of acceptable payee names and/or unacceptable payee names in the Enrollment Form: (i) any checks addressed to the Lockbox may be deposited by Bank regardless of the payee designated on the check; and (ii) if the payee is blank, Bank may stamp in Client's name and the check will be deposited in the Lockbox Account. Client should provide Bank with a list of reasonable variations of its business name, including formal corporate names or trade names that may be used to identify its business.

8.4 Lockbox Reporting

Bank will make images of deposited items and accompanying documents available to Client through Bank's Lockbox Service web portal, by transmission or by delivering to Client a CD-ROM or other agreed upon physical medium. Transmissions will be sent to Client on a periodic basis as specified in the Enrollment Form and formatted in the file format specified in the Enrollment Form. Bank will send back to Client original items that are unacceptable for deposit, and any accompanying documents and other miscellaneous items received through the Lockbox that are related to such items.

8.5 Fees

The fees for the Lockbox Service are set forth in the Bank's Fee Schedule. All charges of Bank for post office box, Lockbox Account and other services rendered pursuant to this Section will be billed to Client and debited from the Lockbox Account (unless the parties agree to debit another Account). Client will be responsible for postage charges associated with postage due items.

8.6 Account Records and Verification Privileges

Bank shall maintain an imaged copy of each check deposited into the Lockbox Account for up to seven years from the date the image is created. Client may access check images through the Bank's Lockbox Service web portal for up to two years. Except as otherwise provided in **Section 8.8** "Correspondence",

all Lockbox contents delivered to the post office box will be retained in accordance with Bank record retention procedures.

Client shall at all times keep correct and accurate records regarding Clientele's accounts, including the financial and payment records of the Clientele's accounts. These records shall be available during the Client's regular business hours on demand to the Bank's authorized officers, employees, or agents. Bank's officers, authorized employees, or agents shall have the right to verify the validity, amount or any other matter relating to any Clientele's accounts by mail, telephone, electronic means, or otherwise.

8.7 Payment Acceptance and Endorsement

Client authorizes Bank to endorse Remittances in Client's name. Client authorizes Bank to open the envelopes and determine whether they contain any Remittances, Remittance statements, invoices, correspondence, checks, cash, papers, documents or other items. If cash is sent to the Lockbox with any materials sent to the Lockbox ("Remittance Materials"), the cash will be removed from the envelope containing the Remittance Materials and credited to Client's Account. Client authorizes Bank to rent the Lockbox at the appropriate postal facility, to have custody of the keys or combinations and unrestricted and exclusive access to such box, and to collect the mail therein to be processed by Bank as agreed by the parties.

Bank shall process Remittances in accordance with following procedures:

- At enrollment each Lockbox is assigned, at Bank's discretion or that of a Vendor, a cutoff time dependent on the Lockbox Processing Procedures. The cutoff time assigned dictates when on a Business Day the last USPS mail is opened, all Remittances are encoded and deposited and when images and transmission files are available.
- In processing Remittances and Remittance Materials, Bank will follow the processing procedures set forth in the Lockbox Services Supplemental Documentation made available to Client (the "Processing Procedures").

If any payee on an item deposited by Bank in accordance with **Section 8.3** is a legal entity other than Client, Client represents and warrants to Bank and its Vendors that Client has the proper authorization from

such payee (or if the item has a blank payee, from the drawer) (a) to have such check endorsed for deposit, and deposited, into the applicable account; and (b) for Bank and any Vendor(s) to perform Lockbox Services under this Agreement for such acceptable payee. Client agrees to indemnify Bank and its Vendors, along with their officers, employees, agents, representatives and subcontractors (individually and collectively, the "Indemnified Parties") against, and hold the Indemnified Parties harmless from, any Losses incurred by any of the Indemnified Parties as a result of, or in connection with, Bank's or any Vendor's failure to have such authorization. The indemnification set forth in this Section shall be in addition to, and not in lieu of, indemnification and other rights of Bank under the Terms and Conditions.

8.8 Correspondence

Any written correspondence received with payments (as well as any coupons or other items accompanying payments in the same envelope) will be imaged and retained for 90 Days from the date the image is created ("Image Date"), accept as otherwise agreed by Bank and Client. Client may access such images through the Bank's Lockbox Service web portal for two (2) years following the Image Date. Correspondence can also be forwarded to the Client (at Client's sole risk) for an additional fee as set forth in the Fee Schedule. Envelopes are imaged by request only and other items received (such as advertisements, magazines, etc.) will be rejected and returned to Client.

8.9 Return Items

In the event a Check deposited into the Lockbox Account is returned unpaid because of insufficient funds or uncollected funds, the Bank may either redeposit the Check or return the Check to the Client. The Bank shall debit the designated Lockbox Account for the amount of the returned Check along with the Bank's normal returned deposit item fee shown in the Fee Schedule.

8.10 Lockbox Online

Client shall not disclose any confidential password, logon identification, identification code, personal or location identification number, repetitive code, or similar security device (any of which, a "Lockbox Password") assigned to Client for use in accessing the Bank's Lockbox Service web portal, except to employees or agents authorized to act for Client in

connection with the Lockbox Service. Client understands it is Client's responsibility to safeguard and manage any and all Lockbox Passwords associated with this Service and Client will change/update the Lockbox Passwords should circumstances regarding authorized access to the system change. Client acknowledges that the Bank has advised Client to change Lockbox Passwords on a routine basis. Client also understands that the Bank reserves the right to require Client to change Lockbox Passwords and could be prompted to do so at any time.

8.11 Document Test

Client agrees that acceptance of the Enrollment Form and performance by Bank is dependent on the successful test of Client's documents and transmission of file to Client, if applicable. After the Enrollment Form is accepted by Bank, Client agrees that it will not change, in any respect, the document or its contents without thirty (30) day minimum prior written notification to Bank and subsequent acceptance, testing and approval by Bank. Bank reserves the right to test Client's documents from time to time.

8.12 Adjustments

If the Bank at any time determines that there is an inaccuracy in the Lockbox Account, or that an entry previously posted to the Lockbox Account was revoked or did not become final (including but not limited to the return of deposited items unpaid), then the Bank may debit such amount against the Lockbox Account or, if the Bank cannot obtain payment of such amount by debiting the Lockbox Account, the Client agrees to pay such amount to the Bank immediately upon demand.

8.13 Authorized Agent

Client is aware and understands that the Bank may contract with Vendors and other third party(s) to carry out the functions of this Section including, without limitation, authorizing the Clientele's items to be first deposited in a third party bank account before being credited to Client's Lockbox Account. Client may be required to enter into an agreement with a Vendor with regard to the Lockbox Services. Bank is not responsible for the acts or omissions of its Vendors and other third parties, and Client holds Bank harmless from and against any losses arising from the acts or omissions of Vendors or other third parties.

8.14 Healthcare Lockbox

The Bank offers a specific Service known as “Healthcare Lockbox” pursuant to which the Bank provides a healthcare remittance service processing payments and documents related to healthcare services. When you utilize the Healthcare Lockbox Service, you represent and warrant that by entering into and engaging in the activities contemplated by this Agreement you are not in violation of and will not be violating any agreements with third parties, including but not limited to, contracts with payers and/or consents and directives of patients, or any federal or state laws. You agree to comply with all applicable federal and state law regarding the privacy of health information, including but not limited to, the provisions of the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, as amended from time to time (“HIPAA”). You understand and agree that, as necessary for the delivery of the Healthcare Lockbox Service, we and our contractors and agents may have access to and use of Protected Health Information, as that term is defined in HIPAA, which is transmitted or otherwise made available to us. You represent and warrant that you have, and will continue to have, the authority to allow us and our contractors and agents to have access to and use of such Protected Health Information.

Section 9 Armored Courier Service

This **Section 9** sets forth the terms and conditions relating to the Armored Courier Service and is applicable to Clients who have executed an Armored Courier Service Enrollment Form and have entered into a contract (the “Armored Courier Agreement”) with a Courier (defined below). Clients who wish to receive the Armored Courier Service must have a deposit Account with the Bank. The Armored Courier Service enables the use of a courier (“Courier”), which will pick up deposits from Client’s place of business (or other designated location) and carry such deposits to Bank as detailed in your Armored Courier Agreement.

9.1 Courier Service

The Courier will arrive on the Business Days and times, or from time to time and as provided below on an “as-needed” basis, and at the locations agreed upon by Bank and Client in the Enrollment Form, to pick up deposits from Client, which deposits will be delivered by the Courier to Bank for Deposit into Client’s

Account(s). Bank shall, and is hereby authorized to: (i) open the Courier Secure Package (as defined below); (ii) process the contents thereof for deposit into the Account in accordance with Bank’s standard deposit policies, Client’s Account Disclosure Agreement, and any written instructions and/or deposit ticket(s) enclosed in the Courier Secure Package; and (iii) to transact such other business on behalf of Client as may be incidental and proper in connection with the deposit.

9.2 Client’s Responsibilities

In order to protect both Client and Bank, Client shall have the following responsibilities in using the Courier Service:

- A. Items placed with the Courier by Client for delivery to Bank shall be (i) restrictively endorsed “for deposit only” to the Account, (ii) enclosed in a sealed, tamper-evident, shipment secure package furnished by Bank (“Courier Secure Package”), and (iii) accompanied by a deposit ticket, in duplicate, which lists the contents thereof. If the contents of the Courier Secure Package do not conform to the itemized list on the accompanying deposit ticket prepared by Client, Bank may deposit into Client’s Account such items as are found therein and shall report any discrepancy to Client in a reasonable time and manner. The record of Bank shall be final and conclusive as to the contents of the Courier Secure Package, and the risk of any loss or shortage is expressly assumed by Client, who agrees to indemnify and hold Bank harmless therefrom.
- B. Client shall maintain adequate and complete records of all items placed with the Courier, including but not limited to photocopies or other forms of copies of all items and deposit tickets, which copies shall be maintained, along with a copy of the deposit ticket, until Client has confirmed the deposit with Bank. Client will continue to receive regular Account statements that describe all transactions for the Accounts including the deposits that Client has sent to Bank through the Courier Service. Client agrees to promptly review the Account statement and to notify Bank within fourteen (14) Days of receipt of such statement of any discrepancies between Client’s records of deposits with the Courier and the deposits reflected on such statement.

Statements sent by any reasonable method, are conclusively presumed to have been received by Client five (5) Days after such statement was sent by Bank. If Client fails to notify Bank of any discrepancy within the requisite time period, the Account statement shall be conclusively presumed to have correctly documented deposits sent through the Courier Service.

- C. Client agrees that the responsibilities of Client set forth above establish reasonable standards to govern the conduct of Bank and Client with respect to the Courier Service and acknowledges that such standards and all Security Procedures established by the Bank are necessary for the protection of both Bank and Client. Client acknowledges that the failure by Client to comply with such responsibilities and other Bank Security Procedures may result in lost, misdirected or late deposits.

9.3 Pick-Up of Courier Secure packages

Client shall have sealed Courier Secure Package(s) ready for pick-up upon Courier's arrival. Courier will not accept items for transport that are not sealed by Client in a Courier Secure Package and shall not be obligated, nor authorized by you, to open or inspect the contents of any Courier Secure Package prior to its delivery by Courier to Bank.

9.4 Fees

Client agrees to pay to Bank the fees listed in the Bank's Schedule of Fees for the Courier Service.

9.5 Deadline for Crediting of Deposits

Any items received by Bank from the Courier after 12 p.m. local time ("Courier Cut-Off Time") on any Business Day or at any time on a day in which Bank is not regularly open for business need not be, and at the option of Bank shall not be, opened, verified or credited by Bank until Bank's next regular Business Day. The Courier Cut-Off Time may be adjusted by Bank with prior written notice to Client.

9.6 Standard of Care

Client agrees that Bank's responsibility to Client under this Section is limited to the exercise of ordinary care. Client further agrees that the occasional unintentional deviation by Bank from the procedures set forth

herein or deviation in accordance with the telephone instructions of Client will not be deemed the failure to exercise ordinary care. Nothing in this Section shall be construed to enlarge any of Bank's duties under the Tennessee Uniform Commercial Code.

9.7 Independent Contractor/Limits on Liability

Courier is your independent contractor and is not an agent or employee of Bank. Bank helps coordinates Courier's provision of service as a convenience to you and Bank shall not be liable for any acts or omissions of Courier. As between Bank and Client, Client shall be solely responsible for all deposits while such deposits are in Courier's custody. Bank is not and shall not be considered an insurer of any deposits placed with Courier and shall not be responsible for, or have any liability for, any deposits until such deposits are received by Bank at the Bank's office/branch.

Section 10 Smart Safe Deposit Service

This **Section 10** sets forth the terms and conditions relating to the Smart Safe Deposit Service and is applicable to Clients who have executed a Smart Safe Deposit Service Enrollment Form and have entered into a contract (the "Smart Safe Agreement") with a Courier (defined in **Section 9** above). Clients who wish to receive the Smart Safe Deposit Service must have a deposit Account with the Bank. The Smart Safe Deposit Service enables provisional credits to be made to Client's Account based on the amount of cash deposited in safes containing electronic currency validating components ("Smart Safes") at Client locations designated in the Supplemental Documentation ("Client Locations"). Such cash would be picked up by Courier periodically and transported to Courier's vaults (the "Smart Safe Cash Delivery Services"). Ownership of the cash contained in the Smart Safe(s) would transfer to Bank upon delivery to Courier's vaults, and such cash amount would be credited to Client's Account as a final (versus provisional) credit.

10.1 Designated Account

All provisional credit advanced by the Bank under Smart Safe Deposit Service shall be posted to the Designated Account. Unless Client specifies a different Account in the Supplemental Documentation, the Designated Account will also be used for debits involving fees, returns and/or adjustments.

10.2 Equipment

All communication lines, terminals, equipment, computer software, and interface devices required to access the Smart Safe Deposit Service (together with the Smart Safe Deposit Service, the “Smart Safe Deposit System”) and to transmit and receive data and information between Client’s location(s), Bank’s service center(s), and/or other necessary location(s) (collectively, (“Client Equipment”) are subject to approval by Bank and shall be compatible with the Smart Safe Deposit System. Client understands and agrees that it is solely responsible for the operation, maintenance and updating of all equipment, software and services used in connection with the Smart Safe Deposit Service and the cost thereof.

10.3 Input

As between Bank and Client, Client shall be solely responsible for the input, transmission, or delivery to and from Bank of all information and data required by Bank to perform the Service. Client shall determine and be responsible for the authenticity, accuracy, and completeness of all information, data, and instructions submitted to Bank. Bank is not obligated to check for errors or omissions in any such information, data, or instructions and/or to correct, cancel or amend any action in connection with the Service once Bank has received instructions to complete such action.

10.4 Service

The Smart Safe Deposit Service allows for advances of provisional credit to the Designated Account, based upon the amount of cash inserted into Smart Safes at Client Locations. The availability of the Service is contingent upon the existence of the Smart Safe Agreement and the Bank’s ability to receive Client Smart Safe data (including, without limitation, electronic cash files) from Courier and/or Bank’s vendor.

10.5 Information Sharing

Client hereby grants the Bank the authority to receive/retrieve information related to Smart Safe deposit activities and Courier cash deliveries and receipts from a web portal designated by Courier (the “Smart Safe Portal”) as well as electronic cash files and other data files sent to Bank by Courier and/or Bank’s vendor and to otherwise communicate with Courier and/or Bank’s vendor regarding your cash levels,

delivery schedules, validation reports and other information concerning your involvement in Courier’s Smart Safe Cash Delivery Services. This data may be used by the Bank and shared with third parties (including without limitation the Bank’s vendor(s)) and the Courier to deliver the Service (including, without limitation, to provide data for the Smart Safe Portal).

10.6 Credit Advances

Client will only place United States currency in the Smart Safe(s). Client may not remove currency from the Smart Safe once it has been inserted. In the event Smart Safe(s) at one or more Client Locations are used to generate an electronic cash file (a “Smart Safe Deposit File”) by or before the cut-off time set forth in the Cut-Off Time Schedule on a Business Day, Bank shall make provisional credit advances to the Designated Account on the same Business Day in an amount equal to any new cash that has been deposited into the Smart Safe(s) since the last Smart Safe Deposit File (each of which, a “Credit Advance”). If a Smart Safe Deposit File is generated after the cut-off time on a Business Day or on a non-Business Day, the Credit Advance may not be made until the next Business Day.

10.7 Verification of Smart Safe Deposit Files

After Courier has transported Client’s cash to Courier’s facility, Courier shall verify the amount of cash received. Courier’s verification of cash amounts deposited in Smart Safe(s) and received at Courier’s facility (or other facility as agreed by Client) shall be final and binding on Client under this Agreement (the “Verified Amount”) and Client shall be responsible for any discrepancy between any Smart Safe Deposit File and the Verified Amount (including but not limited to, discrepancies stemming from damage to the Smart Safe, a missing Smart Safe, Courier’s failure to perform, or theft of contents(whether directly from safe or during transit by Courier)). Client shall be responsible for repaying, without limitation, Credit Advance(s) regardless whether they exceed the cash amounts contained in any Smart Safe Deposit File(s). Provisional credit may be revoked if currency has not been received at Courier’s facility within eight (8) Business Days from the related Credit Advance. In such case, the provisional credit that was initially provided will be reversed (i.e., the Designated Account will be debited in the amount of the provisional credit).

10.8 Ownership of Cash

As between Client and Bank, Client shall retain ownership and risk of loss of any cash in the Smart Safe(s) until delivery of such cash to Courier's facilities. Upon Courier's delivery of such cash to Courier's facilities (a "Cash Delivery"), ownership of all such cash shall transfer to Bank. Client agrees that Bank shall have the right, in its sole discretion, to transfer ownership of any cash in the Smart Safe(s) from Client to Bank immediately upon notice to Client and Courier ("Notice Transfer"). Client agrees that Bank shall have a priority lien with regard to any cash in the Smart Safe(s) (up to the amount of any outstanding balance in the Designated Account) to secure Client's obligations under this Agreement and/or any deposit account agreement covering such Designated Account.

10.9 Application of Cash Credits to Designated Account

Bank shall credit the Deposit Account for the amount of any cash transferred to Bank following each Cash Delivery or Notice Transfer (each a "Cash Credit"). (Such Cash Credits may take the form of finalizing provisional credits and/or new final/non-provisional credits.) Client agrees that Cash Credits may be adjusted up or down to reflect Verified Amounts. (For example, any mutilated currency and coins would be dealt with separately and would not be included in a Verified Amount.)

10.10 Non-cash Items

Bank shall have no obligations or liability under this Agreement with regard to any contents of the Smart Safe(s) other than cash, including without limitation checks, other negotiable items, or any other securities or personal property, regardless whether such property is transferred to Courier or retained by Client.

10.11 Client Review; Responsibility for Accounts

Client shall review all reports furnished by Bank for accuracy and shall work with Bank to reconcile any out of balance conditions or discrepancies. As applicable, Client shall be responsible for balancing its accounts each Business Day and notifying Bank promptly of any errors or discrepancies. If Client so notifies Bank, Bank shall, at its expense, promptly re-compute accounts affected by discrepancies solely caused by the Bank or provide for another mutually agreeable resolution. Bank will use commercially reasonable efforts to

correct errors attributable to Client or Client's other third party servicers. Reconstruction of error conditions attributable to Client or to third parties acting on Client's behalf will be done at Bank's then-current professional services rates.

10.12 Client Systems; Client Notification

Client shall ensure that Client's networks and computer systems ("Client Systems"): (i) are capable of passing and/or accepting data from and/or to the Smart Safe Deposit System, and (ii) include up-to-date anti-viral software designed to prevent viruses from reaching the Smart Safe Deposit System through Client Systems. Client agrees that it shall notify Bank as soon as possible upon becoming aware of any incident of unauthorized access to the Smart Safe Deposit System.

10.13 Insurance; Liability

Client shall obtain insurance protecting against any loss of cash in the Smart Safes at the Client Locations not otherwise guaranteed by Courier. You acknowledge and agree that you are fully responsible for the cash contained within the Smart Safes and (as between Bank and Client) bear the sole risk of theft, robbery, fire, or risks of loss involving the cash until such time as such cash is delivered to Courier's facility and ownership of such cash is transferred to Bank. You agree that the Courier is acting solely as your agent under this Agreement. Bank does not directly handle, store or transport any currency, and will not in the future handle, store or transport any currency, for or on behalf of the Client in connection with the Smart Safe Deposit Service. The Bank shall not be held liable for any malfunction or delay related to any equipment provided to Client by Bank, any other equipment provided to Client by Courier, Courier's web portal(s), or other issues related to mechanical or technical difficulties involving Courier or Client, in receiving or processing any information concerning Smart Safe Deposit Files, Verified Amounts, Credit Advances, Cash Deliveries or Cash Credits (whether such information is transmitted/processed by the Client, Courier and/or Bank's third party service provider).

10.14 Termination

Client will keep any Designated Account(s) at Bank open until the later of (i) 30 days after the date of termination of this Service, or (ii) final payment with respect to all fees and will keep in such Account(s) an amount sufficient to cover any remaining outstanding

obligations.

Section 11 Zero Balance Account Service

This **Section 11** sets forth the terms and conditions relating to the Zero Balance Account Service and is applicable to Clients who have executed a Zero Balance Account Service Enrollment Form. Clients who wish to receive the Zero Balance Account Service must have at least two (2) deposit Accounts at the Bank. The Zero Balance Account Service allows clients to concentrate their funds in one, central business checking Account, called a Master Account. If the Target Balance for Subsidiary Accounts is set at zero, the Zero Balance Account Service will sweep all available funds from Subsidiary Accounts to the Master Account, and when an item is presented against a Subsidiary Account, funds are swept back from the Master Account to cover the item.

Unless otherwise provided in the Enrollment Form, if the Target Balance for a Subsidiary Account(s) is set above zero, funds will be transferred between the Subsidiary Account(s) and the Master Account to bring the respective balance(s) of the Subsidiary Account(s) to the Target Balance. Unless otherwise provided in the Enrollment Form, one or more Subsidiary Accounts may fall below the Target Balance in the event there are not enough funds in the Concentration and Subsidiary Account(s) to maintain the Target Balance for each Subsidiary Account.

11.1 Zero Balance Account Service

By executing a Zero Balance Account Service Enrollment Form, Client will designate a Master Account and one or more Subsidiary Account(s), as well as a Target Balance for each Subsidiary Account. Client may make deposits, issue Checks and other debits drawn against any Account designated as a Subsidiary Account or Master Account, regardless of the then-current balance in that Account. At the end of each Business Day, Bank will engage in the Settlement Process to transfer funds as necessary so that at the end of the Settlement Process, each Subsidiary Account will contain the Target Balance designated for that Account. Funds will be transferred as necessary:

- from the Master Account to each Subsidiary Account, and/or
- from each Subsidiary Account to the Master Account, to cause the balance of the Subsidiary Account to contain the Target Balance.

Notwithstanding the language in this **Section 11** regarding maintenance of Target Balances and/or Account balances, in the event the Enrollment Form conflicts with such language, the Enrollment Form shall control.

11.2 Rejected and Dishonored Debits

- A. **Client Obligation.** Client shall not issue any items drawn on any Subsidiary Account or the Master Account if the aggregate amount of all such items would exceed the aggregate immediately available funds on deposit in the Master Account and Subsidiary Account(s).
- B. **Master Account Overdrafts.** Bank is not required to honor any items drawn on any Subsidiary Account or the Master Account if the immediately available funds on deposit in the Master Account and Subsidiary Account(s), in aggregate, would be insufficient to pay items.

11.3 Bank Options

Bank may reverse the transfer of any funds in whole or in part between a Subsidiary Account and the Master Account and then reject any items not finally paid if, for any reason, any Subsidiary Account or the Master Account would have a negative balance at the end of the Settlement Process.

Section 12 Business Sweep Service

This **Section 12** sets forth the terms and conditions relating to the Business Sweep Service and is applicable only to Clients who have executed an Enrollment Form requesting the Business Sweep Service. Clients who wish to receive the Business Sweep Service must have a deposit Account at the Bank. For Clients enrolled in the Zero Account Balance Service and Business Sweep Service, the Zero Account Balance Service will be performed before the Business Sweep Service for the relevant Accounts.

The Business Sweep Service is an integrated financial service in which excess collected funds above Client's Target Balance in the Designated Account specified on the Enrollment Form (the "Operating Account") shall be transferred by the Bank daily from the Operating Account and into an investment and/or credit line sweep selection designated by Client in such Enrollment Form.

Client authorizes Bank to debit and credit the Account(s) in accordance with the sweep arrangement selected and described in the Enrollment Form, including, without limitation, as may be needed from time to time to cover Checks and other charges to the Operating Account and to maintain in the Operating Account a collected balance of no less than the Target Balance designated in the Enrollment Form. Bank reserves the right to change from time to time the amount of the Target Balance.

12.1 Service Features

On each Business Day, Bank will determine the collected balance (i.e., the ending ledger balance minus provisional credits for which final payment has not been received by the Bank) in the Operating Account for the previous Business Day (the "Collected Balance") and conduct sweep transactions as follows:

A. **Three Way Sweep.** If the "Three Way Sweep" is selected, sweep transactions will be handled as follows:

- i. Collected Balances in the Operating Account in excess of the Target Balance will be swept to the interest bearing account or Repurchase Investment Account designated in the Enrollment Form (either of which, the "Investment Account"). If there is an outstanding principal balance on the Client's line of credit designated on the Enrollment Form ("LOC"), however, excess funds from the Operating Account will first be used to reduce the outstanding principal balance.
- ii. If the Collected Balance in the Operating Account is less than the Target Balance, the Bank will sweep funds from the Investment Account and deposit them into the Operating Account to restore the Collected Balance in the Operating Account to the Target Balance.
- iii. If the Collected Balance in the Operating Account is less than the Target Balance and there are insufficient funds available in the Investment Account, the Bank is authorized and directed to advance funds, up to the line availability, from the LOC (if any) in an amount sufficient to restore the Collected Balance in the Operating Account to the Target Balance.

B. **Investment Sweep.** If "Investment Only Sweep" is selected, sweep transactions will be handled as follows:

- i. Collected Balances in the Operating Account in excess of the Target Balance will be swept into the Investment Account designated in the Enrollment Form.
- ii. When the Collected Balance in the Operating Account is less than the Target Balance, the Bank will sweep funds from the Investment Account and deposit the funds into the Operating Account to restore the Collected Balance in the Operating Account to the Target Balance.

C. **Loan Sweep.** If "Loan Only Sweep" is selected, the Bank is authorized and directed to handle sweep transactions as follows:

- i. Collected Balances in the Operating Account in excess of the Target Balance are used to reduce the outstanding principal balance, if any, on the Client's LOC designated during enrollment. When the outstanding principal balance on the LOC is paid in full, Collected Balances in the Operating Account in excess of the Target Balance will remain in the Operating Account.
- ii. In the event that the Collected Balance in the Operating Account is less than the Target Balance, the Bank is authorized and directed to advance funds, up to the line availability, from the Client's LOC in an amount sufficient to restore the Operating Account to the Target Balance.

12.2 Line of Credit Requirements

LOC principal payments and advances are subject to the terms and conditions of the LOC documents between Client and Bank. There are restrictions on the types of loans that are eligible for the Sweep Service.

Client acknowledges that participation in the Business Sweep Service is not a condition of Client's LOC and that Client may terminate the Business Sweep Service and thereafter make requests in such other manner as Bank may choose to accept for each advance.

Bank may delay or discontinue, without notice, advances from the LOC pursuant to the Business Sweep Service in the event of any one or more of the following circumstances: (i) any insufficiency of Client's available credit under the LOC or any other circumstances which would excuse Bank from advancing funds under LOC; (ii) termination of the Operating Account or LOC, or (iii)

pursuant to any other applicable termination provisions set forth in this Agreement.

12.3 Termination of Service

Bank or Client may terminate the Business Sweep Service effective upon three (3) Business Days' written notice to the other party.

12.4 Service Fees

The Client agrees to pay a monthly fee to Bank for the Business Sweep Service in an amount as set forth in the Bank's Fee Schedule. Client acknowledges that the fee is intended to compensate the Bank, in whole or part, for checking services and not as compensation for the line of credit (if any). Bank may collect all fees and charges not otherwise paid to it by deducting them as they are due from the Sweep Account or Operating Account, from any principal or interest being credited to such Accounts, from any other deposit Account maintained by Client with Bank, or through an Account Analysis charge.

Section 13 Overnight Repurchase Transactions

This **Section 13** sets forth the terms and conditions relating to overnight repurchase investment transactions and is applicable only to Clients who execute an Enrollment Form for the Business Sweep Service and select the option for the Repurchase Investment Account ("Repurchase Sweep Service"). Clients who wish to receive the Repurchase Sweep Service must have a deposit Account at the Bank. By signing the Business Sweep Service Enrollment Form for the Repurchase Investment Account, Client requests Bank to apply certain cash balances in the Designated Account at the end of each Business Day to a Repurchase Investment Account established at the Bank on behalf of the Client. The Repurchase Investment Account shall reflect the value of the Client's investment made in accordance with the terms of this Section.

13.1 Investment Authorization

As part of the Repurchase Sweep Service, Client and Bank agree to enter into transactions from time to time under which Bank agrees to transfer to Client an interest in securities within the meaning of the Government Securities Act of 1986 (such securities hereinafter "Securities" and such interest a "Repurchase Investment") against the transfer of funds

by Client, with a simultaneous agreement by Client to re-transfer to Bank such interest in such Securities at a date certain or on demand, against the transfer of funds by Bank. Each such transfer shall be referred to in this Agreement as a "Repurchase Transaction" and shall be governed by this Section.

The Client authorizes the Bank on each Business Day to debit and credit (i) the Designated Account listed on the Enrollment Form and (ii) the Repurchase Investment Account in accordance with the arrangements described in this Section. On each Business Day, Bank will determine the collected balance (which may not coincide with the ledger balance, nor the time by which Bank actually receives provisional or final credit for Checks or similar items deposited into the Designated Account) in the Designated Account for the previous Business Day and deduct any amounts in excess of the Target Balance specified in the Enrollment Form. Such amounts will be used for Repurchase Investments (the "Repurchase Investment Account Collected Balance"). Client may be required to maintain a compensating balance (i.e., a minimum balance). This compensating balance may not be eligible for earnings credit on Client's Account Analysis.

Repurchase Investments mature on the first Business Day following the date Bank makes such investment. Upon the maturity of each Repurchase Investment, Bank will automatically apply the proceeds thereof, including the principal amount of the investment, plus any interest (calculated as set forth in **Section 13.5** below), to the Designated Account. Such interest shall be (i) simple interest, not compounded, (ii) calculated based on a 360- day year, considering the Repurchase Investment Account Collected Balance as principal, to include any such collected balance in excess of the Maximum Investment Amount, and (iii) paid monthly or at maturity. Client's Account Analysis balance will be adjusted accordingly, if applicable.

13.2 Presumption of Receipt of Communications

Account statements and other communications may be sent to the address in the Bank's records for Client's deposit Account(s) or at such other address as Client may later specify in writing pursuant to **Section 1.5.A**. Client agrees to notify Bank immediately of any errors or discrepancies between Client's records and the information Bank provides concerning Client's accounts or transactions. If Client does not notify Bank of any errors within a reasonable time (not to exceed 14 days)

of the statement mailing date, the statement shall be deemed to be correct.

13.3 Statements and Confirmations

A Repurchase Investment Account statement will be sent to Client each month, and in addition, Bank will send Client a daily confirmation notice for any Repurchase Investment made setting forth the specific terms of the transaction ("Confirmation"). Client acknowledges that delivery of the confirmations and statements by U.S. mail, overnight delivery services, fax, or e-mail is acceptable.

The Confirmation shall describe the purchased Securities for that Repurchase Transaction (including CUSIP number, if any, the issuer, maturity date, coupon rate, paramount and market value), shall identify the buyer (i.e., the Client) and the Bank, and shall set forth (i) the purchase date (ii) the purchase price, (iii) the repurchase date unless the Repurchase Transaction is to be terminable on demand of either party, in which case the Confirmation shall state "on demand," "EFN" (until further notice) or other suitable abbreviation indicating that the Repurchase Transaction is terminable on demand, (vi) the annual percentage rate applicable to the Repurchase Transaction (as determined pursuant to this **Section 13**), and (v) any additional terms or conditions of the Repurchase Transaction not inconsistent with this **Section 13**. The Confirmation, together with this **Section 13**, shall constitute conclusive evidence of the terms agreed between the Client and the Bank with respect to the Repurchase Transaction to which the Confirmation relates, unless specific objection is promptly made in writing concerning the terms of the Confirmation after the Client's receipt of the Confirmation. In the event of any conflict between the terms of such confirmation and this Agreement, this Agreement shall prevail.

13.4 Nature of Repurchase Transactions

The parties intend that all Repurchase Transactions be considered sales and purchases and not loans. However, in the event any Repurchase Transaction is deemed to be a loan, the parties intend that Bank shall be deemed to have granted to Client a security interest in the Securities described in the applicable Confirmation for the purpose of securing payment of the repurchase price. Client shall not sell, transfer, pledge, hypothecate or assign its interest or rights with respect to this Section or any Repurchase Transaction.

Bank shall be entitled to receive and retain all principal, interest, dividends, distributions and other income payable with respect to the purchased Securities, whether or not made or becoming due during the term of the Repurchase Transaction.

13.5 Maturity

Repurchase Investments mature on the first Business Day following the date Bank made such investment. Upon the maturity or earlier termination of a Repurchase Transaction, all right, title and interest of Client in and entitlement to the purchased Securities subject to such Repurchase Transaction shall be deemed re-transferred to Bank, and Bank shall pay Client the repurchase price in accordance with the terms of this Section.

The "repurchase price" with respect to a Repurchase Transaction means the purchase price for such Repurchase Transaction plus the aggregate amount obtained by daily application of the applicable interest rate selected by the Bank for such Repurchase Transaction (the "Repurchase Rate") to the purchase price considering the ending collected balance for the Repurchase Investment Account as principal, to include any balance in excess of the Maximum Investment Amount. Client acknowledges that Bank may establish varying Repurchase Rates for Repurchase Transactions of varying denominations. Interest will be calculated as simple interest using a 360 day per year basis for the actual number of days in the period beginning on and including the purchase date for such Repurchase Transaction and ending on but excluding the repurchase date for such Repurchase Transaction.

13.6 Collateral

Repurchase Investments shall be collateralized, up to the amount, if any, specified in the Enrollment Form (the "Maximum Investment Amount"), by securities issued by the U.S. Treasury, or by agencies sponsored by the U.S. Government, such as "Fannie Mae," "Freddie Mac," "Federal Home Loan Bank," and other comparable issuers. In the event the Repurchase Investment exceeds the Maximum Investment Amount, any amount above the Maximum Investment Amount shall not be collateralized.

13.7 Payment

All payments shall be made in immediately available funds. Client authorizes Bank to charge against any of

Client's deposits or other Accounts held by Bank the purchase price of Repurchase Transactions initiated under the Repurchase Sweep Service and to credit thereto the repurchase price due to Client upon the maturity or earlier termination of any Repurchase Transaction. Client will at all times be liable for the payment upon demand of any debit balance in, or other obligation relating to, the Designated Account and/or Repurchase Investment Account. If after demand, Client fails to pay any amounts owing, Bank may close the Designated Account and/or Repurchase Investment Account and liquidate the assets in an amount sufficient to pay Client's indebtedness. Client authorizes Bank to apply or set off at any time and without further notice, any Repurchase Investment and the proceeds thereof to or against any indebtedness, whether now existing or hereinafter created and whether direct or indirect, which at any time may be owed by Client to Bank.

13.8 Use of Employee Plan Assets

If assets of an employee benefit plan subject to any provision of the Employee Retirement Income Security Act of 1974 ("ERISA") are intended to be used by either party hereto (the "Plan Party") in a Repurchase Transaction, the Plan Party shall so notify the other party prior to the Repurchase Transaction. The Plan Party shall represent in writing to the other party that the Repurchase Transaction does not constitute a prohibited transaction under ERISA or is otherwise exempt therefore, and the other party may proceed in reliance thereon but shall not be required so to proceed.

13.9 Segregation of Purchased Securities

Client shall not receive legal title to or actual possession of the purchased Securities and shall not receive or have a right to the benefit of any increase in market value of the purchased Securities, which value will vary from day to day. Until the maturity or earlier termination of a Repurchase Transaction, Bank (or its agent) shall retain custody and possession of all purchased Securities. To the extent required by Applicable Law, Bank (or its agent) shall segregate all purchased Securities from other Securities in its possession and shall identify Client's interest in such purchased Securities. Segregation may be accomplished by appropriate identification on Bank's (or its agent's) books and records.

13.10 Required Disclosure for Repurchase Transactions in Which Bank Retains Custody of Purchased Securities

BANK IS NOT PERMITTED TO SUBSTITUTE OTHER SECURITIES FOR THE PURCHASED SECURITIES AND THEREFORE MUST KEEP CLIENT'S SECURITIES SEGREGATED AT ALL TIMES.

13.11 [Intentionally Omitted]

13.12 Disclosures and Acknowledgments

- A. CLIENT ACKNOWLEDGES THAT THE FUNDS HELD BY BANK PURSUANT TO A REPURCHASE TRANSACTION ARE NOT A DEPOSIT AND THEREFORE ARE NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION, THE UNITED STATES GOVERNMENT OR ANY OTHER GOVERNMENTAL AGENCY.
- B. The parties agree and acknowledge that each Repurchase Transaction is a "repurchase agreement" as that term is defined in Section 101 of Title 11 of the United States Code, as amended (except insofar as the type of Securities subject to such Repurchase Transaction or the term of such Repurchase Transaction would render such definition inapplicable), and a "securities contract" as that term is defined in Section 741 of Title 11 of the United States Code, as amended (except insofar as the type of assets subject to such Repurchase Transaction would render such definition inapplicable).
- C. The parties agree and acknowledge that each Repurchase Transaction hereunder is a "qualified financial contract," as that term is defined in Federal Deposit Insurance Act and any rules, orders or policy statements thereunder (except insofar as the type of assets subject to such Repurchase Transaction would render such definition inapplicable).
- D. Client further understands that Client's funds and Securities held in a Repurchase Investment:
 - **are not insured or guaranteed by the FDIC, the United States government or any other governmental agency;**
 - **are not deposits in or obligations of Bank or any affiliate;**

- are not guaranteed by Bank, or any other affiliate;
 - In the event the FDIC were appointed receiver for the Bank in conjunction with a failure of the Bank:
- i. Client funds held in the Client's deposit Account as of the Cutoff Point (defined herein below) would be recognized by the FDIC as deposits belonging to the Client and would be insured by the FDIC subject to FDIC insurance rules and limits. "Cutoff Point" means the point in time established by the FDIC after it has been appointed receiver of a failed financial institution and takes control of the failed financial institution.
 - ii. Client funds swept out of the Designated Account as of the Cutoff Point and used to purchase interests in Securities (as defined in this Section 13, which governs Repurchase Investments) pursuant to this Section 13 would not be recognized by the FDIC as constituting a deposit at the Bank and would not be covered by FDIC insurance. Instead, the FDIC should recognize the Client as owner of the Securities or as having a perfected security interest in such Securities and would recognize the then current market value of such Securities.

Section 14 Controlled Disbursement Service

This **Section 14** sets forth the terms and conditions relating to the Controlled Disbursement Service and is applicable only to Clients who have executed an Enrollment Form requesting the Controlled Disbursement Service. Clients who wish to receive the Controlled Disbursement Service must have a deposit Account at the Bank and shall designate one or more deposit Accounts used to pay Checks via the Controlled Disbursement Service (each a "Controlled Disbursement Account") as well as a deposit account (the "Master Funding Account") used to fund the Controlled Disbursement Account(s).

14.1 Controlled Disbursement Service Description

Bank's Controlled Disbursement Service captures data early each Business Day on incoming checks being presented for payment against your designated Controlled Disbursement Account and compiles that information into a report which Bank provides to you,

normally by 10:00 a.m. CT, 11:00 a.m. ET. Client may elect to receive the report via secured email which will show the amount of funds you need in the Controlled Disbursement Account to cover checks that will clear that Business Day.

Client understands and agrees that the information in the daily report Bank provides to Client with the Controlled Disbursement Service is dependent upon Bank's capture of information from Checks presented by the Federal Reserve, other financial institutions, and individuals over the Bank's teller counters. Accordingly, in some instances Bank may be able to provide an estimated figure only, and Client should treat each Business Day's total as such. Bank cannot guarantee any amount or the finality thereof, or the time by which the report will be available to Client on a given Day. Client agrees that Bank will have no responsibility or liability to Client or any other person for any inaccuracies or incompleteness in information reported caused by circumstances beyond Bank's control or other reason other than Bank's gross negligence, willful misconduct, or criminal conduct.

14.2 Controlled Disbursement Funding Obligations

Bank will provide Client with a unique bank routing/transit number for use on Checks drawn on the Controlled Disbursement Account. The Controlled Disbursement Service reports only checks which are being presented for payment against the Controlled Disbursement Account. Any non-check transactions (ACH debits, wire transfers, or returned deposited items) will not be reported. If Client elects to use the Controlled Disbursement Account for any types of debits other than Checks, or for making deposits other than intended to satisfy your daily funding activity, Client is solely responsible for maintaining sufficient available funds to cover all debits posting to the Controlled Disbursement Account each day, beyond the daily funding amount necessary to cover checks. If any Bank or other fees are assessed directly against the Client's Controlled Disbursement Account, Client will be advised of such fees and Client will be responsible for ensuring that sufficient funds are in the Controlled Disbursement Account to cover them the date they are assessed.

If Client has the Controlled Disbursement Service with intraday funding, then Client will have one or more Controlled Disbursement Accounts and a Master

Funding Account. Throughout the Business Day, debits and credits in the Controlled Disbursement Accounts build to either a net debit or net credit balance. After the final Controlled Disbursement Account presentment, each Controlled Disbursement Account balance is automatically reviewed and returned to a zero balance by any internal debit or credit funds transfer, with an offsetting entry to the Master Funding Account.

Client shall fund the Master Funding Account no later than end of the Day we notify you to do so and in the amount of the Checks to be paid. If Client fails to so fund the Master Funding Account, Bank will not be obligated to create an overdraft and may return Checks unpaid.

Client agrees not to use the Controlled Disbursement Account for any of the following purposes, unless such is prefunded: payroll disbursement, tax payments or loan payments.

Section 15 Integrated Receivables Service

This Section 15 sets forth the terms and conditions of Bank's Integrated Receivables Service ("Integrated Receivables"). Clients who wish to receive Integrated Receivables Service must have a deposit Account at Bank and execute an Enrollment Form for the Service.

15.1 Integrated Receivables Service Description

The Integrated Receivables Service consolidates and formats receivables information, facilitates the reconciliation of this receivables information with payments received from Client's payers that were credited to Client's deposit Account and provides outputs of electronic data reports regarding receivables and related payments. The term "receivables information" refers to information regarding Client's outstanding or paid receivables, invoices, remittance data, payment advices or other related data for which Client is to receive payment.

Bank shall deliver or provide access to Integrated Receivables for the ability to receive payments electronically that are initiated by Client or Client's customers through an online banking application or a bill payment service provider, according to the format, schedule and via the method of electronic transmission agreed upon by the parties. Any changes to the formats or methods shall only be made upon mutually acceptable terms and conditions and at Bank's then-current rates. Requests by Client for additional records and information

are subject to the mutual agreement of the parties and Client will be responsible for Bank's costs in creating and delivering such additional records. Bank's obligation to perform any Integrated Receivables Service is subject to Client's timely performance of all activities on which Bank's performance depends. Bank will credit the designated Account in an amount equal to the payment received and debit the Account in an amount equal to any returns or reversals.

Client acknowledges that Bank's ability to process payments via Integrated Receivables in a timely and accurate manner is dependent upon data being provided by Client, Client's third party provider, or Client's customers. Bank has no obligation (i) to confirm or verify the accuracy, completeness, authenticity, validity or timeliness of the receivables information received from Client or its payers, or (ii) to confirm or to verify the identity of the sender of receivables information or a related payment.

Client agrees that it will not include any Restricted Information with any receivables information submitted to Bank and that Client will instruct its payers that they must not include any Restricted Information with any receivables information that your payers submit to Bank. Client assumes all responsibility and liability for any Restricted Information which Client or its payers include in any submissions of receivables information. Client agrees to indemnify, hold harmless and defend Bank against any and all liabilities, claims, costs, expenses and damages of any nature (including legal expenses) arising out of or relating to the inclusion of any Restricted Information by Client or its payers in any submissions of Receivables Information.

We will have no responsibility or liability in connection with any damages as a result of any error made due to the actions taken by you through the use of Service or the website.

The reporting provided by this Service is not intended to be used as substitute for Client's review of its deposit Account bank statement, and Client's obligations under this Terms and Conditions and/or the Account agreements to alert Bank of any errors or discrepancies remain.

15.2 Service Instructions; Single Administrator Indemnification

Client authorizes Bank to act on any instruction regarding

the Service that is provided to Bank by one of Client's users or that is provided by any other person where the instruction is communicated in a session verified with a user name and password issued to a Client users. Client acknowledges and agrees that by using the Service a Client user may submit an instruction for the Service, and Bank will act on such instruction, without a review, confirmation or approval by a second (different) user. Client acknowledges that the Service does not offer Client an option of dual administration or dual user authorization with respect to all Service related instructions sent to Bank. Client is requesting access to and use of the Service despite the absence of dual administration and dual user requirements, and Bank agrees to permit such access and use of the Service in this manner in consideration of the following agreements:

Client agrees that Bank will have no responsibility or liability in connection with any use or misuse of the Service, or of services, accounts or information accessed via the Service, directly or indirectly, that would not have occurred had the Service offered dual administration and dual user requirements. For the avoidance of doubt, Client hereby waives any and all claims Client may have against Bank in connection with any loss, theft, misappropriation, cost, expense, damage or liability Client may suffer or incur as a result, directly or indirectly, of the absence of dual administration and dual user authorization for access to the Service.

Client agrees to indemnify Bank and hold Bank harmless from Bank any and all liabilities, claims, costs, expenses and damages of any nature (including Legal Expenses) ("Damages") arising out of or relating to disputes or legal actions by parties other than Client and Bank, in connection with any use or misuse of the Service, or of services, accounts or information accessed via the Service, directly or indirectly, in the absence of dual administration and dual user authorization for access to the Service. This indemnity will survive any termination of the Service.

Bank will have no responsibility or liability in connection with the completeness, accuracy or timeliness of any receivables information provided to Bank or extracted by Bank from the submitted receivables. In the event that such receivables information is incomplete, unclear, incorrect, vague or ambiguous or provided in a form that is unacceptable to Bank, Bank is entitled to reject such information and/or not process it further within the Service.

Bank will have no responsibility or liability in connection with any damages arising from, or as a result of, any delay or failure on our part to provide the Service or any error, action, or omission on the part of Client in using the Service or Client payers in providing the receivables information.

Bank will have no responsibility or liability in connection with the accuracy, timeliness and reconciliation of the receivables information accessed in connection with the Service. Client expressly agrees that all features utilized, and all actions taken, by Client in connection with the Service are taken in Client's sole discretion and under Client's sole responsibility.

Client acknowledges and agrees that (i) Bank is making no representations or warranties of any kind regarding the content of any reports of receivables information provided through the Service, and (ii) Client and Client's payers are transmitting receivables information through the Service at Client's own risk. Bank disclaims any and all warranties of any kind (whether express or implied) including but not limited to any warranties of merchantability or fitness for a particular purpose in connection with the Service and the receivables information provided to Client through the Service.