

TREASURY SERVICES AGREEMENT

IMPORTANT INFORMATION ABOUT YOUR TREASURY SERVICES

Use of the Services means you agree to this Agreement.

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TREASURY SERVICES AGREEMENT

This Treasury Services Agreement (“Agreement”) applies to certain services that you the customer (“you” or “Customer”) may obtain from First National Bank of Omaha (“we”, “us”, or “the Bank”). First National Bank of Omaha has divisions that operate under various brand names. For specific information, please (i) contact your Relationship Manager, (ii) call our centralized Customer Care Team at 866-461-1467 to be connected with your applicable representative, or (iii) visit us online at firstnational.com/site/corporate.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT: To help the government fight the funding of terrorism and money laundering activities, the USA PATRIOT Act requires all financial institutions to obtain, verify, and record information that identifies each person (including business entities) who opens an Account (as defined in [Section 4.1](#)). What this means for you: When you open an Account, we will ask for your name, physical address, date of birth, and other information that will allow us to identify you. We may also ask for other identifying documents. We will let you know if additional information is required.

In consideration of our agreement to make services available to you, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, you and we (collectively the “parties”) agree as follows. By executing one (1) or more enrollment forms requesting one (1) or more Services or by using one (1) or more Services, Customer accepts the terms of this Agreement.

SECTION 1 – GENERAL TERMS

1.1 Services That We Provide

You may decide which of our services you wish to receive. Some services may require the completion of an application or enrollment form. Other services may simply be provided on request (although we may require that requests be in writing). All the services listed in sections two (2) through seven (7), collectively “Services”, are covered by this Agreement. Other services may also be covered if your application, enrollment, or request refers to this Agreement. This Agreement includes and incorporates any supplemental attachments, schedules, enrollment forms and supplemental enrollment forms, agreements, and applications related to your receipt of the Services. Applications, enrollments, and requests are subject to our approval. Technology, as defined in [Section 1.9 titled "Access to Technology"](#), provided to you by us is considered part of your Services. Certain Services may only be relevant to some of your Accounts with us. On request from time to time, we will provide you with a listing of those Accounts and the Services applicable to them. You may request us to change that listing, but you agree that we will be given a reasonable opportunity to react after receiving your request. Certain Services are subject to deadlines and cut-off times as detailed in the [Processing Schedule \(see Exhibit 1\)](#).

1.2 Termination of Services

(a) *For Convenience.* You may terminate receiving some or all of the Services whenever you choose. We may terminate providing some or all of the Services whenever we choose. In either case, the party terminating shall notify the other in writing at least sixty (60) days in advance. The preceding sentences of this paragraph do not apply if you and we have separately agreed in writing to a specific term. In that case, termination may only occur: (i) at the end of the agreed term or a renewal term, with at least thirty (30) days’ prior written notice; or (ii) prior to the end of the agreed term, for cause as noted in [paragraph \(b\)](#) below.

(b) *For Cause.* Either party may suspend or terminate immediately without advance notice prior to the end of the agreed term, for cause. Cause will exist: (i) for either party, if the other party commits a material breach of this Agreement or any other banking service agreement between the parties; (ii) for either party, if a material adverse change occurs in the other party’s financial condition (including a bankruptcy, reorganization, or receivership proceeding); (iii) for us, if you no longer satisfy our underwriting or policy standards for the Services in question; (iv) for us, if your use of the Services creates a risk of loss to us (including a third party claim or a reputational injury resulting from the inappropriate use of our Services or your violation of law); or (v) for us, if you fail to provide information reasonably requested by us.

(c) *Effects of Termination.* In the event Services are terminated for any reason prior to the term set forth and agreed upon by the parties, all payments and fees owed to us by you will immediately become due and payable. Rights and obligations of parties set forth in [Section 1.2](#), [Section 1.3](#), [Section 1.6](#), [Section 1.7](#), [Section 1.10](#), [Section 1.15](#), [Section](#)

[1.17](#), [Section 8](#), [Exhibit 3](#), and any right or obligation of the parties that by its express terms or nature and context is intended to survive termination of Services, will survive the termination of Services.

1.3 Compensation

(a) Standard Pricing. If we have committed to a non-standard fee schedule in writing for you, see [paragraph 1.3\(b\)](#). If we have not committed to a non-standard fee schedule, you agree to compensate us for Services rendered in accordance with our standard pricing schedules, as in effect from time to time. You understand that exchange rates, purchase and sale prices, commissions, and other amounts that we may charge you in any particular transaction are not necessarily the same as the amounts that we may pay, may reflect a spread or margin retained by us, and may be different than the amounts we charge in other transactions or to other customers. Fees do not include applicable taxes, if any, which are your responsibility (except for taxes based on our net income).

(b) Non-Standard Pricing. If we have separately agreed to a non-standard fee schedule for you that includes fixed prices or restriction of fee increases (a "Fee Schedule"), which Fee Schedule would be attached hereto and incorporated by this reference, you agree that you will not terminate any Services while the fixed price term is applicable, except that you may terminate earlier for cause (as defined in [paragraph 1.2\(b\)](#)). Additionally, except for Services that we are unable or unwilling to provide to you, you agree to obtain the Services covered by the fixed price term only from us during the period of time in which the fixed fee term in the Fee Schedule is applicable. The preceding sentence will not apply if you have separately made a minimum fee commitment to us in writing.

(c) Payment of Fees. Regardless of the fees charged to you, you agree that we may deduct our compensation from your Account(s) with us on a monthly basis and upon termination. If you have made other payment arrangements, we will not make deductions from your Account(s) unless those other arrangements fail to produce payments when required.

1.4 Our Standard of Care

We have certain obligations to you under applicable law. In addition, we agree to use ordinary care in performing Services. That obligation shall be measured by the reasonableness of banking procedures established for the transaction involved and general banking usage in the local area served by us; clerical error, inadvertence or oversight, or an honest mistake of judgment shall not constitute a failure to exercise ordinary care.

1.5 Your Remedies

You agree to notify us promptly if you believe we have failed to fulfill our obligations to you. If we are unable to resolve your issue, you may terminate receipt of any service in accordance with [Section 1.2 titled "Termination of Services"](#). If you prefer not to terminate, you agree to give us written notice of our failure, in which case we shall be afforded a reasonable opportunity to cure. If Services are not performed or are defectively performed and we have failed to cure, you shall be entitled to a reasonable fee credit to be applied to the fees invoiced for such Services (or, with our consent, other Services).

1.6 Your Obligations

(a) Access Requirements. You are responsible for obtaining and maintaining any hardware, software, communications, encryption capability, and trained Authorized Personnel (as defined in [Section 1.8](#)) needed to access or use the Services (the "Access Requirements"), and you understand that the Access Requirements may change over time. You are responsible for protecting your systems against viruses and other unwanted functionalities, and you agree to take reasonable efforts not to introduce the same to our systems. You are responsible for your own computer back-ups and contingency planning (including contingency planning for an unplanned interruption in our Services). You are solely responsible for selecting the Services you need, for the accuracy and adequacy of the data you provide, and for the results of using the Services in the operation of your business. You represent and warrant that you have all necessary rights, consents, power, and authority to provide us with any information and initiate the transactions that you submit in connection with the Services. You agree to use ordinary care in using our Services. You agree to review within a reasonable prompt time all Account, analysis, and other statements (paper and/or online) after we make them available to you (see your Commercial Deposit Agreement for additional relevant terms). If we provide you with statements relating to the Services that reflect debits to your Account(s), your review should not be any later than five (5) days after the statement is made available. You agree to give us immediate verbal notice, thereafter confirmed in writing, of any unauthorized, erroneous, or improperly executed transactions. You agree to comply with any written or electronic instructions, operating procedures, product or Service user guides, input or transmission formats, incoming work

specifications, deadlines or cut-off times, or other limitations or requirements relating to use of the Services (referred to herein as “Rules”), and understand that we may reject or be unable to process incoming items, instructions, or work that does not comply. In the event you fail to comply with the Rules non-compliance fees may apply.

(b) Requirements of Law. You also agree to comply (and to remain in compliance) with all applicable federal, state, and local laws, rules, regulations, ordinances, and determinations of governmental authorities (referred to herein as “Requirements of Law”) including the Gramm-Leach-Bliley Act, Electronic Fund Transfers Act, the Unlawful Internet Gambling Enforcement Act, Federal Reserve Regulation E, the Bank Secrecy Act, the USA PATRIOT Act, all rules, regulations, and obligations with respect to programs administered by the Office of Foreign Assets Control (“OFAC”) or the U.S. Department of Treasury’s Financial Crimes Enforcement Network (“FinCEN”), and any restricted activity that we identify from time to time. You agree not to: (i) resell or otherwise make our Services available to others; or (ii) use our Services in a way that damages or violates the rights of any third party, that violates Requirements of Law, or that will subject us, our affiliates, or our contractors to investigation, liability or legal action. To the extent that the Services we provide are subject to and involve the use of clearing systems (such as the Federal Reserve) or other networks or associations, including VISA, MasterCard, Electronic Check Clearing House Organization (“ECCHO”), and the National Automated Clearing House Association (“NACHA”) (such systems, networks, and associations being referred to collectively herein as “Associations”), you agree to comply with such rules, regulations, and guidelines of the Associations (collectively, “Association Rules”). You agree to indemnify us against any regulatory fine we incur because of your breach of any Association Rules or this Agreement. You understand and agree that we are not responsible for the acts or omissions of any Association (including, for example, an Association’s failure to satisfy a customary service level that affects our performance) or of any other member of any Association. Nothing in this Agreement shall be construed to diminish, restrict, or otherwise reduce your obligations under relevant Association Rules. Our rights and remedies under this Agreement are in addition to (and not in lieu of) our rights and remedies under Association Rules.

(c) Your Responsibilities. To the extent that our Services involve the processing of consumer payments, you agree to receive, respond to, and resolve, at your own expense, all consumer complaints regarding those payments. You agree not to materially change your business or submit to us any transactions that are submitted in a way or for a product or service of yours that was not previously described to and expressly accepted by us. If work to be processed by us is time sensitive, we recommend that you submit the work to us in advance of our final input deadline. This will minimize the possibility of delays resulting from unplanned occurrences (for example, payroll files should be submitted at least two (2) days prior to the payroll effective date).

1.7 Overdrafts

You agree to maintain a sufficient balance in your Account to cover checks, Drafts (as defined in [paragraph 3.3\(a\)](#)) you write, and the other withdrawals and transfers you make or authorize. If available funds are not on deposit at the time we review your balance after any check, Draft, or transfer request is presented, we may, without prior notice, refuse payment or decline to forward your transactions or we may (but need not) pay the item. We need not review your Account more than once in making this determination. We are not obligated to pay checks, Drafts, transfers, or other items on your Account if there are not sufficient available funds in your Account or if you do not make other satisfactory arrangements approved in writing by one of our officers. In the event that we (in our sole discretion) pay any check, Draft, transfer, or other item when there are not sufficient funds in your Account, you shall immediately reimburse us for any overdraft and related fee created thereby or we may, at our discretion, deduct the amount of the overdraft and related fee from any other Account that you maintain with us or any of our affiliates. In addition, for purposes of satisfying your payment obligations for the Services, we may consider any overdraft line of credit or other arrangement you have with us.

1.8 Your Authorized Personnel

(a) Your Employees. You are responsible for all acts and omissions of your officers, directors, partners, employees, agents, representatives, Personal Identification Number (“PIN(s)”) holders, and contractors, including persons granted signature authority on your Accounts and personnel who are permitted to give us instructions in respect of transactions processed hereunder (“Personnel” and/or “Authorized Users”, collectively “Authorized Personnel”). We are entitled, without further inquiry or investigation, to assume that the actions of your Authorized Personnel are appropriate and authorized by you. You are strongly advised to establish and maintain policies and procedures and accounting and auditing controls that will prevent (or at least allow the early detection of) fraud or other unauthorized activity by your

Authorized Personnel. As between you and us, you agree to accept sole responsibility for losses attributable to the acts or omissions of your Authorized Personnel. We will, in accordance with your requests from time to time, maintain records of your Authorized Personnel, change such records (with reasonable advance notice and after we have had a reasonable opportunity to act upon such notice), and confirm those records to you. We may require your requests to be confirmed in writing and to be from Authorized Personnel on your Account or from another person with proper authority. These records are maintained as an administrative convenience only and do not form a part of the Security Procedure. We are permitted, but not required, to honor all requests and instructions from your Authorized Personnel.

(b) Third Parties. In the event any Authorized Personnel are employees of Customer's third party processor (referred to in this section as "Processor"), or a Parent or Manager, or Sponsored Entity, Customer understands and acknowledges that wherever the Agreement or any schedule thereto references the "Customer's" computer, system(s) or telecommunications lines or systems, such references shall be deemed to refer to the Processor's, Parent's or Manager's, or Sponsored Entity's computer, system(s) or telecommunications lines or systems. Customer acknowledges and agrees that Bank may provide any notices or other communications under this Agreement to the Processor, Parent or Manager, or Sponsored Entity rather than Customer. A Processor, Parent or Manager, or Sponsored Entity shall be considered Customer's agent with full power and authority to receive information and to give instructions and otherwise act on behalf of Customer but is not a representative of Bank and has no power or authority to act on behalf of Bank. BANK HAS NO RESPONSIBILITY WHATSOEVER FOR ANY ACTS, ERRORS, OMISSIONS, DELAYS OR WRONGFUL CONDUCT COMMITTED BY A PROCESSOR, PARENT OR MANAGER, OR SPONSORED ENTITY.

(c) Identifying Information. Certain Services require the use of passwords, PINs, tokens, User IDs (including customer identifiers), template codes, and/or other identifying information (individually and collectively "Security Credential(s)"). You agree to give this identifying information only to your Authorized Personnel authorized to execute or utilize such Services. Any use of Services by Authorized Personnel with the correct identifying information will be deemed authorized by you.

1.9 Access to Technology

If we provide or permit you to access hardware, software, documentation, systems, or other technology or intellectual property (collectively and individually "Technology"), you agree that we and/or our suppliers retain all intellectual property rights in the Technology. You further agree: (i) to read and comply with any license terms that are made available to you in connection with the Technology; (ii) to use the Technology solely for purposes of accessing or using our Services; (iii) to maintain the confidentiality of the Technology and not to copy, transfer or disclose the Technology; (iv) not to attempt to circumvent any use or access limitations contained in the Technology, not to access any system, file, software, or service other than those specifically made available by us and not to translate, reverse engineer, disassemble, or decompile any Technology; (v) to limit Technology access to those of your Authorized Personnel who have a need to have such access in connection with your receipt of Services from us (and, on request, you agree to advise us in writing of who those persons are); (vi) to use the Technology in accordance with its documentation and all relevant security policies and procedures; and (vii) to return any and all copies of the Technology to us on request (except such hardware as you may have purchased from us). Technology is provided to you on an AS IS basis, and for purposes of this Agreement will be considered part of the "Services." You agree to be responsible for misuse of Technology by your Authorized Personnel or by third parties to whom your Authorized Personnel may disclose their Security Credentials. You agree to cooperate with us in the investigation of any apparent unauthorized use of or access to our Technology by any person using Security Credentials assigned to you or who otherwise appears to have accessed our Technology through your systems.

1.10 Security Procedure

(a) Description of Security Procedure. Services you use may be subject to a security procedure. You agree we will use security procedures for applicable Services (collectively, "Security Procedure") to verify the authenticity of entries, wire requests (payment orders), end user payments or returns, trade services notices, foreign exchange contracts, or other information transmitted or sent to us electronically or otherwise ("Transmitted Information"). You agree that we are entitled to modify, supplement or alter the Security Procedure, in whole or in part, at any time and that you will be required to comply with the Security Procedure as modified, supplemented or altered in order to continue to use Services. You agree to the Security Procedure as stated in this [Section 1.10](#) and any additional security procedures noted in this Agreement, unless otherwise agreed to with the Bank. Depending on how you submit Transmitted

Information to us, [Section 1.10\(g\)](#), [Section 1.10\(h\)](#), [Section 1.10\(i\)](#), and/or [Section 1.10\(j\)](#) will apply, unless otherwise agreed to with the Bank or as otherwise specified under a different Services section of this Agreement.

(b) Review of Security Procedure. You shall review the Security Procedure before using a Service and before sending Transmitted Information, taking into consideration the size, type, and frequency of Transmitted Information you transmit or anticipate transmitting and other factors you deem relevant to a desired security procedure. If at any time you believe the Security Procedure is no longer a commercially reasonable method for providing security against unauthorized Transmitted Information for any Service, whether due to a change in the size, type, and frequency of Transmitted Information or any other reason, then you shall notify us. In addition to this Security Procedure and/or specific security procedures under a different Services section in this Agreement, Customer is required to select or decision additional dual control procedures.

(c) Authentication. You agree the Security Procedure verifies the authenticity of Transmitted Information and does not to detect errors in the transmission or content of Transmitted Information.

(d) Effective Transmitted Information. We may change your unique Security Credentials from time to time. You agree not to authorize others to initiate any information subject to the Security Procedure that is inconsistent with the Services you request from us. You shall take all necessary steps to prevent the unauthorized use or disclosure of your unique Security Credentials and to otherwise establish and maintain procedures to protect against the provision of unauthorized Transmitted Information. TRANSMITTED INFORMATION SHALL BE EFFECTIVE AS YOUR VALID ORDER TO US AND YOU AGREE TO BE BOUND BY THE SAME IF: (1) IT WAS IN FACT TRANSMITTED OR AUTHORIZED BY YOU; OR (2) IT WAS ACCEPTED BY US IN COMPLIANCE WITH THE SECURITY PROCEDURE, WHETHER OR NOT IT WAS ACTUALLY AUTHORIZED BY YOU. Compliance with the Security Procedure shall be documented by our computer system and absent proof of tampering therewith such records shall be conclusive with respect to all questions concerning the actions documented therein. This Security Procedure may be carried out by our computers without unbundling of files or human oversight on individual Transmitted Information. You are solely responsible for the security of the non-bank endpoints. Bank does not guarantee security of the secured connection, which shall be considered part of your “transmitting facilities” for purposes of UCC §4A-203. Bank has no responsibility for monitoring, verifying or assuring the security of the dedicated line or its connection to your computer. You are solely responsible for the security of your computer system, for maintaining the security of and controlling the use of its Security Credentials, and for notifying Bank immediately if you have reason to believe that your security has been breached.

(e) Unauthorized Access. You warrant that no individual will be allowed to initiate Transmitted Information in the absence of proper supervision and safeguards, and agree to take reasonable steps to maintain the confidentiality of the Security Procedure and any Security Credentials provided by us in connection with the Security Procedure provided to you. If you believe or suspect that any such information or instructions have become known or accessed by unauthorized individuals, you agree to verbally notify us immediately, followed by written confirmation. The occurrence of unauthorized access will not affect any transmissions of Transmitted Information made in good faith by us prior to receipt of such notification and within a reasonable period of time to prevent unauthorized transmissions. In the event of any unauthorized Transmitted Information, you agree to cooperate and to provide such information as we may reasonably request to investigate and recover any resulting loss. Absent Bank’s gross negligence or willful misconduct, we shall not be liable for acting upon unauthorized Transmitted Information received or reasonably believed to have been received from an authorized source connected to your Account or your Authorized Personnel.

(f) Commercial Reasonableness. You confirm and agree this Security Procedure is commercially reasonable for purposes of this Agreement. Customer agrees that for purposes of determining whether any Security Procedure is commercially reasonable, any additional verifications that the Bank requires and any internal policies, procedures and technologies that Bank employs from time to time shall be taken into account and considered part of the agreed Security Procedure, even though they are not specifically set forth. You acknowledge that you: (i) have the option of submitting Transmitted Information via other channels (e.g., via non electronic procedures with confirmation); and (ii) have had an opportunity to propose your own unique security procedure, and you have freely selected the Security Procedure. After consultation with your own counsel, you stipulate and agree that the Security Procedure herein constitutes a “security procedure” for purposes of § 4A-201 of the Uniform Commercial Code of Nebraska. You represent that you: (a) consider yourself qualified to determine, and have, independently evaluated the risks presented by the Security Procedure; and (b) have determined that the Security Procedure is no less protective than other security procedures in use by similarly situated companies. You hereby stipulate and agree that the Security Procedure is commercially reasonable within the

meaning of § 4A-202 of the Nebraska Uniform Commercial Code and that your computer and telecommunication systems and the dedicated line form a part of your transmitting facilities for purposes of § 4A-203 of the Nebraska Uniform Commercial Code.

(g) Security Procedure for Transmitted Information via Cash Management On-Line (“CMO”). Bank’s computer system will verify that the file containing each Transmitted Information contains the Customer’s Security Credential (“CPU Security Procedure”). This shall be accomplished by an industry-accepted method. The Customer Security Credential for the initial file shall be as mutually agreed. The Security Credential for subsequent Transmitted Information files shall be the same unless changed by Customer in a field provided for that purpose in the immediately preceding file. Compliance with the CPU Security Procedure shall be documented by Bank’s computer system and absent proof of tampering therewith such records shall be dispositive with respect to all questions concerning the actions documented therein. *The CPU Security Procedure will be carried out by Bank’s computers without human oversight of individual Transmitted Information.* Customer understands that CPU Transmitted Information may be executed without an opportunity for a Customer-initiated cancellation.

(h) Security Procedure for Transmitted Information via First Signal. Transmitted Information initiated via First Signal will be electronically authenticated (without human intervention) through a communications link between Customer’s computer and Bank’s computer. We will determine whether the Transmitted Information is received via a secure connection that we have established with you. This shall be accomplished by an industry-accepted method. Bank has no responsibility for monitoring, verifying or assuring the security of the dedicated line or its connection to Customer’s computer.

(i) Security Procedure for Transmitted Information via FirstToolsSM. Customer recognizes that FirstToolsSM is accessed via the property of a third party (the “System”) and agrees to comply with such procedures and requirements as may be established from time to time by the owner of the System or by the Bank. Bank will verify that Customer has authorized, canceled or amended Transmitted Information solely by means of the security procedures inherent in the System. The System has been designed to minimize the possibility of fraud and error by placing the Security Credential and access under the control of an individual or individuals authorized by you (“Authentication”). The System has been designed so that it may be operated only upon valid Authentication. The Bank will therefore consider any access to the System through use of valid Authentication to be duly authorized, and the Bank will carry out any instruction given regardless of the identity of the individual who is actually operating the System. You authorize the Bank to treat any instruction made on the System with valid Authentication as if the instructions had been made in writing and signed by the appropriate authorized individual or individuals. Unless there is substantial evidence to the contrary, the Bank or vendor’s records will be conclusive regarding any access to, or action taken through the System. You accept responsibility for unauthorized access to the System by your employees, your associates or by third parties. You agree to inform the Bank promptly of any discrepancies that you discover. You confirm that you have investigated the System and that you have instituted the proper controls for access to the System through your computers and terminals.

(j) Security Procedure for Transmitted Information via SWIFT. Customer agrees that for any Transmitted Information involving SWIFT, including amending or cancelling such orders, the Security Procedure set forth in this paragraph applies. The Security Procedure for Transmitted Information via SWIFT will be used to authenticate that a Transmitted Information is that of the Customer and authorized by the Customer shall be those as provided for in the “SWIFT Contractual Documentation” (as such term is defined by SWIFT and as may be amended or supplemented from time to time) which includes without limitation its General Terms and Conditions and FIN Service Description or as set forth any other terms and conditions that may be established by SWIFT. The Bank is not obligated to do anything other than what is contained herein to establish the authenticity of Transmitted Information and any amending instruction. The Customer acknowledges that: (a) the Bank is not responsible for any errors or delays in the SWIFT system, and (b) the Customer is responsible for providing the communications to the Bank in the format and type required and specified by SWIFT.

1.11 Electronic Access and Security Issues

(a) Electronic Access. If we provide you with Security Credentials for use in any of the Services, you agree to keep and to require your Authorized Personnel to keep your Security Credentials secret, and you agree to prevent unauthorized access to any system. Security Credentials may be changed by Bank from time to time. Bank may, in its sole discretion, require additional verification at any time. Protective measures applied to Security Credentials should be at least as

protective as those applied to your most confidential information. You agree to notify us immediately if: (i) your Security Credentials are lost, stolen, or if you believe someone else has discovered your Security Credentials; (ii) you reasonably suspect there has been a breach of any system; or (iii) there is a malfunction in your system (including non-Bank-provided software). You should change Security Credentials whenever any person with access to them transfers to a new assignment, leaves your employment, or is no longer authorized to use the Services on your behalf, or if you believe your Security Credentials have been compromised. Security Credentials should also be changed regularly. We are authorized to provide Services to, to release your Account information to, and accept as authentic any instructions given to us by any person who has entered any Security Credentials assigned to you. We assume no risk for security of public/private networks or telephone/data lines used in conjunction with the Services.

(b) Security Issues. If a security breach occurs, unless our internal security is proved to have been breached, there will be a presumption that your security has been breached. If you request Services that allow for you to appoint an administrator(s) (collectively and individually, “Administrator”), that Administrator may have the ability to appoint additional Administrators and each Administrator will have the ability to determine which of your Authorized Users will have access to the Services, the type of access they will have (including access to information about your Accounts and the ability to initiate transactions therein), and the ability to add, delete, and modify Security Credentials. Your Administrators are solely responsible for determining, on your behalf, who should be trusted with your Security Credentials and for supervising their use thereof. You are responsible for all transactions initiated by your Authorized Users even though they engage in transactions that you have not authorized, regardless of the purpose and regardless of whether the Authorized User violates your rules. If an Authorized User loses or forgets their Security Credentials, they should contact your Administrator. If an Administrator loses or forgets their Security Credentials, they should contact us. You understand and agree that ANY ONE (1) AUTHORIZED USER may be able to initiate transactions (including transfers) from any of your Accounts using the Services, regardless of whether the Authorized User is authorized on those Accounts and regardless of whether any of those Accounts normally require two (2) or more signatures or has other restrictions.

1.12 Changes

You acknowledge and agree that the Services (including Access Requirements service features and our [Processing Schedule \(Exhibit 1\)](#)) and the systems we use to provide the Services may change over time. We may also unilaterally amend this Agreement and any applicable Rules from time to time. If we believe such a change will have a material impact on you, we will give you reasonable advance notice of the change. Unless a shorter period is required to prevent loss to you or us or unless the change is based on a change in Association Rules or Requirements of Law, we will give you thirty (30) days’ notice of changes or amendments. If you do not agree with a change or amendment, you may terminate prior to the change or amendment taking effect or in accordance with [paragraph 1.2\(a\)](#) regardless of any notice requirements.

1.13 Relationship of Parties; Third Parties

The parties intend their relationship to be that of independent contractors. Neither party shall be deemed an agent, employee, partner, or joint venturer of the other nor shall either party have the power or authority to bind the other in any way. Nothing herein shall be construed to grant either party any right, title, interest, or license in or to the other’s name, trademarks, other proprietary information, or intellectual property. Neither party will execute any agreements in the other’s name or purport to be on the other’s behalf. Each party agrees: (i) not to misrepresent the other, the other’s services, or the relationship between the parties; and (ii) to assure the compliance of your Authorized Personnel with Services. This Agreement is solely for the benefit of you and us and may not be relied upon or enforced by any third party. No third party (including your Authorized Personnel and your customers) is a third party beneficiary of this Agreement. Nothing in this Agreement is intended to impair either party’s rights, claims, or defenses against any third party.

1.14 Affiliated Customer Groups

This Agreement applies to Services provided to the customer entity that applies or enrolls for Services (the “Parent” or “Manager”) or any Sponsored Entity (as defined below) each of which is referred to herein as a “customer” or “you.” A “Sponsored Entity” is any entity identified as such in a paper or electronic writing delivered by the Parent or Manager to us or that has an interest in any deposit Account as referenced in the applicable documentation. Sponsored Entities must provide a Certification of Business Depository Resolutions in the form required by us or any Bank approved

documentation. Unless we have agreed otherwise in writing, your obligations to us are joint and several. By requesting Services on behalf of any Sponsored Entity, the Parent or Manager is agreeing to this Agreement, as amended from time to time, on behalf of such Sponsored Entity. The Parent or Manager represents and warrants that it has all necessary right, power, and authority to request Services, and to make the agreement contained in the preceding sentence on behalf of all Sponsored Entities. Termination of this Agreement as to any customer shall not terminate this Agreement as to any other customer or Sponsored Entity, unless specifically stated in such termination.

1.15 Miscellaneous

(a) Agreement and Amendment. This Agreement may be supplemented by completed enrollment forms that we accept from you and such accepted enrollment forms will be considered part of this Agreement (enrollment forms may, for example, permit you to select from among various optional product features). This Agreement along with any schedules, supplemental attachments, enrollment forms, and applications specifically referenced herein constitute the entire agreement between the parties except for the terms of our deposit account agreements, which contain additional terms governing deposit accounts (collectively, the “Agreement”). In the event of conflict between this Agreement and the deposit agreement, whichever provision is more protective of us shall control. It is the intent of the parties to negate the effect of trade usage and course of dealing in the construction and interpretation of this Agreement. The provisions of this Agreement may not be explained (interpreted), altered, supplemented, or qualified through evidence of trade usage or prior course of dealing. Except as provided in [section 1.12 titled “Changes”](#), this Agreement cannot be amended except in writing signed by the parties. If the parties mutually agree to supplement or amend this Agreement in a separate written document that is signed by both parties and specifically references this Agreement, that separate document shall control to the extent that it is inconsistent with this Agreement; all other provisions of this Agreement shall remain in full force and effect.

(b) Assignability. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns and may not be assigned (including by operation of law) by either party without the other’s written consent.

(c) Choice of Law. This Agreement shall be governed by federal laws and regulations, applicable clearinghouse rules, and such additional rules, regulations, and policies (including banking days and cut-off times) as we may establish from time to time. To the extent that state law is applicable to this Agreement including the Uniform Commercial Code, this Agreement shall be construed in accordance with the laws of the State of Nebraska (excluding conflict of law principles).

(d) Venue. Any actions arising out of or related to this Agreement or the Services shall be commenced and maintained solely and exclusively in the federal or state courts located in the county and state where the Customer’s local branch of the bank is located, except that either party may (in its sole and absolute discretion) institute legal action in any appropriate jurisdiction to protect its intellectual property rights.

(e) Severability. This Agreement will be construed to vary, by agreement, applicable law to the maximum extent permitted by law. If a provision of law cannot be varied by agreement, that provision of law will supersede the conflicting variation to the minimum extent required by such law. If any provision of this Agreement is held to be invalid or unenforceable, such invalidity or unenforceability will not affect any other terms of this Agreement. If any term is held to be unreasonable in time, scope, or otherwise, it shall be construed by limiting it to the minimum extent so as to be enforceable.

(f) Waiver. No waiver of this Agreement by us will be effective unless signed by two (2) of our authorized officers. We reserve the right to waive the enforcement of any of the terms of this Agreement with respect to any transaction or series of transactions. Any such waiver will not affect our right to enforce any of our rights with respect to other customers, or to enforce any of our rights with respect to later transactions with you, and will not be sufficient to modify this Agreement on a going forward basis.

(g) Use of Service Providers. We are entitled to use such agents, contractors, service providers, networks, and other third parties as we may deem appropriate in providing the Services.

(h) Execution and Counterparts. The parties may agree to this Agreement through the execution of multiple enrollment forms or applications, executed in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one Agreement. The signatures of all of the parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by PDF is as effective as executing and delivering

this Agreement in the presence of the other party. In proving this Agreement, a party may produce or account only for the executed counterpart of the party to be charged.

(i) Retention of Agreement. You agree that we may maintain a copy of this Agreement and any and all other documentation related to the Services in electronic form and that we may destroy the originals. You agree that a copy produced from such electronic form or by any other reliable means (for example, photocopy, image, or facsimile) will in all respects be considered equivalent to an original, and you waive any objection to our use of such copies.

(j) Construction. As used in this Agreement, the term “including” means “including, but not limited to.” In addition, all references to banking days mean days other than Saturday, Sunday, or federal holidays.

(k) Audits. You agree to submit annual financial statements and such other financial information as we may reasonably request from time to time, and you agree that we may conduct audits and on-site inspections as we reasonably deem necessary to verify your compliance with this Agreement or other applicable Association Rules.

1.16 Communications and Notices

All communications and notices provided pursuant to this Agreement will be provided in writing to the other party at the postal, e-mail, facsimile, authenticated SWIFT, or other address we have for you in our records. Notices to us should be sent to our Legal Department – 1620 Dodge Street, Stop Code 3290, Omaha, Nebraska 68197. Notices will be deemed to have been given or made: (i) when received, if delivered by hand or courier; (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 facsimile, 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 that we will not be deemed to have received an e-mail or facsimile until we confirm such receipt by returning a facsimile or e-mail to you. Either party may change its address for notices by giving written notice from a duly authorized representative to the other party. If you use e-mail to contact us, it should only be used for general, non-urgent communications. You should not rely on e-mail for time-sensitive notices. We caution you against using email for transmitting sensitive or confidential information. If you choose to communicate with us via email, we strongly suggest that you encrypt those communications (on request, we will inform you of the encryption protocols that we can accommodate). If you opt not to encrypt your outgoing email to the Bank, we may require a disclaimer to be executed by you. Except for notices of termination, breach, or default which shall be given by written notice, you agree that we may also communicate with you via posting information on the Bank’s website, e-mail or other electronic communication, your Account analysis, or other paper and/or online statements. We may monitor and record all communications (including electronic transmissions and telephone conversations) between us and you or your Authorized Personnel, and to keep those recordings as long as Bank considers it necessary. You assume the duty of obtaining the required consents from its Authorized Personnel and/or customer for these recordings. If Bank’s records about a request or service are different than Customer’s records, Bank’s records will govern. Bank’s records include its written records and any tape recordings about the request or service.

1.17 Confidentiality

Each party: (i) agrees to protect and maintain in confidence any information that it may obtain from the other party during the term of this Agreement under the specified applicable standard of care; (ii) shall use such information solely for the purposes contemplated by this Agreement and shall not rent, sell, lease, transfer, provide, or otherwise disclose such information to any third party except as required by applicable law or regulation; and (iii) shall give access to such information only to those employees who have a need to know in connection with performing that party’s obligations under this Agreement. The Customer agrees to take all reasonable steps to protect the confidentiality of such information, in no event using a standard of care less than the same standard used to protect its own confidential information pursuant to applicable privacy regulations. The Bank shall maintain the confidentiality of such information in accordance with the Bank’s normal procedures for safeguarding customer information. Upon request by the disclosing party, the receiving party shall promptly destroy such information or return such information to the disclosing party in the same format as was provided to the extent they are reasonably able and in compliance with Requirements of Law. The confidentiality obligations in this section do not apply to information that: (i) is, at the time of disclosure or thereafter becomes, through no act or omission of the receiving party, a part of the public domain; (ii) was in the receiving party’s lawful possession without an accompanying secrecy obligation prior to the disclosure; (iii) is hereafter lawfully disclosed to the receiving party by a third party without an accompanying secrecy obligation or breach of any duty or agreement by which such third party is bound; or (iv) is independently developed by the receiving party. This

section shall not be deemed to prohibit disclosures: (i) required by applicable law, regulation, court order, or subpoena; (ii) to auditors or regulators; (iii) to service providers of Bank as necessary for the performance of Bank's duties under this Agreement, provided such service providers are subject to binding confidentiality obligations. Breach of this section shall give rise to irreparable injury, inadequately compensable in damages. Accordingly, the disclosing party may seek injunctive relief against the breach or threatened breach by the other in addition to such legal remedies as may be available, including the recovery of damages.

SECTION 2 – INFORMATION AND DATA DELIVERY SERVICES

Please Note: None of these Information and Data Delivery Services diminishes your responsibility to discover and report unauthorized signatures, endorsements, or alterations of items, unauthorized transfers, and other discrepancies. Nor shall these Services be construed to increase our duties with respect to your Account(s), other Services or the payment of items.

2.1 Cash Management Online (“CMO”)

Cash Management Online Services permit online access to certain information as well as increased control of online access and management of your Account(s). Services may be unavailable during scheduled maintenance, for security reasons, due to system problems, if communications lines are down, and for other reasons.

2.2 FirstToolsSM

FirstToolsSM is a Service that allows use of certain application services available from LendingTools.com (“LendingTools”) We have a separate agreement with LendingTools, which, among other things, makes available the LendingTools software, systems, application services, and necessary equipment and technology (collectively, the “System”) to our customers, including you. Through our relationship with LendingTools, a System will be made available to you in addition to the selected Services. The System and LendingTools Services will generally be available twenty-four (24) hours per day, seven (7) days per week, except for scheduled maintenance. The System and LendingTools Services may be unavailable at other times for security reasons, due to System problems, and for other reasons.

SECTION 3 – PAPER DISBURSEMENT SERVICES

3.1 Positive Pay

(a) Description of Service. Positive Pay Services will allow us to compare items received for payment on your relevant Account(s) (in this section collectively “Items”), against the item issue listings that you provide to us (your “Issue File”). Your Issue File must comply with the criteria, operating procedures, or Rules we establish from time to time. Any Items received by us and not matched against your Issue File will be considered “Exceptions.” We will make available to you a daily report of Exceptions. See our [Processing Schedule \(Exhibit 1\)](#) for further information. That report will list the serial number of each Exception and the amount for which it has been encoded (and, if you are receiving payee name verification services, the report will set forth whether the payee matched the payee on your Issue File). You understand that report information is subject to the limitations of high speed equipment used to capture the information, the quality of the underlying Items for accurate scanning, and scanning errors made by others.

(b) Accuracy; Notification. You are responsible for the adequacy and accuracy of your Issue File and for providing the most current available version to us before our receipt of the Items listed thereon. If you believe that any Exception should be paid, you must notify us prior to the Exception Report Deadline (see our [Processing Schedule \(Exhibit 1\)](#)). Notification may be made via CMO or other means acceptable to us, and must identify the relevant Exception(s) that you want paid. Unless otherwise agreed by the parties (i.e. applicable default settings), if you fail to provide timely notification, we may return all Exceptions stamped with a reason deemed appropriate by us in the circumstances. If your notification only refers to certain Exceptions, all other Exceptions may be returned. All Items matching your Issue File and all Exceptions that you indicate should be paid will be considered properly payable and charged to your relevant Account and will be deemed authorized by you and in accordance with this Agreement. The foregoing notification deadline also establishes the standard by which you will be considered to have exercised reasonable promptness with regard to the daily report, which will be considered a statement of account under the Uniform Commercial Code (“UCC”). We will process Items covered by Positive Pay Services in good faith and with ordinary care in the circumstances (which include the procedures set forth in this and the preceding paragraph). Procedures in place for non-Positive Pay Items will not be applicable in determining whether we have satisfied the foregoing responsibilities.

(c) Authenticity of Items. We agree to follow your instructions with regard to paying Items in accordance with the preceding paragraphs. You agree that we will not be otherwise responsible for the authenticity or alteration of Items, or for the presence or validity of signatures, dates, or amounts thereon. You understand that Positive Pay Services are not equivalent to, and do not replace, stop payment orders.

3.2 Reverse Positive Pay

(a) Description of Service. With Reverse Positive Pay Services, we will provide you with a daily transmission of items drawn on your relevant Account(s) (in this section collectively “Items”) (see our [Processing Schedule \(Exhibit 1\)](#)). In connection with our processing hereunder we may or may not identify Items that should not be paid based on any instructions you may have previously provided us (for example, stop payment Items); these Items will be handled in accordance with our standard processing procedures and will not be referenced in the daily transmissions to you. This Service does not apply to Items presented over our teller line. A daily notification of exception Items will be provided in a mutually agreed manner.

(b) Notification of Items not to be Paid. If you believe any Item listed in your daily transmission or daily notification of exception Items should not be paid, you must notify us in the form of a legible, properly completed bouncer sheet in the form we specify. Bouncer sheets must be actually received by us no later than the Bouncer Deadline. On receipt of your bouncer sheet we will return Items stamped with a reason deemed appropriate by us in the circumstances. The foregoing notification deadline also establishes the standard by which you will be considered to have exercised reasonable promptness with regard to the daily transmission and daily notification of exception Items which will be considered a statement of account under the UCC. You understand that these Services require your bouncer sheet entries to be completely accurate. You agree that we are not responsible for paying an Item that is not accurately described in your bouncer sheet. All Items listed in your daily transmission or daily notification of exception Items not accurately described on your bouncer sheet will be considered properly payable and charged to your relevant Account and will be deemed authorized by you and in accordance with this Agreement. We will process Items covered by Reverse Positive Pay Services in good faith and with ordinary care in the circumstances (which include the procedures set forth in this and the preceding paragraph). Procedures in place for non-Reverse Positive Pay Items will not be applicable in determining whether we have satisfied the foregoing responsibilities.

(c) Authenticity of Items. We agree to follow your instructions with regard to paying Items in accordance with the preceding paragraphs. You agree that we will not be otherwise responsible for the authenticity or alteration of Items, or for the presence or validity of signatures, dates, or amounts thereon. You understand that Reverse Positive Pay Services are not equivalent to, and do not replace, stop payment orders.

3.3 Payable through Drafts

(a) Description of Service. We agree to act as a collecting bank to process items or drafts drawn on you and marked “payable through” us (referred to herein as “Drafts”). Each Draft will: (i) state prominently on its face that it is “payable through” us; (ii) be encoded with the transit routing number designated by us; and (iii) be encoded in its account number field with the draft Account number designated by us. Drafts are subject to applicable Requirements of Law as in effect from time to time, and you are responsible for compliance. We will, however, be responsible for complying with obligations imposed on collecting banks. You acknowledge and agree that we may receive electronic images of Drafts.

(b) Draft Lists; Availability. A list of Drafts received by us (a “Draft List”) will be made available to you via transmission or other mutually agreed method on a daily basis. See our [Processing Schedule \(Exhibit 1\)](#) for further information. You shall notify us immediately if you do not receive a Draft List on time (a “Notice of Non-Receipt of Draft List”). Draft images may be viewed online or we may (for an additional fee) transmit an image file to you. The making available of Draft Lists to you pursuant to this paragraph shall constitute presentment and no other or further presentment of any Draft shall be required.

(c) Treatment of Drafts. We are authorized to provisionally debit your relevant Account referenced for the total dollar amount of all Drafts received by us, subject only to adjusting your Account the following banking day for any Drafts for which payment is refused by you in accordance with the following paragraph. We will notify you when a Draft is received by us and there are not sufficient funds in your Account to pay such Draft.

(d) Refusal to Pay Draft. You shall complete and return to us a Draft Bouncer Sheet identifying the Drafts for which you refuse payment. We must receive the Draft Bouncer Sheet for any Draft that you refuse to pay by no later than the Bouncer Deadline. We will acknowledge receipt of the Draft Bouncer Sheet (see our [Processing Schedule \(Exhibit 1\)](#)). You shall notify us immediately if you do not receive such acknowledgment of receipt on time (a “Notice of Non-Receipt of Bouncer Acknowledgement”). You will be liable to us for the amount of any Draft for which we have provisionally charged you and which is not identified by you in a Draft Bouncer Sheet received by us prior to the Bouncer Deadline. Your Notice of Non-Receipt of Draft List and Notice of Non-Receipt of Bouncer Acknowledgement will be directed to the recipient we specify. In the event that you do not provide a Notice of Non-Receipt of Draft List, you shall be deemed to have received your Draft List on time. In the event that you do not provide a Notice of Non-Receipt of Bouncer Acknowledgement, you will be deemed to have not submitted a Draft Bouncer Sheet on time.

(e) Validity of Signature. Except as expressly provided in this paragraph, we will not be responsible for the validity of signatures, endorsements, dates, amounts, or the acceptance of stop payment orders relative to Drafts. In obtaining acceptance and payment of any Draft, we warrant that we have title to such Draft or are authorized to obtain acceptance and payment on behalf of one who has good title; provided, however, that we make no warranty with respect to the signature of the drawer of any Draft.

(f) Indemnification for Drafts. In the event that a court of competent jurisdiction determines, in any suit in which you are not a party adverse to us, that we are accountable for any Draft, you will pay us the amount of such Draft plus interest and other costs and expenses (including attorneys’ fees) expended in such suit.

3.4 Controlled Disbursement

With Controlled Disbursement Services, you may issue items that use the routing number of another financial institution (the controlled disbursement point) that have made arrangements with us. Such items will be paid from an Account that you maintain with us and you agree that we may pay and otherwise treat such items the same as if they were issued using our routing number. The total dollar amount of items received through the controlled disbursement point prior to the cut-off on any banking day (see our [Processing Schedule \(Exhibit 1\)](#)) shall be reported to you via CMO or other mutually agreed method on the day of receipt. Items received after the cut-off or through our teller line will be included in the total for the next banking day.

3.5 Account Reconciliation

Account Reconciliation Services provide you with the ability to reconcile paid items and issued items through your CMO services. Use of this Service does not affect your obligations to report unauthorized signatures, alterations, endorsements, or any other unauthorized transaction or discrepancy. Your use of this service does not increase our duty with respect to Accounts or the payment of items.

3.6 Image Archive

Image Archive Services permit access to digital images of checks and items paid with respect to your Account(s). Images may be made available on a mutually agreed schedule via online transmission or delivery of media (special Access Requirements may apply). If an image is missing or is illegible, our sole responsibility will be to use reasonable efforts to provide you with a legible image or copy on your request. If we provide you media which contains a defect or is unreadable in its entirety, you must notify us within forty-five (45) days after delivery. Our sole responsibility will be to replace the defective file or media, or (if we are unable to do so) to refund the fees you paid in respect thereof. We will not be liable for delays in providing images. We will not be liable for damages arising out of these Services in excess of the amount of the check or other item giving rise to your damage claim (this limitation is in addition to and not in lieu of the other limitations set forth in this Agreement).

SECTION 4 – DEPOSITORY SERVICES

4.1 Your Account(s)

You may be required to designate and/or maintain one (1) or more demand deposit accounts with us in an open status and in compliance with your Commercial Deposit Agreement to facilitate use of a Service (“Account(s)”). We may indicate in the title of such Account that it is for the benefit of one (1) or more customers. You represent, warrant, and agree that all customer funds on deposit in such Account are subject to this Agreement. In any event, you agree to hold on to funds on deposit in trust for your customers, and agree to promptly and accurately remit customers’ funds to

them. You agree the Bank is authorized to debit and/or credit the Account in connection with providing you Services. To the extent any credits to your Account are revoked due to any third party claim or demand or any other process recognized by applicable Associate Rules (such as, but not limited to, returns, reversals, adjustments, reclamations, or claims based on breach of any warranty made by the Bank or you under the applicable Association Rules), you shall immediately reimburse the Bank for the amount thereof. You agree to maintain sufficient balances in available funds in the Account to cover all credit transactions and returns on all debit transactions you submit to us and, if we require, a specified minimum balance of available funds. You shall immediately, within the same business day, reimburse the Bank for any overdrafts created by transactions initiated by you. If you fail to reimburse us, we may, at our option, either debit any other of your account(s) with us or our affiliates to provide such balances or decline to forward your transactions. Our right of reimbursement is absolute and unconditional, and shall not, for any reason whatsoever, be subject to any reduction, setoff, defense, counterclaim, deferment, or right of recoupment. In addition, for purposes of satisfying your payment obligations for the Services, we may consider any overdraft line of credit or other arrangement you have with us.

4.2 Return Item Notification

This service will generally result in the transmission of notice to you of: (1) deposited items that are returned to and received by us; and (2) notifications of return that we receive from others. Notifications will generally be transmitted within the same day of our receipt of the returned item or notification of return. We will separately confirm the specific means of notification and covered deposit Account(s). This service is not guaranteed to be one hundred percent (100%) free from error, interruption, or delay. Failure to transmit notice to you does not affect our right to revoke credit previously given for any item.

4.3 Lockbox Services (Wholesale and Retail)

(a) Description of Service. Lockbox is a service offered to you in which you receive checks or other mutually agreed upon payment instruments from your customers by mail to a post office box and the Bank picks up the payments and deposits them in your Account(s). There are two basic types of Lockbox Services: wholesale (used for high dollar, low volume payments) and retail (used for high volume, low dollar payments, such as taxes, utilities, licenses and fees, and accompanied by standardized remittance documents).

(b) Standard Procedures. Lockbox Services will be provided in accordance with the lockbox procedures we have established for your Account(s), as in effect from time to time (we will confirm the procedures that are in effect on request). To the extent the lockbox procedures established for your Account(s) impose obligations on you, you agree to comply with those obligations or Rules. You agree that your incoming work shall comply with the minimum processing requirements we specify from time to time.

(c) Endorsement. We may, but are not required, to endorse all remittances as follows: "Credited to the account of the within named payee in accordance with payee's instructions. "First National Bank of Omaha, 1620 Dodge Street, Omaha, Nebraska 68197." We are further authorized to supply any additional endorsement necessary to any remittance returned by the drawee bank for the reason that the payee's personal endorsement is required.

(d) Acceptable Payees. For checks to be processed under Lockbox Services, Customer may submit a written request to the Bank to add, change, or delete payee designations of Customer's name and/or any other payee name as acceptable payees ("Acceptable Payees"). Such designations of Acceptable Payees shall become effective only after such written request is delivered in an acceptable form to the Bank and after the Bank has a reasonable time to process such changes. Thereafter, the most recent Acceptable Payees' designations shall in all respects supersede or amend, as the case may be, any previous Acceptable Payees' designations. Bank may treat as Acceptable Payees any variation of Acceptable Payees' name that Bank deems to be reasonable. If Customer's Acceptable Payees includes a non-Customer payee ("Third Party Payees"), Customer agrees to and/or warrants the following regarding third party checks and/or joint payee checks: (1) Third Party Payees have authorized Customer to deposit the checks into Customer's Account, commingle check funds in Customer's Account, and retain check funds, draw checks, or withdraw funds under Customer's direction; (2) Third Party Payees have authorized Customer to endorse or otherwise have authorized endorsement of Third Party Payees checks, where applicable; (3) If Customer wishes to deposit checks in another Account not previously designated for Lockbox Services and/or not previously used for processing checks for Third Party Payees, then Customer shall provide, in advance, a written request to the Bank to do so, which the Bank may accept or reject in its sole discretion; (4) Customer shall stop depositing checks or other items payable to Third Party Payees if any

Third Party Payees files for bankruptcy, becomes insolvent, is subject to reorganization, or terminates, liquidates, dissolves its business or disposes of a substantial portion of its assets; (5) each check or other item deposited is not subject to a defense or claim in recoupment of any party that could be asserted against any Third Party Payees or Customer; (6) Customer is liable and agrees to indemnify, defend, and hold us harmless from and against any and all liabilities, claims, demands, losses, costs, damages, and expenses (including reasonable attorneys' fees) arising out of or related to us allowing Customer to (i) deposit checks to Customer's Account, with or without the Third Party Payees' endorsement or purported endorsement, guaranteed or otherwise, and (ii) commingle check funds in Customer's Account. Customer agrees the warranties and indemnities described herein will survive termination of designations of Third Party Payees or the close of any Account with us.

(e) Substantial Compliance; Exception Items. Substantial compliance with our standard lockbox/remittance procedures shall be deemed to constitute the exercise of due care; provided, however, that occasional unintentional deviations from the standard procedures shall not be deemed a failure to exercise due care in respect to the transactions in which the deviations occur. Failure to exercise due care shall not be inferable by reason of the loss of an item without an additional showing of negligence on our part. Without limiting the foregoing, you agree that we shall have no liability for depositing and/or endorsing exception items on your behalf. Exception items include, but are not limited to, items that are unsigned, items that are undated, post-dated or stale dated, items where the payee line is blank or does not match your name or Acceptable Payees, items containing inconsistent amounts, and items that bear paid-in-full or similar notations.

(f) Health Related Covered Entity. Unless otherwise agreed by the parties, if the Services under this Section are for a covered entity as defined by the Health Insurance Portability and Accountability Act ("HIPAA"), the supplemental [Business Associate Agreement \(Exhibit 2\)](#), herein incorporated by this reference, shall govern as to the handling of protected health information.

(g) Access to Technology. Unless otherwise agreed by the parties, if the Services under this Section use the vendor (DigitalDeposit™, DigitalLockbox™, ImageBranch™ and WebDDL™) software, the supplemental [License Terms \(see Exhibit 3\)](#), herein incorporated by this reference, shall be applicable.

4.4 Disaster Recovery Lockbox Services

(a) Description of Service. Upon declaration of a disaster, Disaster Recovery ("DR") Lockbox Services will be provided in accordance with [Section 4.3](#), our standard lockbox procedures and (if applicable) the specific Remittance Instructions/Processing Guidelines we have established for your Account(s), as in effect from time to time (we will confirm the procedures that are in effect on request). In the event multiple customers are affected by the same disaster, Lockbox Services will be provided to the best of our ability, provided that your right to immediate access and exclusive use of our Lockbox Services is conditioned upon no other customer having obtained prior use of the Lockbox Services.

(b) Our Responsibilities. The Disaster Lockbox Services are subject to the creation and completion of an implementation plan. Following that, to the extent that we are requested to provide disaster recovery services, our Services will consist of maintaining the capability to receive remittance mail forwarded to one of our processing centers, opening, extracting, and scanning such mail, and processing it in accordance with the Remittance Instructions/Processing Guidelines we have established for you.

(c) Your Responsibilities. To the extent that our standard procedures impose obligations on you, you agree to comply with those obligations or Rules. You are responsible for providing any and all information we deem necessary for the creation of the previously mentioned Remittance Instructions/Processing Guidelines. You must participate in defining the parameters for the scope of work, providing sort patterns and scan lines, setting up instructions, and providing any exception processing guidelines required to process remittances. You agree to notify us of any updates or changes in sort patterns throughout the duration of this Agreement. You are further responsible for declaring a disaster once it occurs. It is your sole responsibility to establish mail forwarding with the United States Postal Service. Upon our request, you must make available any necessary Authorized Personnel on location and at your own expense. You agree that your incoming work will comply with the minimum processing requirements we specify from time to time. *(d) Endorsement; Method of Collection.* We may select the methods used for collection of items, including the use of other banks and clearinghouses, and we may agree to carry collection policies, procedures, and deadlines with such other banks and clearinghouses. We may also convert items into substitute checks (as defined under the UCC) or otherwise

collect them electronically. We may charge back to your Account the amount of any: (i) item or entry which is returned unpaid or which is not paid within a reasonable time; or (ii) any electronic deposit for which we do not receive settlement within a reasonable period of time. Alternatively, we may set-off such amount against the amount of any credit or other transfer due to you.

(e) Third party claims. You understand that credits to you and your customers may be revoked due to third party claims, demands, or other processes recognized by relevant Association Rules (including returns, reversals, adjustments, reclamations, or claims based on breach of any warranty made by us or you under NACHA rules).

(f) Health Related Covered Entity. Unless otherwise agreed by the parties, if the Services under this Section are for a covered entity as defined by the Health Insurance Portability and Accountability Act (“HIPAA”), the supplemental [Business Associate Agreement \(Exhibit 2\)](#), herein incorporated by this reference, shall govern as to the handling of protected health information.

(g) Access to Technology. Unless otherwise agreed by the parties, if the Services under this Section use the vendor (DigitalDeposit™, DigitalLockbox™, ImageBranch™ and WebDDL™) software, the supplemental [License Terms \(see Exhibit 3\)](#), herein incorporated by this reference, shall be applicable.

4.5 Remote Deposit Capture-

(a) Description of Service. Remote Deposit Capture (“RDC”) Services will consist of us processing, as further described below, checks that you receive and transmit to us for processing as check images. By submitting an image to us, you are authorizing and instructing us to accept that Check (defined below) for deposit to your Account(s). Our Services will include: (i) arranging for a host system to receive electronic image and data files that you transmit of Checks made payable to you; (ii) converting such files to depository files; (iii) serving as the collecting bank with respect to the items reflected in such files; (iv) providing electronic access to the image files for your transactions; and (v) standard reports. We are not responsible for processing your deposit images and data until they are actually acknowledged by us. You understand that the Services are subject to certain usage and dollar volume limits that we may establish for you from time to time. We may refuse to process in excess of those limits (we will inform you of those limits on request). You agree not to submit checks that are drawn on an Account owned by you or any affiliated person or entity or checks that are drawn on or are from institutions located outside the United States.

(b) Hardware. We may upon request assist in your purchase of hardware from select vendors. Payment of the hardware purchase price is due, and title and risk of loss pass to you, on delivery. If we have provided you with hardware, you understand that we are not the manufacturer of the hardware. We shall have no liability whatsoever for personal injury (including death) or property damage caused by the hardware. The hardware is provided AS IS. Subject to manufacturer warranty availability, we will promptly replace the hardware if it is defective upon initial set-up and the defective unit is returned to us. If you believe the hardware is defective, call your Relationship Manager. Prior to authorizing a replacement, we may attempt to diagnose the problem over the phone and verify that it is not possible to affect a remote fix. If the hardware is lost or damaged by you, has been abused, misused, or cared for improperly, replacement will be at its full replacement price. If the hardware is returned without the corresponding power pack and cable, you agree to pay for replacement of the appropriate power pack and cables.

(c) Your Responsibilities. You: (i) are responsible for the accurate scanning of your checks, for the results of your use of the Services and for submitting accurate, complete, and readable files to us; (ii) shall ensure that checks are properly endorsed including application of a restrictive endorsement before or during scanning of checks, entries, or items you cash or deposit (collectively, referred to in this [Section 4.5](#) as “Checks”) in the appropriate format, as required by the Rules, and you understand and agree you assume all risk of loss associated with a lack of or improper endorsement; ; (iv) shall not submit files to us that contain information which duplicates information you previously provided to us or that contain information with respect to Checks that you have previously transferred to, deposited with or attempted to clear through us or a third party; (v) shall ensure that the images you create accurately represent all of the information on the front and back of your Checks, including all endorsements, restrictive or otherwise; (vi) shall not alter any data you send so that it does not accurately reflect the Checks referenced in the image files sent to us; (vii) shall retain the original scanned Checks in a secure setting for no less than sixty (60) days, and make such Checks available to us within five (5) days of such request; (viii) shall destroy, by shredding, the original Checks within one hundred twenty (120) days after scanning, unless otherwise agreed by the parties or unless doing so would be a violation of law, rule, or regulation; (ix) shall ensure that such Checks are not deposited or processed a second time; (x) shall make such Checks available to

us upon request; (xi) agree that all data you transmit reflects the result of bona fide business transactions between you and your customer and no such Checks are, directly or indirectly, for the benefit of any third party, whether in a service bureau or other context; (xii) are prohibited from using our Services in any manner or in furtherance of any activity that constitutes a violation of any law or regulation or that may reasonably be expected to subject us or our subcontractors to investigation, liability, or legal action; and (xiii) agree to receive, resolve, and respond to consumer-alleged errors under applicable Requirements of Law. If a Check is returned to us, we may make the return to you in the form of a substitute check (or a paper or electronic representation thereof).

(d) Additional Warranties. As to each Check reflected in a check image deposit, you further warrant to us that: (i) you are a person entitled to enforce the Check or authorized to obtain payment of the item on behalf of a person entitled to enforce the Check; (ii) the Check has not been altered; (iii) the Check bears all endorsements, restrictive or otherwise, applied by parties that previously handled the item, in paper or electronic form, for forward collection or return; and (iv) no person will receive a transfer, presentment, or return of, or otherwise be charged for, the Check, the original Check, or a paper or electronic representation of the original Check such that the person will be asked to make payment based on a Check that has already paid. You further make all warranties set forth in and subject to the terms of §4-207 of the UCC for each Check as if it were a Check subject to the UCC and you make the warranties set forth in and subject to the terms of Federal Reserve Regulation CC for each Check as if it were a check subject to that section. You must complete transmission of your transaction data to our host prior to the cut-off (see our [Processing Schedule \(Exhibit 1\)](#)), in order for such transactions to be processed on the same day. If there is a discrepancy between this cut-off time and the cut-off time disclosed in the Commercial Deposit Agreement, this cut-off time (set forth in the Processing Schedule) will control.

(d) Sensitive Information. In using the Services you will be creating electronic files of sensitive information of the persons and entities that deliver Checks to you. You are responsible for protecting your computer systems and those files against inappropriate access (that protection may require the use of multifactor authentication, dual control access, and other methods). You bear the risk of loss or alteration of information in transit from your systems to ours.

(e) Reviews, Audits and Investigations. You understand that we may monitor any or all transactions. We may also conduct reviews, audits, and investigations related to your use of the Services and compliance with this Agreement and the Operating Procedures. You agree to cooperate as reasonably requested in connection with those reviews, audits, and investigations.

(f) Access to Technology. Unless otherwise agreed by the parties, if the Services under this Section use the vendor (DigitalDeposit™, DigitalLockbox™, ImageBranch™ and WebDDL™) software, the supplemental [License Terms \(see Exhibit 3\)](#), herein incorporated by this reference, shall be applicable.

4.6 Reclear

You authorize us to automatically attempt to reclear checks deposited in a relevant Account(s) which are returned for insufficient or uncollected funds. Checks deposited and returned for any other reason will not be automatically recleared. You understand this procedure will delay the actual return of a deposited check which is returned the second time. Checks may or may not be converted to an electronic ACH entry.

4.7 Check Block

Check Blocking Services provide account fraud protection to your Account(s) by refusing presentment at the teller line or automatically returning all checks presented against your Account(s). Checks that have been electronically converted to ACH debits will not be blocked through this service. If you wish for protection against ACH debits, see [Section 5.2 titled "ACH Blocking."](#)

4.8 Cash Vault

(a) Description of Cash Vault Services. Cash Vault Services will consist of deposit processing, deposit reporting, and responding to Customer requests ("Currency Orders") for Bank to make available certain specified amounts of coin and currency (referred to collectively in this section as "Cash") from Bank's cash vaults and accept deposits of Cash and checks. The deposit processing features include use of person-to-person contact with Carriers (defined below) that deliver customer deposits and use of currency sorters to process and verify deposits. The deposit reporting feature provides a breakdown of bills deposited, including such information as number of bills and denominations. Transfers

shall include (i) Currency Orders from and deposits to a vault owned and operated by Federal Reserve Banks or (ii) Currency Orders from and deposits to a vault owned and managed by the Bank. Maximum or initial limits may be applied, as established from time to time by the Bank for Customer's use of Cash Vault Services. The Customer shall enter Currency Orders over the phone through the Bank's Currency Ordering system ("Currency Controller"). The Currency Order for Cash may be for an individual order or orders for multiple days and locations. Customer may amend or cancel a Currency Order, and such amendments or cancellations must be made over the phone through Currency Controller. No amendment or cancellation shall be effective unless it is received by the Bank at a time and in a manner giving the Bank a reasonable opportunity to act before the Bank has processed a Currency Order. After the Bank has processed a Currency Order, no amendment or cancellation will be effective without the express approval of the Bank.

(b) Authorized Personnel for Cash Vault Services. Customer will designate certain Authorized Personnel as authorized to place Currency Orders and to perform certain other duties on behalf of the Customer for use of the Cash Vault Services. Customer shall maintain a current list of Authorized Personnel, as accepted by the Bank, designated to perform such duties.

(c) Security Procedures for Currency Orders. Bank will provide each designated Authorized Personnel with a customer ID number and access code for placing Currency Orders through Currency Controller. Customer is solely responsible for implementing internal procedures to safeguard the customer ID number and access code, for changing the access code upon termination of employment of any designated Authorized Personnel, and for notifying Bank immediately if the Customer believes that the integrity of the customer ID number or access code may have been compromised. Customer is responsible for any transactions initiated by any of Customer's Authorized Personnel's use of the customer ID number and access code.

(d) Transportation. Customer shall be solely responsible for all transportation of Cash received or made available through Cash Vault Services and expressly acknowledges that it is assuming any risk of loss or shortage. Containers must be provided by the Bank, or if provided by the Customer, approved by the Bank for transport of Cash under Cash Vault Services (referred to in this section as an "Approved Container"). Bank's records shall at all times be conclusive evidence of the contents of any Approved Container. At Customer's sole risk and expense, Customer shall contract separately with an armored carrier service ("Carrier") that is acceptable to the Bank to provide for the transportation of Cash, unless otherwise agreed to with the Bank. The Carrier will be deemed an agent of the Customer. With regard to the third party Carrier, Customer expressly acknowledges and agrees to the terms and conditions set forth in [section 1.13, "Relationship of Parties; Third Parties,"](#) of the Terms. The Bank does not represent or warrant that any delivery schedule be met or that shipments be delivered in time for any particular market.

(e) Processing of Transported Items; Deposits. Customer agrees to prepare all deposits accurately and in good faith and to follow all the Bank's standard procedures for deposits. All Cash and checks delivered to the Bank shall be delivered in a sealed Approved Container, accompanied by a deposit slip listing the contents of the delivery. Bank will not accept, open, or process the contents of any Approved Container which appears to have been tampered with or opened or does not appear to be properly sealed. Any such deposit will be returned to Customer by the Carrier. All deposits are subject to verification by the Bank. The Bank will provide same-day credit for incoming deposits received prior to the cut-off time (see our [Processing Schedule \(Exhibit 1\)](#)). Orders to amend or cancel a previously transmitted Currency Order are subject to the same cut-off time. For deposits received after the cut-off time the Bank will provide the Customer a provisional credit on the next business day, which is subject to later verification and the Bank's availability schedule. Bank shall verify and correct any provisional credit so as to be consistent with the verified amount. Bank may, in its discretion, establish a minimum adjustment amount. If Bank establishes a minimum adjustment amount, and a discrepancy is discovered when verifying a deposit, the Bank will not adjust the deposit if the discrepancy is less than the established minimum adjustment amount. If the discrepancy exceeds the minimum adjustment amount, the Bank will debit or credit the amount of the discrepancy to the Customer's Account.

(f) Processing of Transported Items; Withdrawals. Customer authorizes Bank to debit the Account on the business day Cash is made available to the Carrier. Bank shall have no obligation to release any Cash under Cash Vault Services unless there are sufficient available funds in the Account to pay for the order. All Cash made available to the Customer through the Carrier shall be provided in a sealed Approved Container and accompanied by an itemization of its contents.

(g) Payment; Charges and Fees. The Customer shall pay the Bank for all Currency Orders of which the Customer is the recipient. Customer expressly acknowledges and agrees to [section 1.7 "Overdrafts,"](#) in the Terms. The Customer shall

pay the Bank the charges for Cash Vault Services pursuant to the terms and conditions set forth in [section 1.3, "Compensation,"](#) of the Terms.

(h) Cash Provided to You. Cash is provided through the Federal Reserve Bank System. The Bank is not responsible for the quality of Cash provided. The Bank makes no guarantee of availability of special coin requests (i.e. state quarters).

(i) Contaminated Cash. Customer agrees and warrants that Cash it deposits under any Currency order is not "Contaminated Currency," "Contaminated Coin," "Mutilated Currency," or "Bent or Partial Coin," as the terms are defined and referenced to under the pertinent Federal Reserve Board Operating Circular or its other guidelines, unless otherwise agreed by the parties. If Customer delivers such contaminated Cash to the Bank, then Bank may return the contaminated Cash to Customer by the Carrier. Customer is solely responsible for the risk associated with such deposits and for all additional fees and expenses (e.g., in the event such contaminated Cash is processed, fees and expenses for returns from the Federal Reserve Board may apply). Customer may place a new Currency Order with the Bank after decontaminating such Cash, if applicable.

(j) Liability for Transported Items. The Bank shall have no liability for any items transported by the Carrier to the Bank until the Bank has acknowledged receipt of the items in writing. With respect to items to be delivered from Bank to Customer through the Carrier, Bank shall have no liability for such items upon delivery of such items to the designated Carrier. The transportation of items and Cash in connection with Cash Vault Services is at Customer's risk and Bank shall have no liability for such transportation, including but not limited to, liability arising out the items' loss, theft, or destruction during transportation. Customer must immediately notify the Bank if any transported items are believed to be lost, missing, or misdirected.

(k) Investigations. Customer shall maintain a complete record of all items transported through Cash Vault Services, and shall promptly, diligently, and fully cooperate and cause its Authorized Personnel to cooperate fully with the Bank in any investigation of any loss or discrepancy. If Customer fails to comply with these duties of cooperation, the Bank will be released from any liabilities, claims, or expenses incurred by anyone in connection with a loss or discrepancy.

SECTION 5 – ELECTRONIC TRANSACTION SERVICES

5.1 Automated Clearing House ("ACH") (General)

(a) Processing and Transmittal. ACH Services will consist of creating ACH files based on information you provide and sending and/or receiving ACH transactions on your behalf. You shall transmit credit and debit Entries (and requests for cancelation or amendment thereof) to us to the location(s) and in accordance with the formatting and other requirements of the NACHA rules and such additional policies and procedures (including restrictions on the types of ACH transactions that may be initiated) as may be provided by Bank from time to time. At this time the only restricted SEC codes are WEB and IAT which would require an enhanced review and onboarding process prior to any initiation. Unless otherwise defined herein, capitalized terms have the meanings provided in the NACHA rules. The term "Entry" has the meaning provided in the NACHA rules and also means the data received from you hereunder from which we initiate each Entry. We may send Entries to any ACH processor selected by us, to an affiliate bank, or directly to another bank. You understand that the Services are limited by exposure limits that we establish for you from time to time. In addition, we may reject files and/or Entries if we deem necessary for failure to comply with this Agreement, loss prevention, or regulatory compliance purposes.

(b) Receipt Notification. Unless otherwise agreed upon by the parties, after receipt of a file transmission or batch release from you, we may send you an e-mail notification indicating that we have received an ACH file from you. This "ACH File Received" notification will indicate the total dollar value of debits and/or credits we plan to send based on your transmission. If the notification indicates invalid or unauthorized file totals or if you do not receive the notification promptly after you transmit or release to us, you agree to call our applicable ACH Operations/Treasury Services Department. If you do not call by the ACH File Received Deadline (see our [Processing Schedule \(Exhibit 1\)](#)), you will be considered to have conclusively acknowledged that you received an ACH File Received notification that accurately reflects the transfers you have authorized. If you waive ACH File Received notification, you assume all risk of loss -- WE STRONGLY RECOMMEND THAT YOU ACCEPT ACH FILE RECEIVED NOTIFICATIONS AND STRONGLY RECOMMEND AGAINST WAIVING THAT NOTIFICATION. This paragraph shall not be considered to modify or constitute a part of the Security Procedure set forth in [Section 1.10](#).

(c) Standard of Care, Account Reconciliation, and Periodic Statement. You agree to use ordinary care in using our

Services. Under the NACHA operating rules, which are applicable to ACH transactions involving your Account(s), we are not required to give next day notice of receipt of an ACH item, and we will not do so. However, we will notify you of the receipt of payments in the periodic statements we provide to you. You agree to review all Account, analysis, and other statements (paper and/or online) that we make available to you, and you agree to do so within a reasonably prompt time after the statements are made available to you (see your Commercial Deposit Agreement for additional relevant terms). You agree to give us immediate verbal notice, thereafter confirmed in writing, of any unauthorized, erroneous, or improperly executed transactions. If you fail to notify us within thirty (30) days of receipt of a periodic statement, you agree that we shall not be liable for any other losses resulting from your failure to give such notice, including any loss of interest or any interest equivalent with respect to an Entry shown on such periodic statement. If you fail to notify us within sixty (60) days of receipt of a periodic statement, you shall be precluded from asserting such discrepancy against the Bank.

(d) Cancellation, Amendment or Reversal. If you request us to do so, we may, but are not obligated to, amend or cancel files or Entries after our initial receipt of your instructions. We have no obligation to cancel or amend files or Entries after we receive them. If you send us a Reversal and we are able to verify the authenticity of the Reversal using the Security Procedure, we will make a reasonable effort to act on your request. We will not be liable to you if such Reversal is not effected. You agree to indemnify us in connection with any Reversal as provided in Article 4A of the UCC. Your foregoing indemnity obligation will survive termination of this Agreement or any Service.

(e) Third Party Service Providers. In the event you use a third party service provider to send Entries to us on your behalf, you will remain fully responsible for all your obligations and warranties to us under this Agreement and for the compliance of your third party service provider with your obligations and warranties under this Agreement, including compliance with the NACHA rules, the formatting, and other requirements with respect to Entries submitted to us on your behalf by a third party service provider and the Security Procedures of this Agreement. Consistent with UCC § 4A-201, "Security Procedure" means a procedure established by agreement between you and the Bank for the purpose of verifying that a payment order or communication amending or cancelling a payment order is that of the customer. Upon request, you will provide us with a true and exact copy of your third party service provider agreement. You are responsible for contractually obligating your third party service provider to the foregoing obligations, warranties, and Security Procedures. We are not responsible in any manner for the acts or omissions of your third party service provider.

(f) Originator Status and Warranties. Unless you have separately contracted with us as third party sender you agree that all ACH Entries you request us to originate are the result of bona fide business transactions between you and your customer, and no such Entries are, directly or indirectly, for the benefit of any third party, whether in a service bureau or other context. You understand that you will be considered the Originator of any ACH transactions submitted. Each time you use a Service, you agree to comply with all rules and operating guidelines of NACHA and you warrant that each Entry complies with NACHA rules. You make the same warranties to us as we make under Section 2.4 (or any successor section) of the NACHA rules. You agree not to initiate Entries that violate the laws of the United States. You agree to our current "annual NACHA Rules Update for ACH" as may be revised from time to time (the "ACH Update" previously the "Compliance Update for ACH Originators"), each of which is deemed incorporated herein by reference. You understand that the ACH Update is not a complete or exclusive summary of the NACHA rules. You acknowledge receipt of the current ACH Update as of the effective date of this Agreement. In addition, we will provide you with a current ACH Update upon your request. If you continue to initiate Entries after we provide such an ACH Update, you will be considered to have agreed to the terms set forth in that ACH Update (except that if you cease initiation of Entries within thirty (30) days after the date of such an ACH Update, initiation of Entries during that thirty (30) day period will not constitute your agreement). You are responsible for promptly handling and, if necessary, responding to and resolving at your own expense any Special Handling Claims (as defined below in [paragraph 5.1\(k\)](#)). The NACHA rules contain special requirements and impose additional obligations on us when we act as the Originating Depository Financial Institution ("ODFI") for you with respect to certain Entry codes, including, but not limited to, the IAT Entry code. You will be deemed to have made the additional representations and warranties, and agreed to the additional covenants and agreements, contained in the NACHA rules that are applicable to the codes and types of Entries you submit.

(g) International ACH Transactions (IAT). You specifically agree to comply with any requests for information required by the NACHA rules with respect to IAT Entries. You further acknowledge and agree that you are responsible for ensuring that international ACH transactions are properly identified using the IAT Standard Entry Class Code. With respect to

each Entry submitted, you represent and warrant that you have conducted a thorough examination of Receiver and other third party relationships to identify those transactions resulting in a transfer of funds to or from a party or financial agency outside the territorial jurisdiction of the United States. With respect to each IAT Entry you submit, you represent and warrant that you have submitted such IAT Entry in compliance with United States law, including your obligations under rules promulgated and programs administered by the OFAC and FinCEN that you are not acting on behalf of or transmitting funds to anyone subject to OFAC sanctions and that such IAT Entry complies with the laws and payment system rules of the receiving country. Receiving Depository Financial Institutions (“RDFI(s)”), Gateway Operators, us as ODFI and others involved with IAT Entries also have obligations under and have to comply with the NACHA rules and United States law for IAT Entries. The performance by all participants, including us, of obligations with respect to IAT Entries may cause delays in processing, settlement and/or availability of IAT Entries or funds. You waive and release us from any liability or obligation, including funds availability obligations caused by or arising out of any such delay associated with IAT Entries.

(h) Security Procedure. You acknowledge and agree to the Security Procedure in [Section 1.10 of this Agreement](#), which applies to ACH Services.

(i) Security Program. You shall establish, implement, and update commercially reasonable security policies, measures, and systems related to the initiation, processing, and storage of Entries. More specifically, these policies, measures, and systems must: (i) protect the confidentiality and integrity of Protected Information (defined below); (ii) protect against anticipated threats or hazards to the security or integrity of Protected Information; and (iii) protect against unauthorized use of Protected Information that could result in substantial harm to a natural person. Protected Information is defined as the non-public personal information, including financial information, of a natural person used to create, or contained within, an Entry and any related Addenda Record. You are strictly responsible for establishing and maintaining commercially reasonable security measures to safeguard against unauthorized transmissions and network infections. You warrant that such measures will include security technology (e.g. secure web-servers) that provides a minimum level of security equivalent to 128-bit RC4 encryption technology for the entry and transmission of Entries over the Internet, and network security to safeguard Account information and access from unauthorized individuals. You warrant that no individual will be allowed to initiate Entries in the absence of proper supervision and safeguards, and agree to take reasonable steps to maintain the confidentiality of the Security Procedures and any Security Credentials provided by us in connection with the Security Procedures provided to you. If you believe or suspect that any such information or instructions have become known or accessed by unauthorized individuals, you agree to verbally notify us immediately, followed by written confirmation. The occurrence of unauthorized access will not affect any transfers made in good faith by us prior to receipt of such notification and within a reasonable period of time to prevent unauthorized transfers. If an Entry (or request for cancellation or amendment of an Entry) received by us purports to have been transmitted or authorized by you, it will be deemed effective as your Entry (or request) and you shall pay us the amount of such Entry even though the Entry (or request) was not authorized by you, provided we accepted the Entry in good faith and acted in compliance with the Security Procedures with respect to such Entry. In the event of any unauthorized instructions, you agree to cooperate and to provide such information as we may reasonably request to investigate and recover any resulting loss.

(j) Notice with Respect to Non-Consumer ACH Wholesale Credit Transactions and UCC Article 4A. We may accept on your behalf payments to your Account which have been transmitted through one or more Automated Clearing Houses. The rights and obligations of the Originator with respect to such payments shall be construed in accordance with and governed by the laws of the State of Nebraska, unless it has been otherwise agreed that the law of some other state shall govern. Credit given by us or a Receiving Depository Financial Institution (RDFI) with respect to an ACH credit Entry is provisional until the RDFI receives final settlement for such Entry through a Federal Reserve Bank or as otherwise provided for under Article 4A. If we or a RDFI does not receive such final settlement or payment, you are hereby notified and agree that the RDFI is entitled to a refund from the Receiver in the amount of the credit to the Receiver’s account, and the party making payment via such Entry (i.e. the Originator of the Entry) shall not be deemed to have paid the amount of such Entry.

(k) Special Handling Claims. To the extent that credits to any of your Account(s) are revoked due to any third party claim or demand or any other process recognized by the NACHA rules (including returns, reversals, adjustments, reclamations, or claims based on breach of any warranty made by us or you under the NACHA rules, collectively “Special Handling Claims”), you shall immediately reimburse us for the amount thereof. Our right of reimbursement is absolute and

unconditional, will survive any termination of this Agreement, and will not, for any reason whatsoever, be subject to any reduction, setoff, defense, counterclaim, deferment, or right of recoupment. If Special Handling Claims become excessive (in our judgment) we may adjust fees, require reserves, and/or modify, suspend, or terminate Services. We also may delay the availability of any amount credited for a debit Entry or credit Reversal if we believe that there may not be sufficient funds in your Account to cover chargeback or return of the Entry or Reversal.

(l) Inconsistency of Name and Account Number. An RDFI can make payment(s) to a Receiver based solely on the account number, even if the name in the Entry differs from the name on the account. We may send an Entry to a RDFI based solely on the bank identifying number, even if you provide us with a different RDFI name, and you will be bound thereby.

(m) Termination of Services. Notwithstanding [Section 1.2 titled "Termination of Services"](#), in the event you breach the NACHA rules or cause us to breach the NACHA rules we may immediately terminate or suspend this Agreement as to ACH Services.

(n) Data Retention. You shall retain data adequate to permit remaking of Entries for seven (7) days following the date of their transmittal to us, and will provide such data to us upon request. Without limiting the foregoing, you specifically agree to be bound by and comply with all applicable provisions of the NACHA rules regarding the retention of documents or any record, including your responsibilities to retain all items, source documents, and records of authorization in accordance with the NACHA rules.

(o) Tapes and Records. All media, Entries, Security Procedures, and related records used by us for transactions contemplated by this Agreement shall be and remain our property. We may, at our sole discretion, make available such information upon your request. Any expenses incurred by us in making such information available to you are your responsibility and may be debited from your Account(s).

(p) Evidence of Authorization. You shall obtain all consents and authorizations required under the NACHA rules and shall retain such consents and authorizations for two (2) years after they expire.

(q) Audit Requirements. You shall conduct, or have conducted, an audit, at least once a year, to verify your continued compliance with the NACHA rules. More specifically, the audit must verify your security policies, measures, and systems related to the initiation, and verify processing and storage of Entries: (i) remain in compliance; and (ii) continue to be commercially reasonable. You agree to submit verification of this audit to us as soon as it is completed, or at any other time we may request.

5.2 ACH Blocking

ACH Blocking Service provides a way for you to request that all ACH Entries against your applicable Account(s) be blocked. Unless mutually agreed otherwise, blocked Entries will be returned with the return codes we specify. You agree not to authorize others to initiate Entries that are inconsistent with the blocking services you request from us. In the event we fail to block a debit Entry that was not authorized by you, our sole obligation shall be to promptly re-credit the amount thereof to your Account(s), and we shall be subrogated to all of your rights and remedies related to that Entry and the transaction out of which it arose. In the event that we fail to block a credit Entry, our sole obligation shall be to transfer the subject funds back to the Originator of the Entry, if requested by you. You agree to execute such additional documents as we may reasonably request from time to time relating to the services provided hereunder (e.g., NACHA-required affidavits).

5.3 ACH Positive Pay

(a) Description of Service. ACH Positive Pay Service is an online portal that provides you real time access to manage all incoming ACH debit transactions that may be unauthorized and allows you the opportunity to create customized instructions or rules on the management of ACH debit transactions being posted to your Accounts. An ACH customized instruction or rule may include the company id and maximum authorized dollar amount.

(b) Access and Notification. You agree to access the online portal daily to review transactions and ACH Positive Pay Exceptions and to provide pay or return instructions to us. In addition, we strongly recommend you select or turn on email notifications. These settings will provide you with the opportunity to receive notification on each day on which ACH transactions are presented for payment.

(c) Processing and Transmittal. Your customized instructions or rules will be compared against ACH Entries presented to us for payment. Entries presented for payment will include all Entries received by us via direct origination, from the Federal Reserve Bank, correspondent and other banks. If an unauthorized ACH Entry posts to an Account, the customized instructions or rules determine whether the Entry requires a pay/return decision or if you should be alerted via your established method of notification that unauthorized activity has occurred (an "Exception Entry").

All customized instructions or rules must be set-up within the online portal no later than 6:00 p.m. CST on any day for effect the next Banking Day. Should you fail to modify or set up such instructions or rules by this time, we shall not be responsible for paying or returning any Entry.

All Exception Entries will be available to you no later than 8:00 am CST on each Banking Day that you have an Exception Entry. You may make your pay/return decisions through the online portal no later than 6:00 pm CST. If you fail to make a pay/return decision prior to the processing cut-off, the item will be paid or returned in accordance with your standing order or default decision.

(d) Security Procedure. You agree that the use of the ACH Positive Pay Service shall be carried out in accordance with the Rules (herein incorporated by reference), and subject to the Security Procedure and security procedures used in connection with our Business Online Banking service as are in effect from time to time. You acknowledge you have been advised as to the security procedures, in effect at the time of execution of this Agreement. You agree that we are entitled to modify or alter such security procedures, in whole or in part, at any time and that you will be required to comply with such security procedures as modified or altered in order to continue to use the ACH Positive Pay Service. You agree to establish prudent security standards and policies that include proper safeguards to protect the confidentiality of all Security Credentials. We may rely upon the accuracy and validity of any Exception Entry or decision, purported to be initiated by you to us, and shall not be liable for any costs or damages incurred by you or any other person in connection with any unauthorized Entries or Exception Entry decisions.

(e) Excluded Transactions/Entries. This Service is not designed to detect or prevent fraud due to other paperless transactions (Wire or EFT) to the Account. In addition, this Service excludes ACH Entries identified with Standard Entry Class (SEC) Codes of ACK, ADV, ATX, COR, DNE, ENR, IAT, MTE, SHR, TRC, TRX, and XCK since these transactions are either non-monetary or are checks which have been converted to electronic format. Also excluded are any incoming returns and corrections.

5.4 ACH Returns Redeposit

You authorize us to automatically attempt to redeposit ACH Returns to the applicable Account(s) which are returned for insufficient or uncollected funds. ACH Returns for any other reason will not be automatically redeposited. You understand this procedure will delay the actual return of an ACH Entry which is returned the second time.

5.5 Wire Transfer

(a) Service Description. Wire Transfer services will consist of the Bank providing for the wire transmission of Customer's funds to and/or from Customer designated Account(s) upon receipt of instructions. Customer agrees to submit wire transfer requests, including any amendments and cancellations, ("Wire Requests" or "Payment Orders") to the Bank in accordance with this Agreement. Upon use of wire transfer services, Bank is hereby authorized to honor, execute, and charge Customer's Account(s) at Bank or any of its affiliates, without restriction or limitation other than as set forth herein, all Wire Requests accepted by Bank in compliance with the Security Procedure. Unless the Bank has otherwise agreed, the Bank will not search for funds in accounts other than the one specified in the Wire Request.

(b) Security Procedures by Type of Wire Request. In addition to the Security Procedure in [Section 1.10](#) of this Agreement, the following supplemental security procedures apply to Wire Requests (collectively, "Wire Security Procedure"). Any Wire Request issued in Customer's name and accepted by Bank in compliance with the Wire Security Procedure shall be effective as the Wire Request of Customer, and Customer agrees to be bound by the same, whether or not authorized. Customer understands that, except for instructions accepted via telephone, such instructions may be electronically authenticated (without human intervention) by Bank's computer. The Bank reserves the right to require any additional verification it deems necessary before accepting any instructions and to employ such additional policies, procedures and technologies as it sees fit from time to time. Customer agrees that the Bank is not obligated to comply with any directions restricting the acceptance of instructions, unless the Bank has acknowledged the receipt of those directions in writing and has had a reasonable opportunity to act on them. In the event that Customer wishes Bank to discontinue

receipt of Wire Requests, Customer should contact the Wire Operations Department immediately. Bank shall have a reasonable opportunity to react to any communication from Customer indicating a desire to discontinue receipt of Wire Requests, and Bank shall not be responsible for acting on any such purported communication, regardless of whether authorized in fact.

(i) Security Procedure for Wire Requests and Wire Requests via Batch Wire through Cash Management On-Line (“CMO”). This paragraph applies to Wire Requests via CMO and may include batched Wire Requests from the Customer via CMO. Bank’s computer will only accept Wire Requests released by Authorized Users. Multiple Wire Requests are not aggregated for purposes of applying Call-Back triggers or for purposes of applying any dollar limit on an Authorized User’s authority. Bank may rely upon any Wire Request or confirmation of a Wire Request by any person purporting to be an Authorized User if that person is in possession of an Authorized User’s PIN. Bank may rely upon any CMO-initiated Wire Request or release of a Wire Request if Bank’s computer determines that an Authorized User’s authority was used in the online session in which the Wire Request was released.

(ii) Security Procedure for Wire Requests via Telephone. The Bank will only accept Wire Requests issued by an Authorized User. Bank may rely upon any Wire Request or confirmation of a Wire Request by any person purporting to be an Authorized User if that person is in possession of the Authorized User’s PIN. Multiple Wire Requests are not aggregated for purposes of applying Call-Back triggers or for purposes of applying any dollar limit on an Authorized Users’s authority.

(iii) Security Procedure for Wire Requests via Batch Wire through First Signal (non-CMO). If Bank has agreed to process batched Wire Requests from the Customer via First Signal (Wire Requests contained in electronic files received by Bank’s computer system via a communications link identified as Customer’s by Bank’s computer system, referred to as “CPU Wire Requests”), those CPU Wire Requests will be verified by the test set forth in [Section 1.10](#).

(iv) Security Procedure for Wire Requests via FirstToolsSM. If Bank has agreed to process Wire Requests via FirstToolsSM, then Customer agrees those Wire Requests will be verified by the test set forth in [Section 1.10\(i\)](#).

(v) Security Procedure for Wire Requests via SWIFT. Customer agrees that for any payment orders and instructions involving SWIFT, including amending or cancelling such orders, the Security Procedure set forth in [Section 1.10\(j\)](#) applies.

(c) Authorized Personnel. Customer shall have Authorized Users designated as authorized to issue Wire Requests pursuant to the enrollment form or any other person with proper authority to issue Wire Requests pursuant to the Commercial Deposit Agreement. It is Customer’s sole obligation to control those designations of authority. In addition to issuing Wire Requests, designated Authorized Users may also request to amend, modify or cancel Wire Requests and may make other wire-transfer-related service requests. Bank is permitted, but not required, to honor all such requests from Authorized Users. Bank will refuse to accept requests from persons other than Authorized Users.

(d) Restrictions on Wire Requests, Customer Instructions. Wire Requests shall be subject to the restrictions set forth on the applicable Schedules as completed from time to time. Customer may change such restrictions or give Bank other instructions from time to time, provided that: (i) Bank receives such changes or instructions in writing signed by a duly Authorized User of Customer; and (ii) an Authorized User of Bank returns to Customer a written acceptance of such changes or instructions. Changes or instructions not satisfying the foregoing conditions shall not be effective or binding on Bank. In any event, Bank shall have a reasonable opportunity to review and implement (or give Customer notice of rejection of) any such changes or instructions.

(e) Acceptance and Rejection of Wire Requests. Bank may give Customer notice of each Wire Request accepted and executed by Bank, unless otherwise agreed upon by the parties. Notices will normally be posted by U.S. mail on the banking day following the date of acceptance. If the Bank sends notices, Customer agrees to review such notices within a reasonable time after receipt (which Customer agrees will normally be by the close of business on the day of receipt, and never longer than five (5) business days after receipt) and to give Bank immediate telephonic notice, thereafter confirmed in writing, of any unauthorized, erroneous, or improperly executed Wire Request. Bank reserves the right to reject any Wire Request submitted and may give Customer telephonic notice of any such rejection, provided that Customer complied with applicable standard procedures (referenced below) in the submission of such Wire Request. Without limiting the generality of the foregoing, Bank may reject any Wire Request if it will create an overdraft or as

otherwise permitted by applicable law. If Bank nonetheless honors such Wire Request, Customer shall immediately reimburse Bank for the amount of the overdraft and Customer authorizes Bank to deduct the amount of the overdraft from any other account that Customer maintains with Bank or its affiliates.

(f) Execution of Wire Requests. In executing Wire Requests, Bank may use whatever means it deems reasonable in the circumstances, including, but not limited to, selection of a funds transfer system, routing, and means of transmission. If Bank reads back any Wire Request to Customer, the terms that are read back shall be deemed the controlling terms of the Wire Request unless corrected by the customer at that time. Wire Requests will be executed by Bank in United States dollars unless Bank accepts a Wire Request denominated in a foreign currency (referred to in this section as “FX Request” or “FX Order”). Exchange rates for FX Request will be as established by Bank from time to time and will be applied as of the date the Wire Request is executed by Bank. Customer acknowledges that exchange rates vary and that different rates may apply for different Bank products.

(g) Cancellation or Amendment of Wire Request. Unless otherwise required by applicable law or modified by subsequent disclosure, Customer may not be able to cancel or amend a Wire Request after it is received by the Bank. If Bank, in its sole and absolute discretion, determines to permit a Wire Request to be cancelled, such cancellation shall be conditioned upon and subject to: (i) its correspondent’s and/or beneficiary’s confirmation of the effective cancellation of the transfer; and (ii) any funds or credits provided by Bank for payment of the transfer shall have been returned to Bank. However, Bank shall have no liability if such cancellation or amendment is not effected. Further, Customer agrees to indemnify and hold Bank harmless from any and all liabilities, costs, and expenses Bank may incur in attempting to cancel or amend the wire transfer pursuant to [section 8.3 of this Agreement](#).

(h) Misdescription of Parties. Customer acknowledges that payment of any Wire Request may be made on the basis of, and any bank (including Bank) executing the Wire Request may rely upon: (i) the number in the order identifying the beneficiary, even if it identifies a party different from the party named as beneficiary; and (ii) the name or number of the beneficiary’s bank or any intermediary bank named in the Wire Request, even if the name and number identify different parties. In either case, no bank (including Bank) shall be required to determine whether the name and number identify the same person. Customer 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.

(i) Bank Procedures and Wire Transfer Days. Customer acknowledges that Bank has established Wire Transfer Business Days and cut-off times, and that such days and times may be periodically changed by Bank without prior written notice. Customer further acknowledges that Bank has established and may from time to time amend its standard operating procedures pertaining to submission of Wire Requests (including, but not limited to, the Customer’s provision of international identification numbers for international transfers). Customer agrees to comply with such procedures as in effect and disseminated to Customer from time to time. In addition, Bank may from time to time propose changes to this Agreement or the Security Procedure in place between the parties. Customer shall be deemed to have agreed to any such change if Customer submits a Wire Request after receipt of notice of a change.

(j) Duty of the Customer. Customer shall exercise good faith and reasonable care in observing and maintaining the Security Procedure and Wire Security Procedure, in communicating Wire Requests to Bank, and in reviewing bank statements or notices for any discrepancies, Customer is responsible for ensuring the accuracy of Wire Requests and Bank has no duty whatsoever to verify the accuracy of Wire Requests, nor will it be liable for losses or damages arising out of Wire Requests containing erroneous information, unless otherwise required by applicable law.

(k) Liability of Bank. Customer acknowledges that fees for wire services under this [Section 5.5](#) are very small in relation to the size of Wire Requests and **BANK IS WILLING TO PROVIDE THE SERVICES HEREUNDER ONLY IF ITS EXPOSURE TO LIABILITY IS LIMITED TO THAT EXPRESSLY IMPOSED BY APPLICABLE STATUTE AND IN ADDITION CUSTOMER ACKNOWLEDGES AND EXPRESSLY AGREES TO ADDITIONAL LIMITS OF [SECTION 8.2, “OUR LIABILITY,”](#) OF THE AGREEMENT.** No third party shall have any rights or claims against Bank under this Agreement. In the event that Bank is required by applicable law to pay interest with respect to any Wire Request issued to it, the amount of interest shall be calculated for each day that interest is due by using Bank’s Federal Funds rate for such day (or, if no rate is available for such day, the rate for the preceding day), divided by 365; provided, however, that the total interest payable shall be reduced by a percentage equal to the reserve requirement on deposits of Bank. Unless otherwise required by applicable law, in making any refund or payment to Customer on any uncompleted or returned Wire Request, Bank may either: (i) pay the Customer in United States dollars, at Bank’s exchange rate at the time of refund for the amount and type of

currency received by Bank or credited to its Account by its correspondent; or (ii) instruct Bank's correspondent to hold said currency for the Customer's Account and risk. For purposes of assessing Bank's liability under this Agreement, Customer agrees that losses suffered as a result of changes in exchange rates or the value of foreign currencies shall be considered consequential damages for which the Bank is not liable.

(l) *Liability of Customer.* In addition to the liability provision under [section 8.3](#) of this Agreement, unless otherwise required by applicable law, Customer shall be liable for any loss or damage resulting from Customer's breach of this Agreement or to which Customer's negligence contributed, or which resulted from unauthorized, fraudulent, or dishonest acts by Customer's current and/or former Authorized Personnel. Such liability includes instances when a current or former Authorized Personnel affects one or more wire transfers to Customer's detriment. Such liability also includes instances when Authorized Personnel initiates a Wire Request outside the scope of section 5.5 or our standard process set forth herein, in which case the Customer waives the applicable portion of the Security Procedure and Wire Security Procedure noted herein and acknowledges that any additional verifications that the Bank requires and any internal policies, procedures and technologies that Bank employs, even though they are not specifically set forth in this Agreement, shall be deemed commercially reasonable.

(m) *Affiliated/Sponsored Entities.* In addition to [Section 1.14](#), by initiating a Wire Request on behalf of or from the account of a Sponsored Entity or adding a Sponsored Entity to any enrollment form or amendment to this Agreement, the Parent or Manager is agreeing to this Agreement, as amended from time to time, on behalf of such Sponsored Entity.

5.6 MasterCard RPPS

(a) *MasterCard RPPS Services.* Bank agrees to provide standard MasterCard RPPS to you, which will consist of electronically sending or receiving End User Payments ("End User Payments") and facilitating the clearing thereof, based on information provided by you and MasterCard, and will provide certain other related services as mutually agreed from time to time (collectively, the "MasterCard RPPS Services"), subject to the satisfaction of any additional requirements imposed by MasterCard. The MasterCard RPPS Services may require the completion of application or enrollment forms and registering with MasterCard RPPS. If you want the Bank to transfer funds between your Account and accounts at other financial institutions in connection with the MasterCard RPPS Services, you acknowledge the terms and conditions of [Section 5, titled "ACH"](#) and the Bank may require you agree to execute our applicable agreement for Third Party Senders.

(b) *Operating Regulations.* You agree to comply with the Requirements of Law, Rules, and Association Rules which in regard to the MasterCard RPPS Services shall also include MasterCard RPPS rules, manuals and other published policies such as the *MasterCard RPPS User Guide and Operating Rules* in effect from time to time ("MasterCard RPPS Documentation"). The Rules or Association Rules in regard to MasterCard RPPS Services specifically include, but are not limited to, complying with any audit and compliance policies and procedures pertaining to the MasterCard RPPS Services, as provided by the Bank from time to time. You agree to maintain records reflecting the transaction(s) giving rise to each payment for a reasonable period of time but in no event less than two (2) years to assist in resolving any end user disputes that may arise in connection with the MasterCard RPPS Services. You covenant to keep yourself continuously informed of changes in the Rules and Association Rules. In the event that you are required to sign any separate agreement or complete any registration in connection with our sponsorship, you agree to fulfill all obligations imposed on it under such agreement and/or in connection with such registration (it being understood that you will have the opportunity to review and request revisions to the terms of such agreements, although the Bank cannot guarantee that MasterCard will accept your revisions).

(c) *Payment Submissions; Special Items.* The Bank may at any time: (i) reject any instructions submitted but agrees to give you prompt telephonic notice of rejection, subsequently confirmed via email, provided that you have complied with our applicable Rules in the submission thereof, (ii) refuse to honor any of your instructions that the Bank, in our sole and absolute discretion, determine may expose the Bank to a risk of loss or result in a loss; and (iii) decline to process transactions in excess of any exposure limit the Bank establishes for you. In addition, if special handling items (e.g., returns, reversals, adjustments, reclamations, and warranty claims) are, in our reasonable judgment based on industry standards, excessive, the Bank may adjust fees, require reserves, or both. The Bank is not responsible for canceling or amending any transmission that the Bank may make in reliance on your instructions, for dishonoring returns, for refusing notifications of change, or for any other matter not specifically provided herein.

(d) *Debits and Credits.* If the Bank has a reasonable doubt that you are entitled to an End User Payment, the Bank may in our sole discretion and to the extent permitted under applicable law: (i) delay crediting your Account for the End User Payment; (ii) delay your availability to funds credited to your Account for the End User Payment; or (iii) delay your availability to funds maintained in your Account or any other Account you maintain with the Bank in the amount of the End User Payment. The Bank may in our sole discretion reject an End User Payment if: (a) it does not contain all of the required information; (b) is post dated; (c) the Bank has reasonable doubt that you are entitled to the End User Payment; (d) your Account with the Bank is not open to receive deposits when the Bank receives the End User Payment; or (e) if the Bank is not permitted by law to accept credits to any of your Accounts when the Bank receives the End User Payment. The Bank will reject any End User Payment directed to you that the Bank receives after MasterCard RPPS Services has been terminated. The Bank is not obligated to give you separate notices of acceptance or rejection of End User Payments. You agree to pay and the Bank is authorized to debit from your Account any amounts improperly or erroneously credited to your Account, including, without limitation, any credits that reflect duplicative End User Payments or End User Payments otherwise in error and any other sums (including sums in excess of the related End User Payment amount) that the Bank is required to pay or refund to an end user's financial institution or end user pursuant to the regulations, or by any other law. (If you reimburse a duplicate End User Payment that you are required by law to reimburse by a means other than through MasterCard RPPS, you shall notify the Bank prior to such reimbursement.) Bank may exercise its right of setoff with regard to any funds the Bank receives as a result of an End User Payment or any funds in any Account you maintain with the Bank. In addition, the Bank may reduce any subsequent payment the Bank owes to you under MasterCard RPPS Services, that the Bank deems necessary because of any adjustment, error, termination of MasterCard RPPS Services, fees owed to the Bank, any acts or omissions in breach of MasterCard RPPS Services by you, or any other obligation you owe to the Bank arising under MasterCard RPPS Services or any other agreement between you and the Bank.

(e) *MasterCard Flow Through Terms.*

(i) *Additional Terms on Debits and Credits.* You acknowledge and agree that MasterCard may (i) in accordance with the MasterCard RPPS Documentation, credit and debit your Account in respect of your participation in MasterCard RPPS; and (ii) further debit your Account (a) for funds due from you to another MasterCard RPPS participant or MasterCard in connection with a transaction processed through MasterCard RPPS, including funds credited to your Account in error, (b) for funds due to MasterCard for fees or penalties due under the MasterCard RPPS Documentation, and (c) to unwind transactions previously settled to your Account through MasterCard RPPS if the participant that sent the previously settled transaction has not funded the transaction and, as determined by MasterCard, is unable or unwilling to fund the transaction. You shall cooperate in effecting such transaction unwinding. MasterCard may, without prior notice to you, setoff, appropriate, and apply any funds otherwise due to you against any amounts in respect of reversals or unwinding of transactions settled to you by MasterCard through MasterCard RPPS, and you waive the right to interpose any setoff, counterclaim, or cross claim you may have with respect to another participant in MasterCard RPPS in connection therewith. If appropriate, any debits or credits may include the cost of funds due to MasterCard, you, or another participant, calculated as set forth in the *Settlement Manual*.

(ii) *Data.* Except for the provision of MasterCard RPPS data or as otherwise authorized in writing by the Bank, you are not authorized to submit transactions directly to MasterCard RPPS if such transactions will result in a debit or credit to settlements with the Bank.

(iii) *Your Information.* The Bank is authorized to provide your payment address and other requested information to MasterCard RPPS for its use in routing End User Payments and other messages. You acknowledge and agree that MasterCard may provide your payment address to the financial institutions of end users and other persons, but shall not be obligated to do so. You further agree that any information you provide to any person, including end users, regarding End User Payments shall be consistent with your payment address. MasterCard may require you to provide MasterCard with updated contact information within thirty (30) days of organizational changes.

(iv) *Termination.* You may terminate receiving MasterCard RPPS Services at any time upon ninety (90) days prior written notice. The Bank may terminate providing MasterCard RPPS Services at any time pursuant to [section 1.2 of this Agreement](#). The parties acknowledge that MasterCard may terminate or limit MasterCard

RPPS Services at any time. The parties acknowledge the effects of termination set forth in [section 1.2\(c\)](#) of this Agreement.

- (v) *Confidentiality.* Each party acknowledges and agrees to [section 1.17 of the Agreement](#), which relates to confidential information. As applied to MasterCard RPPS Services, such information includes, but is not limited to, pricing and technical information, research and technological information, trade secrets, source code, customer information, strategies, techniques, processes, operating procedures, and other information pertaining to the business of each party (“Confidential Information”). Confidential Information further includes, but is not limited to, information and materials (such as directories and documentation) that the Bank may provide to you from MasterCard.
- (vi) *Promotion of the Services.* Customer agrees to periodically communicate to the end users with statement stuffers or other media (e.g., invoices) that Customer accepts electronic payments. Customers who wish to reference MasterCard RPPS in any marketing materials must be in good standing and processing successfully for at least six (6) months. All proposed use of the trademark must be submitted to MasterCard RPPS in writing for advance written approval and should include how and where the materials will be used. A final version must be provided to MasterCard RPPS for approval before you print or post any such materials and will require at least seventy-two (72) hours advance notice for approval. Any approval granted will be granted solely for the proposed use submitted. Requests for additional use must be submitted to MasterCard RPPS for written approval. The following guidelines are intended for all uses of the MasterCard RPPS[®] service name. The registered mark is exclusively owned by MasterCard International Incorporated. These guidelines apply to use of the trademark in all media, including but not limited to use in print, the Internet, at trade shows, and on all promotional items. Whenever referring to MasterCard RPPS, always use the full name “MasterCard RPPS,” the MasterCard RPPS word mark, as that is the proper name for the service. The MasterCard word mark must always appear in upper and lowercase letters, with a capital “M” and “C” and the remaining letters in lowercase; “MasterCard RPPS” must always be in uppercase. At the first mention of MasterCard RPPS, always add a small trademark symbol just to the upper right of the “S” in “MasterCard RPPS,” to read “MasterCard RPPS[®]” Thereafter, use “MasterCard RPPS.” The MasterCard RPPS word mark must always appear in English and must never be translated into any other languages nor appear in another alphabet. In the legal notices area, add the following statement, “MASTERCARD RPPS is a trademark of MasterCard International Incorporated. Used pursuant to license.” Use all capital letters for the work mark.
- (vii) *Non-Discrimination.* You shall not discriminate in any way against or discourage any end user who makes an End User Payment through MasterCard RPPS (e.g., you may not increase the purchase price of any good or service or assess any special charge with respect to any end user who makes an End User Payment through MasterCard RPPS rather than through cash or check).
- (viii) *Disclaimer; Limitation of Liability.* MASTERCARD MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO MASTERCARD RPPS OR ANY SERVICES PROVIDED IN CONNECTION WITH ITS MASTERCARD RPPS SERVICES, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS. MASTERCARD AND YOU SHALL NOT BE LIABLE TO ONE ANOTHER FOR INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE MASTERCARD RPPS SERVICES, AND MASTERCARD SHALL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY OTHER DAMAGES ARISING OUT OF OR IN CONNECTION WITH MASTERCARD RPPS OR YOUR USE OF MASTERCARD RPPS, WHETHER A FAILURE CAUSED BY MASTERCARD TO EXERCISE ORDINARY CARE OR OTHERWISE, EXCEPT AS PROVIDED IN THE MASTERCARD RPPS ASSOCIATION RULES.
- (ix) *Indemnity.* You agree to defend, protect, indemnify, and hold harmless MasterCard from and against any claims, liabilities, losses, damages, costs and expenses (including reasonable attorneys’ fees) arising from your participation in MasterCard RPPS. In the case of any claim, (i) MasterCard shall notify you in writing within thirty (30) days of receipt of written notice of any such claim; provided that the failure to provide notice as required herein shall not affect your obligations hereunder except to the extent the delay prejudices you, (ii) you shall have control of the defense and all related negotiations, including settlement negotiations, and (iii) MasterCard shall provide you with reasonable assistance, information and authority necessary to perform the above obligations. Reasonable out-of-pocket expenses incurred by MasterCard in providing such assistance will

be reimbursed as promptly as practicable by you. Notwithstanding the foregoing, you may not consent to the entry of judgment with respect to, or otherwise settle, such indemnified claim if the proposed judgment or settlement involves anything other than the payment of money. You shall first obtain the written consent of MasterCard to such judgment or settlement, which consent shall not be reasonably withheld.

- (x) *Relationship of the Parties; Third Parties.* You shall not use the Bank's or MasterCard's names, marks, or information without our prior written consent. You shall not access or use MasterCard RPPS Services other than as authorized by the Bank. MasterCard RPPS Services is solely for the benefit of the parties and may not be relied upon or enforced by any third party. The Bank is not responsible to third parties for your use of the MasterCard RPPS Services.
 - (xi) *Changing Receivers.* For any given biller profile, there can only be one associated receiver. If you request to move to another receiver, you should communicate this change to the Bank and a written authorization may be required by MasterCard RPPS.
 - (xii) *Correction Information.* You agree to send to the Bank any correction advices regarding end user account or payment information (other than the payment amount or end user's billing address) resulting from transaction posting problems: (i) within ten (10) business days from the relevant posting cycle date during the first eighteen (18) months after activation of the MasterCard RPPS Services; and (ii) within five (5) business days from the posting cycle date no later than eighteen (18) months after activation of the MasterCard RPPS Services. Such correction advices cannot be used to correct the amount of an End User Payment or to change an end user's billing address.
- (f) *Processing and Posting End User Payments.* You agree to process and post each End User Payment to the applicable end user account within twenty-four (24) hours of receiving the End User Payment. If you are a creditor under the federal Truth in Lending Act (15 U.S.C. 1601 et seq), you agree to credit such end user accounts, unless a delay in crediting does not result in a finance or other charge or except as otherwise provided in Regulation Z (12 C.F.R. Part 226), on the earlier of either: (i) the day you received the credit to your Account; or (ii) the day you received the information the Bank provided regarding such End User Payment. If you are unable to process and post the End User Payment within the time period prescribed in MasterCard RPPS Services and such End User Payment is postable in accordance with your then in effect billing policies applicable to end user payments generally, you shall treat the End User Payment as if you had posted it to the end user's account on the settlement date of the End User Payment. You may not use settlement funds for purposes other than settling MasterCard RPPS transactions.
- (g) *Returned Payments.* You agree to return to the Bank any End User Payments that you are unable to post to an end user's account within two (2) business days from the posting cycle. The Bank is authorized to act on any returned End User Payment or any instruction to affect a returned End User Payment that the Bank receives from you. Returned End User Payments will be considered authentic if included as part of your daily transmission to the Bank. You understand that End User Payments cannot be canceled or amended by end users or their financial institutions and that you must return payments to which you are not entitled.

SECTION 6 – BALANCE CONTROL SERVICES

6.1 Target or Zero Balance Accounts

Target or Zero Balance Account Services permit you to control the transfer of funds among your Accounts. You may instruct us to make transfers among Accounts to begin on a mutually agreeable date. With a date-related transfer, you may have funds transferred in one direction between Accounts. We transfer funds on the banking days and for the amounts you specify. With a balance-related transfer, you may have funds transferred to an Account when the balance falls below a certain amount, from an Account when the balance rises above a certain amount, or both.

6.2 First Sweep – Plus

(a) *Description of Service; First Asset Management Account ("FAM") Account.* Until written directions to the contrary are received by us from one or more of the accountholders, we are authorized to administer your First Asset Management Account ("FAM Account") as follows: (i) at the close of each banking day, after the posting of all items of deposit and withdrawal to the FAM Account for that day, we will determine the amount of collected funds in the FAM Account in excess of your Target Balance in \$1,000 increments or as otherwise agreed upon by the parties (the "Excess Amount"); (ii) each banking day, we will use the Excess Amount to acquire on your behalf an equivalent net asset value of shares in

the Goldman Sachs Financial Square Government Fund or other applicable fund agreed upon by the parties (the "Fund"). Shares so acquired ("Your Shares") in the Fund will be held of record in the name of "First National Bank of Omaha for the benefit of FAM accountholders." Beneficial ownership will be allocated to you on our books as a portion of the aggregate Fund shares acquired by us for all FAM accountholders; (iii) income dividends that we receive from the Fund will be allocated to you on a daily basis based on your allocated share of the aggregate Fund shares at the beginning of the day and will be posted to your FAM Account on a monthly basis; (iv) sweeps to and from your FAM Account and income dividends from the Fund will be reflected on your monthly FAM Account statement; (v) the FAM Account may be terminated at any time by notice from you to us or from us to you; and (vi) the FAM Account will automatically terminate should you cease to maintain such account or if we should elect to terminate that account. Upon termination of the FAM Account, we may immediately redeem Your Shares and deposit the proceeds in your FAM Account, and after deducting all fees and charges then due us, we will pay any other cash in the FAM Account, including earnings, to you by depositing the same in any other Account(s) maintained by you with us, as we deem appropriate.

(b) Our Responsibilities and Liabilities. You acknowledge and agree: (i) our sole duties with respect to the FAM Account are those specifically set forth herein; (ii) we are not exercising any discretionary authority under these Sweep Terms; (iii) we are not selling, soliciting, offering, or promoting any investment or the purchase of any investment contract or security; (iv) we have not made, and will not make, any recommendation with respect to the nature or investment quality of any of the investment options that may be implemented with moneys swept from the FAM Account; (v) we expressly disclaim any responsibility for your decision to invest in the Fund or any other investment options; (vi) all investment decisions you represent have been made and will be made without our participation or advice; (vii) your decision to invest will be made solely on the basis of your own knowledge; (viii) all investments from the FAM Account are made at your own risk and we will not be liable or responsible for any failure of the Fund; (ix) we will have no liability whatsoever to you with respect to actions taken or omitted to be taken by us in connection with the FAM Account, or the purchase of the shares in the Fund, except for actions taken or omitted to be taken by us in bad faith; and (x) we will have no responsibility or liability to you for the disbursement of amounts deposited or invested (hereunder or any part thereof) based upon any notice signed by you or bearing a signature or signatures believed by us to be genuine, except as set forth in these Sweep Terms. In case the FAM Account or Your Shares are attached, garnished, or levied, or the disbursement of proceeds is stayed or enjoined, or any other order, judgment, or decree is made or entered affecting the FAM Account or Your Shares (or any part thereof), you acknowledge and agree that we are expressly authorized in our sole discretion to obey and comply with all such orders, writs, decrees so entered or issued, whether with or without jurisdiction. In case we obey or comply with any such order, writ, or decree, you acknowledge and agree that we will not be liable to you or to any other person, firm, or corporation by reason of such compliance even if such order, writ, or decree is subsequently reversed, modified, annulled, set aside or vacated. You also acknowledge and agree that we will be under no obligation or duty to institute or defend against any lawsuit involving the FAM Account, these Sweep Terms or the activity provided for herein.

(c) Non-Assignment; Collateral. You agree not to pledge or otherwise assign your interest in Your Shares to or for the benefit of any third party. You hereby grant us a security interest in Your Shares, any earnings thereon, and any other amount held in the FAM Account, as security for payment of any obligation arising under these Sweep Terms, as a result of any overdraft on your FAM Account, under any loan made by us to you, or under any other obligation which you may have to us. We will have all of the rights and remedies of a secured party under the UCC with respect to this collateral, and you authorize us to execute in your name and to file on your behalf any financing statement which we deem advisable to file in order to protect our interest under the UCC. You also authorize us to certify checks drawn on the FAM Account which are in excess of the current amount in the FAM Account, you agree to reimburse us for any such excess and you authorize us to redeem Your Shares and to deposit the proceeds thereof to the FAM Account to the extent necessary to cover such excess.

(d) Set Offs and Charges. We may set off and charge against any funds in the FAM Account, including the proceeds from the redemption of Your Shares, any liability, obligation, or debt of yours to us (including your obligation to reimburse us for any overdrafts or certifications of a check drawn on your FAM Account), whether that debt, liability, or obligation of yours is joint or several, primary or secondary, or absolute or contingent.

(e) Receipt of the Fund Prospectus. YOU ACKNOWLEDGE THAT YOU HAVE RECEIVED AND READ THE GOLDMAN SACHS FINANCIAL SQUARE GOVERNMENT FUND OR OTHER APPLICABLE FUND PROSPECTUS AND THAT WE HAVE MADE NO ENDORSEMENT OR RECOMMENDATION OF THE FUND.

(f) Bank Failure. The Federal Deposit Insurance Corporation (“FDIC”) requires us to disclose information to you on how your funds would be treated if a bank failure would occur. Funds that have been swept from an account(s) into the holding account at the bank will be treated as if they have not left the bank and will be insured up to the amount of the FDIC deposit insurance limit. Funds swept from the money market mutual fund to this account are deposits and will be insured up to the amount of the FDIC deposit insurance limit. Any funds in excess of the FDIC insurance limits will be treated as uninsured deposits. For funds still invested in the external money market mutual fund, you will be considered to have an ownership interest in shares in the money market mutual fund and such invested funds will either be available to your account the following business day or you will receive payment for the value of such shares in the money market mutual fund.

6.3 Loan Sweep

(a) Description of Service. As used below, our “records” refers to the records that we maintain with respect to your sweep arrangement. Your “loan” refers to your selected line of credit and/or other loan products associated with your sweep arrangement (as contained in our records). Until we receive and have a reasonable opportunity to act on any written instructions to the contrary, you authorize us to take the following actions on your behalf. After the close of each banking day, we will determine whether the collected balance in your designated Account(s) is above or below your “target balance” (as contained in our records). Any excess over the target balance will be applied to payment of your loan (up to your current loan balance). If your Account does not contain at least the target balance, we will initiate an advance from your loan in an amount (up to your available credit) sufficient to restore your Account balance to the target balance. After your loan matures, we may continue to initiate these advances, although we are not required to do so. If your loan has matured, all advances shall be repayable on demand or on such other terms as we specify (such as the loan terms in place prior to maturity or the terms of your loan as subsequently renewed, if applicable). The terms of this Agreement are in addition to and not in lieu of the terms and conditions in effect for your loan (which may affect or restrict, among other things, payments to and advances from your loan notwithstanding this Agreement). In the event of conflict between this Agreement and your loan terms, your loan terms shall control. You remain fully responsible for compliance with your loan terms and repayment of your loan, even if these sweep arrangements do not function as described herein.

(b) Bank Failure. The FDIC requires banks to disclose information to you on how your funds would be treated if a bank failure would occur. Funds that have been swept out of the designated Account will be used to reduce the loan balance; funds remaining in the designated Account are insured deposits up to the FDIC limitation in the event of bank failure.

SECTION 7 – GLOBAL SERVICES

7.1 FX Trading

(a) Description of Service. You may submit requests (“Requests”) for foreign exchange spot or forward transactions (“FX Transactions”) with respect to currencies and value dates we determine to support from time to time. Prices and terms we quote for proposed FX Transactions may be withdrawn by us at any time prior to the receipt of a Confirmation (as defined in the paragraph 7.1 (c)) from us, via telephone, mail, or electronically. You agree to use the Services for purposes of your banking business, not for speculative investment or trading purposes and not for purposes of carrying out FX Transactions for others. For purposes of the preceding sentence, “your banking business” may include the provision of foreign exchange transaction services to your banking customers, provided that: (i) you assure that your customers use those services solely for commercial purposes required by their businesses, not for speculative investment or trading purposes, and not for purposes of carrying out foreign exchange transactions for others; (ii) you are solely responsible for providing foreign exchange transactions and services to your customers in a lawful manner and in compliance with your own risk management policies; (iii) you do not use our name or marks without our prior approval and do not indicate to your customers that we are responsible for the foreign exchange transactions and services that you provide to your customers; and (iv) in addition to your obligations pursuant to [Section 8.3 titled “Your Liability”](#), you accept and assume all risks that arise out of your provision of foreign exchange transactions and services to your customers, including losses that you may sustain as a result of improperly hedging your own risks, and losses that customers may sustain and attempt to hold you or us responsible. These Services may be subject to various limits on open positions that we establish for you from time to time (we will inform you of those limits upon request).

(b) Agents. You authorize any one (1) of your Authorized Users on your enrollment form or supplemental enrollment form (i) to enter into on your behalf, Foreign Exchange Contracts (as defined below in [section 7.1\(l\)](#)) (each, a “Trade

Agent”) and/or (ii) to receive confirmations of any Foreign Exchange Contract and related Funds Transfers (each, a “Confirm”) by telephone, facsimile, e-mail or otherwise as determined by the Bank (each, a “Confirming Agent”). You shall be bound by the Agreement of any Foreign Exchange Contract entered into pursuant to any authorization of such Authorized User(s).

(c) Processing Requests; Our Obligations and Liabilities. Requests must be submitted in the form and manner and in accordance with the cut-off times we specify from time to time. After we receive your Request, we may verify it via telephone with any Authorized User that is identified in our records as a Confirming Agent (on request, we will provide you with the list of Confirming Agents in our records). We are not obligated to accept any Request and may reject or delay the completion of any Request in our sole and absolute discretion. If we do so, we will promptly inform you, provided that you complied with applicable requirements in submitting the Request, and you will be free to submit such Request to another provider, regardless of any exclusivity or other terms contained in this Agreement. You are solely responsible for determining that your Requests are complete, accurate, unambiguous, and legible before submitting them to us. We are not responsible for errors or delays that result from the incompleteness, inaccuracy, ambiguity, or illegibility of a Request. We are authorized but not obligated to fulfill and charge your Account(s) for the amount of any Request we believe in good faith to have been submitted by you. We are not obligated to modify or cancel any FX Transactions after we have received your Request. If we attempt to complete a modification or cancellation that you request, you are responsible for the costs, expenses, and losses we incur. All FX Transactions are at your sole risk regardless of whether we provide you any advice in connection therewith. You understand that FX Transactions involve substantial risk and you agree to make your own determinations about the various risks of entering into FX Transactions. Each time you make a Request, you represent to us that you have the necessary expertise and commercial experience to evaluate the proposed transaction and that you are not relying upon us in making that evaluation. You are not entitled to rely upon any information or advice that we may provide and should not assume that our willingness to execute a particular transaction means that we consider it prudent. You understand that we are not acting as a fiduciary in providing these Services, that we are not obligated to manage, monitor, or inquire into the purposes of your FX Transactions, that we need not monitor the level of your FX Transactions (or increases or decreases therein), and that it is not our responsibility to safeguard against your Authorized Personnel using the Services for purposes you have not authorized or in violation of the restrictions that you have placed on those Authorized Personnel. We reserve the right to require any or all FX Transactions to be governed by separate documentation (for example, an International Swaps and Derivatives Association (“ISDA”) master agreement). Our current policy is not to require such documentation unless we have projected that your annual notional turnover of FX Transactions may exceed \$50,000,000.

(d) Confirmations. We will make a confirmation (“Confirmation”) available to you for each Request, normally, Confirmations will be made available within one (1) business day. Confirmations will be provided in the form and manner we specify from time to time (including via telephone or e-mail). You agree to verify that you receive a Confirmation for each Request and to review each Confirmation upon receipt to verify that it accurately reflects your Request. You agree to notify us immediately if you do not receive a Confirmation or if it is inaccurate or incomplete in any way. Your notification to us shall be provided by telephone and promptly confirmed in writing via facsimile or e-mail. If we do not receive your notification within one (1) business day of when we sent your Confirmation, you will be considered to have conclusively acknowledged that you received a Confirmation that accurately reflected your Request (a “Confirmed Request”). If a Request is either verified by a Confirming Agent or a Confirmed Request, it shall be effective as your authentic Request and you agree and are deemed obligated to such Request. You will also be obligated for all FX Transactions you actually request, regardless of whether you receive a Confirmation or whether verified by a Confirming Agent.

(e) Use of Counterparty (ies). We shall act on each Request that we accept by entering into an individual FX Transaction with a counterparty that we select. The pricing terms quoted in our Confirmation to you shall control as between you and us, but all other terms of such individual FX Transactions will be as contained in the ISDA documentation between us and the counterparty (those other terms will be provided to you on request). Those terms shall not be inconsistent with the Confirmation that we provided to you. Provided that no Default (as defined in [paragraph 7.1\(j\)](#)) by you occurs, we shall not default under any FX Transaction and we shall complete each FX Transaction in accordance with its terms. In addition to any amounts due under the Confirmation, you shall reimburse us immediately on demand for all payments we make to our counterparty(ies) in connection with each FX Transaction, whether due to your Default, early

termination or otherwise. Unless we receive a Request at least two (2) business days in advance of the value date and accept it, a foreign exchange forward transaction may be closed out or rolled-over at our discretion.

(f) Settlement Cut-Off Time. You must settle with us for the full amount of each FX Transaction by making good funds available to us for the full amount of the FX Transaction no later than 2:00 p.m. Central Time on the value date of the FX Transaction.

(g) Security Procedure for Foreign Exchange Contracts. In addition to the Security Procedure in [Section 1.10](#), the following security procedures apply to Foreign Exchange Contracts. Foreign Exchange Contracts (defined below) not entered into electronically, will be authenticated via Bank's standard procedures confirming the amount and certain other terms of Foreign Exchange Contracts entered into with the Bank pursuant to the terms in this section, any enrollment form, and the amount and terms of any request for a Funds Transfer by Authorized Personnel. Foreign Exchange Contracts initiated electronically will be authenticated (without human intervention) via the communications link between your computer and Bank's computer. This means that Bank's computer will only process Foreign Exchange Contracts requested by an electronically authenticated applicable Trade Agent or Confirming Agent to enter into on your behalf, Foreign Exchange Contracts with the Bank in accordance with the Agreement and to effect the transfer of funds in connection with the Foreign Exchange Contracts. Bank may rely upon any Foreign Exchange Contract or confirmation of a Foreign Exchange Contract by any person purporting to be the applicable Confirming Agent if that person is identified in such role within the Foreign Exchange platform. Bank may rely upon any Foreign Exchange Contract or release of a Foreign Exchange Contract if Bank's computer determines that a Trade Agent or Confirming Agent was used in the online session in which the Foreign Exchange Contract was requested. In the event that you wish Bank to discontinue receipt of Foreign Exchange Contract requests, you should contact your respective Treasury Support Representative immediately. Bank shall have a reasonable opportunity to react (not to exceed three (3) business days) to any such communication and shall not be responsible for acting on any such purported communication, regardless of whether authorized in fact. You acknowledge that the Bank recommends that one (1) person should not be named as both the Trade and Confirming Agent for security reasons and, if you name only one (1) person in both positions, you hereby waive this security protection and agree that the Bank shall have no liability for any losses relating to this security procedure waiver and a separate opt out security agreement may be required.

(h) FX Account; Required Balance. You must maintain a designated Account with us in connection with this Service (the "FX Account"). You must maintain the U.S. Dollar balance we require (the "Required Balance") in the FX Account at all times and agree to deposit increased amounts that we require within one (1) business day of our notification to you. You understand that, among other things, any adverse exchange rate movement prior to the value date of an FX Transaction may result in us requiring an increase in your Required Balance. The FX Account may be blocked to outgoing transfers and withdrawals in the event it is not in compliance with the Required Balance. In addition to our rights of setoff in the FX Account and your other Accounts with us, you agree that we shall have a security interest in the FX Account and all sums on deposit in the FX Account in order to secure the payment and performance of your obligations. We reserve the right to transfer, assign, hypothecate and pledge to others our rights and interests in the FX Account. You represent, warrant, and covenant that: (i) this agreement is undertaken in the ordinary course of business, not in contemplation of insolvency, and with no intent to hinder, delay, or defraud your institution or creditors; (ii) this Agreement, each FX Transaction and our security interest in the FX Account represent bona fide and arm's length transactions; (iii) our security interest in the FX Account is for adequate consideration; (iv) this Agreement has been approved by your board of directors or loan committee, such approval is reflected in the minutes of a meeting of the board of directors or committee; and (v) this Agreement will, continuously from the time of their execution, be maintained as an official record of your institution.

(i) Preferred Account. You may at any time designate additional accounts available for selection within the foreign exchange platform by completing the Optional Standard Settlement Instruction Schedule. However, only one Account will be designated the Preferred Account at any time. In the event you fail to designate a settlement instruction for any Foreign Exchange Contracts, the Preferred Account will be utilized to process the request.

(j) Default. A "Default" shall exist if: (i) you breach this Agreement (including your obligation to settle on a timely basis for each individual FX Transaction, and your obligation to maintain the Required Balance in the FX Account); (ii) you violate applicable Requirements of Law in any material respect; (iii) you fail to remain Well Capitalized as defined in regulations of the Office of the Comptroller of the Currency ("OCC"); (iv) you become the subject to any voluntary or

involuntary bankruptcy, reorganization, conservatorship, or receivership proceeding. You agree to notify us immediately upon the occurrence of a Termination Event (as defined below), Default, or the occurrence of any event (that with notice or the passage of time) would constitute a Termination Event or Default. A "Termination Event" shall exist if: (i) you no longer satisfy our underwriting standards for the Services; (ii) your use of the Services creates a risk of loss to us (including a third party claim or a reputational injury resulting from the inappropriate use of our Services); or (iii) we determine that an FX Transaction may violate or cause you or us to violate Requirements of Law. Upon the occurrence of a Default or a Termination Event, we may reject or refuse to execute any further Requests (even if a Confirmation has already been issued). In addition, we may take such other actions in consequence of your Default as we deem necessary, including causing or permitting our counterparty(ies) to terminate, close out, reverse, cancel, or net against each other, any or all open positions in FX Transactions that we entered into in reliance on your Requests. We may exercise these rights in the manner we choose including any delay in exercising these rights, so long as we act in good faith. We may retain and suspend payments or credits due to you with respect to any of your FX Transactions while we are in the process of exercising the foregoing rights. The foregoing are in addition to and not in lieu of our other rights and remedies at law and in equity. If the proceeds we realize pursuant to foregoing are insufficient for the payment of all your obligations to us and the reimbursement of all losses we have incurred, you shall pay the deficit on demand. You agree to immediately reimburse us for the costs, expenses, and losses we incur in exercising the foregoing rights.

(k) New Authorization. In the event any information on any enrollment form shall change, you shall submit to the Bank a new enrollment form or supplemental enrollment form or a duly certified amendment to your current enrollment form or supplemental enrollment form acceptable to the Bank and such change shall become effective only after such written notice is delivered to the Bank and after the Bank has a reasonable time to process such change. Thereafter, the new enrollment form or supplemental enrollment form shall in all respects supersede or amend, as the case may be, any previous enrollment form.

(l) Restrictions on Transfers; Company Instructions. The Bank may quote FX Transactions for the purchase from or sale to you of foreign currencies, foreign exchange swaps, and products and instruments related thereto (collectively, "Foreign Exchange Contracts"), all in amounts and at rates and times mutually agreed upon by you and the Bank. Foreign Exchange Contracts shall be subject to the restrictions set forth herein and on any enrollment form or supplemental enrollment form. You may change such restrictions or give Bank other instructions from time to time, provided that: (i) Bank receives such changes or instructions in writing signed by one of your duly Authorized Users; and (ii) an authorized representative of Bank returns to you a written acceptance of such changes or instructions. Changes or instructions not satisfying the foregoing conditions shall not be effective or binding on Bank. In any event, Bank shall have a reasonable opportunity to review (not to exceed three (3) business days) and implement (or give you notice of rejection of) any such changes or instructions. You shall be bound by the Terms of any Foreign Exchange Contract entered into pursuant to this Authorization.

(m) Valid Organization/Authorization. You are an entity, the authorizations in the enrollment form or supplemental enrollment form have been provided in accordance with your relevant governing documents, the foregoing constitutes all action necessary to provide the above authorizations for Trade Agents or Confirming Agents on your behalf, and the foregoing are now in full force and effect. Thereafter, the new enrollment form or supplemental enrollment form shall in all respects supersede or amend, as the case may be, any previous enrollment form or supplemental enrollment form.

7.2 Trade Services

(a) Description of Services. Trade Services provided by the Bank shall allow Customer to (i) initiate documentary collections, (ii) instruct the Bank to advise you of the Bank's receipt or confirmation, or payment of export letters of credit received by the Bank and naming Customer as beneficiary, (iii) request full or partial transfers of your export letters of credit, (iv) access reports on letter of credit transactions, documentary collections, and banker's acceptances, and (v) instruct the Bank to issue or amend import letters of credit.

(b) Security Procedure. You agree that the use of Trade Services are subject to the Security Procedure used in connection with our Business Online Banking service as are in effect from time to time. You acknowledge you have been advised as to the security procedures, in effect at the time of execution of this Agreement. You agree that we are entitled to modify or alter such security procedures, in whole or in part, at any time and that you will be required to comply with such security procedures as modified or altered in order to continue to use of the Trade Services. You agree to establish prudent security standards and policies that include proper safeguards to protect the confidentiality

of all Security Credentials. We may rely upon the accuracy and validity of any initiation, instruction, or request purported to be initiated by you to us, and shall not be liable for any costs or damages incurred by you or any other person in connection with any unauthorized initiation, instruction, or request.

(c) Documentary Collections. Bank's documentary collections service shall allow Customer to initiate a documentary collection by delivering an instruction to a collecting bank. Customer shall use a form acceptable to the Bank ("Collection Form") to initiate the documentary collection. Bank shall not have any responsibility or liability for the terms and conditions of any instruction; Customer accepts all such responsibility and liability. Customer shall promptly transmit to the Bank a copy of the completed Collection Form, and, upon the Bank's request, provide the Bank copies of the underlying documentation. Upon Bank's receipt of any payment of a documentary collection, the amounts received (less related charges, disbursements, and/or expenses) shall be paid to you, except that if we are required to return any such payment received upon the insolvency, bankruptcy, or reorganization of the presenting bank or collecting bank or other third party or for any other reason, you shall repay to the Bank the amount paid by you together with interest thereon from the date we returned the payment and so notified you at the rate specified by us in our fee schedule. Unpaid items and related documents received by us may be returned to you by regular mail or electronic transmission or email at the address specified as set forth in our system of record or such other address as you include in a written notification to the Bank for us to use for such purposes.

(d) Export Letters of Credit. Bank's export letters of credit service shall allow Customer to prepare export documents and allow Bank to advise you upon (i) Bank's receipt of any export letter of credit or amendment(s) thereto naming you as beneficiary, including the wording of an export letter of credit so you can prepare export documents based on the export letter of credit, (ii) the status of any documents or payments with regard to any export letter of credit, (iii) Bank's confirmation of any such export letter of credit, and (iv) any payment made pursuant to a drawing under any such export letter of credit. Customer may from time to time request the Bank to confirm letters of credit which letters of credit, and the requests to confirm therefore, must be in form satisfactory to the Bank's policy. Bank may confirm or reject such letters of credit. The Bank shall have no liability if we fail to receive any written or electronic confirmation from the Customer, or if the Bank does receive any such confirmation it differs from the initial instruction which shall be deemed to be the controlling instruction in all cases.

(e) Import Letters of Credit. Bank's import letters of credit service shall allow Customer to request us, by electronic transmission or email, to issue an import letter of credit or a guarantee. Each letter of credit or guarantee which we agree to issue will be for your Account or the account of another entity you designate. As a condition to our agreement to issue a letter of credit, we may require you at any time to (i) make with us a cash deposit, which may not accrue interest or earnings credit, and (ii) grant us a security interest in the underlying goods and documents of title and/or any other property or accounts as we reasonably determine as security for your obligations to us. Customer may, from time to time, request Bank to open and amend a letter of credit in accordance with the import letters of credit service by sending a request to do so to the Bank. Each such request ("Request") shall be completed on the applicable application and/or agreement, in form satisfactory to the Bank's policy, executed by the Customer together with any other third party identified in such Request as being the person or entity to appear as applicant on such letter of credit if different from the Customer. As soon as reasonably practicable, Bank will confirm the issuance or non-issuance of any letter of credit (or amendment thereto) to the Customer. In submitting any Request to the Bank and otherwise performing any obligations under this Agreement and the applicable letter of credit, the Customer shall act as the sole actual applicant and responsible party in all respects for such letter of credit under the Request, as principal and direct and sole obligor as to the Bank, and not as agent or guarantor for any third party. Under a Request, a third party may appear to have rights and obligations as to either or both the Customer and the Bank, but the Customer and the Bank hereby agree that as to themselves, irrespective of the wording of any Request, all such rights and obligations of a third party shall be exclusively between such third party and the Customer.

(f) Your Responsibilities. You represent and warrant to the Bank that as of the date of transmittal and/or issuance that (i) when applicable, you or the counterparty (whether you or the counterparty are an importer or exporter) has respectively obtained all privacy consents and obtained all import and export licenses, registrations, findings, and approvals required by any governmental authority for the goods and documents described in the letter of credit, (ii) you make representations and warranties as to information provided in required documents for Trade Services, and (iii) the transactions underlying the documentary collection and/or letter of credit are not prohibited under the foreign asset control or other regulations of the United States of America or the applicable laws of any other jurisdiction. You will

reimburse us upon demand all monies paid by us under or in respect of each such documentary collection and letter of credit, including payments on any draft, acceptance, order, instrument or demand drawn or presented under the documentary collection or letter of credit. You will reimburse us for documentary collections and/or letter of credits in the currency amount in U.S. Dollars. Regardless of the expiration of the documentary collection and/or letter of credit, you will remain liable for all such amounts until we are released from liability to all persons entitled to draw or demand payment under the documentary collection and/or letter of credit. In the event a claim is made that any such payment was made from funds other than those of the Customer and must be returned to the owner of such funds or its estate, the Customer shall indemnify, defend and hold the Bank harmless from each such claim.

(g) Our Responsibilities. If the Bank accepts a Request, we shall issue the import letter of credits or advise export letters of credits as described in your Request pursuant to the terms and conditions hereunder and the Uniform Customs and Practice for Documentary Credits (“UCP600”) and/or the Supplement to the UCP600 for Electronic Presentation (“eUCP”) where applicable. If we accept a Request, we shall issue the guarantee as described in your Request and pursuant to the terms and conditions hereunder. We shall pay each commercial letter of credit and each documentary collection pursuant to its terms, the terms and conditions hereunder, and the UCP600, eUCP, or Uniform Rules for Collections (“URC 522”), where applicable.

(h) Governing Law. Notwithstanding your obligations under [section 1.6\(b\) “Requirements of Law,”](#) each documentary collection shall be governed by the version of the URC 522 specified in the applicable Collection Form. Each export letter of credit shall be governed by the version of the UCP600 and, where applicable, the version of eUCP as may be set forth in the applicable export letters of credit. Each commercial letter of credit we issue shall be subject to the version of the UCP600 and/or version of the eUCP stated in the applicable commercial letter of credit or Request. Each party understands and agrees that the respective rights and obligations hereunder are in addition to respective rights and obligations under the URC 522, UCP600, and eUCP.

7.3 Multi-Currency Account Services

(a) Types of Multi-Currency Account Services. We agree to make available to you certain Multi-Currency Account Services. You may request the following Multi-Currency Account Services, the provision of which is subject to our approval and to various limits that we may establish from time to time:

- (i) U.S. Account Based Multi-Currency Account Services.* These Multi-Currency Account Services include the maintenance of subaccounts within one or more of the demand deposit accounts that we maintain for you and in your name. Except as otherwise provided herein, these Accounts and subaccounts are subject to the provisions of our Commercial Deposit Agreement which are applicable to demand deposit accounts, incorporated by this reference and as may be updated from time to time. Subaccounts will be denominated in the foreign currencies you select from among those we make available from time to time. Deposits to these subaccounts shall be made in the foreign currencies in which the relevant subaccounts are maintained and must be made in the manner we specify in writing from time to time (e.g., via incoming wires in the relevant foreign currency or via transfer from another Account you maintain with us after conversion of those funds to the relevant foreign currency). Withdrawals and transfers from these subaccounts shall be made in the foreign currencies in which the relevant subaccounts are maintained and must be made in the manner we specify in writing from time to time (e.g., via outgoing wires in the relevant foreign currency or via transfer to another Account you maintain with us after conversion of the withdrawn funds to U.S. Dollars). We may or may not maintain deposits and/or subaccounts solely in our own name at other financial institutions that correspond to the foreign currencies in which your subaccounts with us are maintained. You have no right, claim or interest in law, in equity or otherwise of any nature whatsoever in respect of our deposit accounts at such institutions or the balances in those accounts.
- (ii) Foreign Account Based Multi-Currency Account Services.* These Multi-Currency Account Services include our maintenance of a demand deposit in your name and our maintenance of one or more subaccounts within one or more of the deposit accounts that we maintain at a correspondent located in a foreign country (the “Correspondent”). *Deposit accounts at the Correspondent will be maintained in our name and subaccounts may or may not reference your name.* Such subaccounts will, however, make it possible to permit your use of one or more IBANs associated with such subaccounts. Your demand deposit account with us is subject to the provisions of our Commercial Deposit Agreement which are applicable to demand deposit accounts. Our subaccounts will be subject to local laws, rules and regulations which are applicable to our account where the Correspondent is

located and to the terms and conditions governing our accounts at the Correspondent (the “Correspondent Terms”). To the extent permitted by law, you waive the benefit of the European Union’s Payment Services Directive and derivative national laws. We may change the Correspondent we use from time to time. Subaccounts will be denominated in the foreign currencies you select from among those we and the Correspondent make available from time to time. Subject to the foregoing, we may permit you to initiate deposits to our subaccounts (which we will then reflect in your deposit Account with us) in the foreign currencies in which the subaccounts are maintained. Deposits must be made in the manner we specify in writing from time to time (e.g., via wire to our account at the Correspondent, with a credit to the relevant subaccount and your deposit Account with us). Subject to the foregoing, we may permit you to initiate withdrawals and transfers from our subaccounts (which we will then reflect in your deposit Account with us) in the foreign currencies in which the subaccounts are maintained. Withdrawals and transfers must be made in the manner we specify in writing from time to time (e.g., via outgoing wires that we initiate from our account in the relevant foreign currency, with a debit to the relevant subaccount and your deposit Account with us). You have no right, claim or interest in law, in equity or otherwise of any nature whatsoever in respect of the deposit accounts maintained at the Correspondent or the balances in those accounts nor will you have direct access to any such accounts. The Correspondent shall not be considered providing any services to you in connection with this Agreement. You release, discharge and covenant not to sue or make any claim whatsoever against the Correspondent arising out of or related to this Agreement, the Multi-Currency Account Services or the transactions or relationships contemplated hereby. You acknowledge and agree that we may provide such information to the Correspondent as we deem necessary or appropriate in connection with the Multi-Currency Account Services, including information about you and your transactions, activities and business generally. We and the Correspondent may take such actions with respect to your information (such as, but not limited to, processing and disclosure of the information) as may be appropriate to provide the Multi-Currency Account Services, accounts and subaccounts to you or as may otherwise be permitted or required by law or the Agreement or Correspondent Terms. To the extent, if any, that we or the Correspondent receive and/or take any action with respect to any information that can be used to identify an individual, you warrant that, to the extent required by applicable law, you have provided any required notice to such individual and have obtained any required consent of such individual to such action. You agree to reimburse us immediately upon demand for any losses which we sustain in connection with the subaccounts maintained for you or your transactions in connection therewith.

(b) *Subaccounts.* **THE SUBACCOUNTS ARE NOT INTENDED FOR AND YOU AGREE NOT TO USE OUR MULTI-CURRENCY ACCOUNT SERVICES OR THE SUBACCOUNTS FOR SPECULATION IN FOREIGN EXCHANGE.**

(c) *FOREIGN EXCHANGE RISKS.* **EXCHANGE RATES FOR FOREIGN CURRENCIES ARE SIGNIFICANTLY AFFECTED BY ECONOMIC AND POLITICAL EVENTS AS WELL AS MILITARY AND GOVERNMENTAL ACTIONS. THE U.S. DOLLAR VALUE OF THE FOREIGN CURRENCY IN THE SUBACCOUNT(S) CONTEMPLATED HEREBY MAY INCREASE OR DECREASE FREQUENTLY AND/OR SIGNIFICANTLY OVER TIME. YOU ASSUME ANY AND ALL RISKS OF LOSS DUE TO FLUCTUATION IN EXCHANGE RATES. WE SHALL NOT BE RESPONSIBLE FOR SUCH LOSSES UNDER ANY CIRCUMSTANCES. GOVERNMENTAL RESTRICTIONS OR TAXES COULD ALSO INCREASE THE COST OF EXCHANGING FOREIGN CURRENCY. IN SOME CIRCUMSTANCES, ACTIONS BY FOREIGN GOVERNMENTS OR REGULATORY AUTHORITIES MAY RESULT IN OUR INABILITY TO TRANSFER FUNDS OUT OF FOREIGN COUNTRIES (“SOVEREIGN ACTION”). SOVEREIGN ACTION MAY AFFECT OUR ABILITY TO TRANSFER FOREIGN CURRENCY CORRESPONDING TO THE FOREIGN CURRENCY BALANCE WE MAINTAIN IN OUR OWN NAME IN A FOREIGN COUNTRY THAT CORRESPONDS TO THE SUBACCOUNTS MAINTAINED HEREUNDER (REGARDLESS OF WHETHER IN THE U.S. ACCOUNT BASED SERVICE OR THE FOREIGN ACCOUNT BASED SERVICE). YOU UNDERSTAND AND AGREE THAT WE MAY RESTRICT WITHDRAWALS, TRANSFERS AND OTHER TRANSACTIONS FROM YOUR ACCOUNTS AND OUR SUBACCOUNTS AS NECESSARY TO REFLECT THE IMPACT OF SUCH SOVEREIGN ACTION ON US. THIS COULD RESULT IN A LOSS OF THE PRINCIPAL AMOUNT OF YOUR DEPOSIT, CURRENCY DEVALUATION AND/OR LACK OF CONVERTIBILITY. YOU ARE SOLELY RESPONSIBLE FOR ALL RISKS ASSOCIATED WITH THESE SUBACCOUNTS. YOU REPRESENT TO US THAT YOU HAVE THE FINANCIAL RESOURCES TO BEAR THESE RISKS OF LOSS. FDIC INSURANCE (TO THE EXTENT APPLICABLE) DOES NOT COVER THESE RISKS. TERMINATION OF THE MULTI-CURRENCY ACCOUNT SERVICES OR CLOSURE OF YOUR ACCOUNTS MAY MEAN THAT THE FOREGOING RISKS WILL RESULT IN LOSSES BEING REALIZED AT THAT TIME.**

(d) *Use of Multi-Currency Account Services.* You may not write checks or drafts on any of these Accounts or subaccounts. Wire transfers in connection with these Accounts and subaccounts shall be subject to [section 5.5 “Wire Transfer,”](#) including, without limitation, relevant provisions on applicable security procedures. These Accounts and subaccounts will not bear interest and will not be eligible for the earnings credits that may apply to your other Accounts with us. If you need to convert U.S. Dollars into foreign currency or foreign currency into U.S. Dollars in connection with making deposits, withdrawals or transfers, you may do so pursuant to our Agreement as applicable. All credits to your Account are provisional, subject to receipt of final payment. Without limiting the generality of our other rights under this Agreement, we reserve the right to modify, suspend or discontinue the Multi-Currency Account Services, to close your Accounts and subaccounts and to suspend or discontinue permitting deposits thereto or particular types of withdrawals or transfers therefrom. You agree: (i) to promptly review the statements and other information we make available to you from time to time; and (ii) to notify us of any errors immediately. We are not responsible for losses that result from your delay in notifying us. If your notice is received more than fourteen (14) days after we first made the statement or information available to you that reflected the error, we may consider that statement or information to be correct for all purposes and we will not be obligated to correct the error. The Multi-Currency Account Services, Accounts and subaccounts that we provide are intended solely for business purposes; you agree not to use the Multi-Currency Account Services, Accounts or subaccounts for personal, family or household purposes. You may not and may not permit any third party to create any security interest or other interest or claim, in or on any part of the balance of any subaccount or the debt represented thereby and may not sell, assign or otherwise dispose of all or any part of the balance of any subaccount or the debt represented thereby.

(e) *Use of Intermediary Banks.* Unless we have agreed otherwise in writing, deposits or transfers to us which are made through an intermediary bank (including an intermediary we specify) will not be considered received by us until our personnel receive electronic confirmation of your payment order from the intermediary and we accept the order by crediting your deposit Account. We are not responsible for such a deposit or transfer until we credit your deposit Account, regardless of whether an intermediary bank has credited our account. There may be a delay between an intermediary bank’s receipt of your payment order and the time we credit your Account. We will not credit your Account until after the start of our business hours on a banking day. We are not responsible for the errors, defaults, delays, omissions or insolvency of intermediary banks. Intermediary banks are not our agents. You may avoid the use of an intermediary bank by making your deposit or transfer directly to us.

(f) *Payments, Reports and Withholdings under U.S. Tax Laws.* You accept sole responsibility for making all payments, reports and withholdings required by U.S., foreign or local tax laws, including, but not limited to, the Foreign Account Tax Compliance Act (“FATCA”) with respect to the Multi-Currency Account Services, Accounts, Correspondent subaccounts, and deposits, withdrawals and transfers that we permit hereunder. You are not, however, responsible for taxes based on our or our Correspondent’s net income. You represent, warrant and covenant that you shall not use the Multi-Currency Account Services, Accounts or Correspondent subaccounts to make any “withholdable payment” under FATCA or its implementing regulations. You understand and agree that we are relying upon the preceding representation, warranty and covenant and that we will not be making any withholding with respect to any withholdable payments that you may nonetheless make, even though we may be considered a withholding agent with respect thereto and even though we might otherwise be considered responsible for the withholding. If we are requested or required to supply tax related documentation with respect to the Multi-Currency Account Services, Accounts or subaccounts made available to you, you agree to promptly provide such documentation and to assure that it is accurate and complete. You agree to indemnify and hold us harmless against any losses, costs or expenses that you, we and/or our Correspondents incur as a result of any failure to make any payment, report or withholding required by U.S., foreign or local tax laws (including but not limited to FATCA) and regardless of whether the responsibility for such failure was yours, ours or our Correspondent’s, in whole or in part. If any taxes become payable with respect to any payment due to you, the amount of any such taxes may be withheld from such payment by us or our Correspondent and paid over to the appropriate tax authority in accordance with applicable law.

(g) *Payment For Multi-Currency Account Services.* You will pay us for the Services according to [section 1.3 of the Agreement.](#) At your request, we will provide you a copy of the current schedule of charges for the Multi-Currency Account Services.

(h) *Limitation of Liability.* In addition to your responsibilities under [section 1.8 of the Agreement,](#) you agree we will not be responsible for the acts or omissions of any other person or entity, including but not limited to the

Correspondent, any exchange, clearing house association or processor, any U.S. Federal Reserve Bank or any other country's central bank, any other financial institution, or any customer of yours, and no such person or entity will be deemed our agent.

(i) *Representations and Warranties.* On and as of each day we provide the Multi-Currency Account Services to you, you represent, warrant and covenant to us that: (i) your agreement to each provision contained in this Agreement is a duly authorized, legal, valid, binding and enforceable obligation; (ii) you agree to follow all system instructions, procedures and warnings; and (iii) all approvals and authorizations required to permit the execution and delivery of this Agreement and any other necessary documentation, and the performance and consummation by you of the transactions contemplated to be performed by the Multi-Currency Account Services, have been obtained; (iv) your use of the Multi-Currency Account Services, including use of any Account or subaccount, conforms with the Requirements of Law stated in [section 1.6](#) of the Agreement; and (v) unless we have agreed otherwise in writing, you will be the sole owner of the funds deposited hereunder and you expressly agree and acknowledge your rights, responsibilities, and limitations under [section 1.13 of the Agreement](#). You will be bound by all transactions effected through the Multi-Currency Account Services.

(j) *Limited Warranty/Disclaimers.* Except as specifically stated herein, our liabilities are limited to the terms and conditions in [section 8.2](#). We make no representation or warranty whatsoever with respect to and do not give any undertakings on behalf of the Correspondent. To the extent permitted by applicable law, and except as otherwise provided in this section, we will not be liable for damages of any kind arising out of your use of, or inability to use the Multi-Currency Account Services. You agree that the United Nations Convention on the International Sales of Goods and, to the maximum extent possible, the provisions of the Uniform Computer Information Transactions Act ("UCITA"), as enacted by any State, will not apply to our provision to you or your use of any software or of the Multi-Currency Account Services.

SECTION 8 – LIABILITY, ETC.

8.1 Force Majeure

Any failure or delay in performance by us will be excused if due to interruption of communications or computer facilities (including the Internet), failure of equipment, emergency conditions, or other circumstances beyond our control. Unless otherwise required by applicable law, it is agreed that you shall bear all risk of loss due to: (i) compulsion or control of public authority or domestic or foreign government, de jure or de facto (or any agency thereof) whether rightfully or wrongfully exercised including declared or undeclared war, censorship, blockade, revolution, insurrection, civil commotion, or from any law, decree, moratorium, or regulation; and (ii) insolvency of the receiving bank, failure of any interbank or intermediary bank, all regardless of whether such occurrence takes the form of delay resulting in interest loss, loss due to depreciation in foreign currency, premature transfer, payment to the wrong person or in the wrong amount, or failure to effect payment in a timely manner or at all. You shall bear such risks whether in connection with the transfer required or requested by you or in connection with any transfer undertaken for the purpose of making available such foreign exchange as may be called for to meet such transfer or request. In addition, we shall be excused from failing to transmit, or delay in transmitting, any transfer or request if such transmittal would result in us exceeding any limitation upon our intra-day net funds position established pursuant to Federal Reserve guidelines or if we reasonably believe we will violate any Requirement of Law.

8.2 Our Liability

We are obligated under the UCC to re-credit your deposit Account(s) for the amount of any items charged which were not properly payable. We may also have other liability to you imposed by statute which cannot be waived. Except for the liability referenced in the preceding two sentences, our liability for any loss or damage for any cause whatsoever (including liability arising out of this Agreement or our Services) shall be limited to liability for direct damages caused by our material breach of this Agreement. Our cumulative aggregate liability shall not under any circumstances exceed the total fees paid to us for the Services involved in the breach for the six (6) months preceding the breach. **IN NO EVENT WILL WE BE LIABLE FOR SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, NOR FOR ANY COSTS, EXPENSES OR ATTORNEY'S FEES ARISING OUT OF ANY CLAIM OR OCCURANCE RELATING TO THE SERVICES ADDRESSED IN THIS AGREEMENT, REGARDLESS OF WHETHER WE WERE INFORMED OF THEIR POSSIBILITY AND WHETHER THEY ARE BASED ON CONTRACT OR TORT REMEDIES, INCLUDING LOSSES OR DAMAGE FROM SUBSEQUENT WRONGFUL DISHONOR RESULTING FROM OUR ACTS OR OMISSIONS PURSUANT TO THIS AGREEMENT.**

IN NO EVENT WILL WE BE LIABLE OR RESPONSIBLE FOR, AND YOU BEAR ALL RISK ASSOCIATED WITH, FOREIGN EXCHANGE CONVERSION AND ANY GAINS AND LOSSES RESULTING FROM THE CONVERSION OF CURRENCIES IN CONNECTION WITH ANY TRANSFER OR REQUEST. Product and Service descriptions contained in marketing or other materials provided to you before or after you agree to this Agreement do not constitute representations or warranties; in order for a product or service description to constitute a warranty it must be contained in a document signed by a duly authorized officer of ours that expressly provides it is to be incorporated into this Agreement. **EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, SERVICES ARE PROVIDED AS IS AND WE DISCLAIM ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL IN RESPECT OF THE SERVICES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, TRADE USAGE, OR TRADE PRACTICE.** The preceding limitations of liability apply regardless of whether any limited remedy herein fails of its essential purpose. Services are not guaranteed to be free from error, interruption, or delay. Your remedies herein are exclusive and in lieu of all other remedies in law or equity. Any claim, action, or proceeding to enforce this Agreement or to recover for any Services-related loss must be commenced within one (1) year from the date that the event giving rise to the claim, action, or proceeding first occurs.

8.3 Your Liability

You are liable and agree to indemnify, defend, and hold us harmless from and against any and all liabilities, claims, demands, losses, costs, damages, and expenses (including reasonable attorneys' fees) arising out of or related to: (i) any third party claim based on our provision of Services that you requested, including any responsibility that we have to others for handling or being associated with an instrument, transfer, or other transaction for you; (ii) your acts or omissions or breach of this Agreement; (iii) us acting on your requests, instructions, or processing submissions, even if we vary from our standard procedures in honoring such requests; (iv) any exchange rate loss that we may suffer in consequence of your breach of this Agreement; or (v) our good faith acceptance or rejection of any transfer or request (including the acceptance of requests that do not comply with the Rules). In the event any checks, drafts, transfers, or other items on your Account are determined to bear an unauthorized signature, to have been altered or otherwise to be irregular, we may (even though not liable for such items) take action reasonably requested by you to enforce against prior parties (including prior collecting banks, endorsers, and other holders) whatever rights you or we have against such prior parties. If we take such action, you shall indemnify us for all liabilities, costs, and expenses (including reasonable attorneys' fees and legal expenses) incurred. We may or may not condition our taking of such action on your execution of a written indemnification obligation, but you will in any event remain responsible under the preceding sentence. You are not required to indemnify us for our own willful misconduct.

EXHIBIT 1

PROCESSING SCHEDULES

(subject to change)

	Central Time	Mountain Time
Positive Pay		
• Exception Report Transmission	Daily Exception reports should begin to be available at or about 10:00 a.m. on the day our midnight deadline occurs with respect to the Items. If you have not received or been able to access your Exception report by noon, you must notify us immediately.	Daily Exception reports should begin to be available at or about 9:00 a.m. on the day our midnight deadline occurs with respect to the Items. If you have not received or been able to access your Exception report by noon, you must notify us immediately.
• Exception Report Deadline	3:00 p.m. on the same day that we made the report of the Exception available to you.	2:00 p.m. on the same day that we made the report of the Exception available to you.
Reverse Positive Pay		
• Cut-Off	9:30 p.m.	8:30 p.m.
• Presentment Transmission	For items received by us prior to the Cut-Off on any banking day, the daily transmission will generally be made available at 4:00 a.m. on the next banking day following presentment (items received after the Cut-Off may be made available on the following banking day).	For items received by us prior to the Cut-Off on any banking day, the daily transmission will generally be made available at 3:00 a.m. on the next banking day following presentment (items received after the Cut-Off may be made available on the following banking day).
• Bouncer Deadline	2:00 p.m. on the same day that we transmitted the daily transmission to which the bouncer sheet relates.	1:00 p.m. on the same day that we transmitted the daily transmission to which the bouncer sheet relates.
Payable Through Drafts		
• Cut-Off	Bank Routing/Transit ("RT") – 10:00 p.m.	Bank Routing/Transit ("RT") – 9:00 p.m.
• Presentment Transmission	Bank RT-For Drafts received by us prior to the Cut-Off On any banking day, a Draft List may be made available to you, on request, generally by 4:00 a.m. on the Following bnking day.	Bank RT-For Drafts received by us prior to the Cut-Off On any banking day, a Draft List may be made available to you, on request, generally by 3:00 a.m. on the Following bnking day.
• Bouncer Deadline	10:00 a.m. on the next banking day following the date of the Draft List identifying the relevant Draft.	9:00 a.m. on the next banking day following the date of the Draft List identifying the relevant Draft.
• Bouncer Acknowledgment	1:00 p.m. on the day we receive the Draft Bouncer Sheet, if received prior to the Bouncer Deadline.	12:00 noon on the day we receive the Draft Bouncer Sheet, if received prior to the Bouncer Deadline.

**Controlled Disbursement
Payable Through Drafts**

• Cut-Off	Controlled Disbursement Routing/ Transit (“RT”) – 12:00 noon (or later based on FRB Presentment Delivery)	Controlled Disbursement RT – 11:00 a.m. (or later based on FRB Presentment Delivery)
• Presentment Transmission	Controlled Disbursement RT – For drafts received by us prior to the Cut-Off on any banking day, if requested, a Draft List may generally be made available to you by 1:00 p.m. on such day. Drafts received after the Cut-Off will be presented on the Draft List for the next banking day.	Controlled Disbursement RT – For drafts received by us prior to the Cut-Off on any banking day, if requested, a Draft List may generally be made available to you by 12:00 noon. on such day. Drafts received after the Cut-Off will be presented on the Draft List for the next banking day.
• Bouncer Deadline	10:00 a.m. on the next banking day following the date of the Draft List identifying the relevant Draft.	9:00 a.m. on the next banking day following the date of the Draft List identifying the relevant Draft.
• Bouncer Acknowledgment	1:00 p.m. on the day we receive the Draft Bouncer Sheet, if received prior to the Bouncer Deadline.	12:00 noon on the day we receive the Draft Bouncer Sheet, if received prior to the Bouncer Deadline.

Controlled Disbursement

• Cut-Off	8:30 a.m.	7:30 a.m.
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Cash Vault

• Cut-Off	4:30 p.m.	3:30 p.m.
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Remote Capture

• Cut-Off	8:00 p.m.	7:00 p.m.
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ACH

• ACH Files	7:00 p.m.	6:00 p.m.
• ACH Same Day Files	12:00 noon	11:00 a.m.
• ACH File Received Deadline	30 minutes after we receive your file transmission or batch release.	30 minutes after we receive your file transmission or batch release.

ACH Debit Block /ACH Positive Pay

• Rules/Instructions Cut-Off	6:00p.m.	5:00 p.m.
• Decision Cut-Off	6:00p.m.	5:00 p.m.

You agree that we may, in our sole and absolute discretion, treat items, orders and transmissions that we receive after a Cut-Off as having been received prior to the Cut-Off.

EXHIBIT 2

SUPPLEMENTAL BUSINESS ASSOCIATE AGREEMENT

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I. DEFINITIONS

- A. In General. The following terms used in these Supplemental Business Associate Agreement (the “BAA”), but not otherwise defined, shall have the same meaning as those in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operation, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information (“PHI”), Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.
- B. Specific Definitions
1. “Applicable Law” shall mean any of the following items, including any amendments to any such item as such may become effective:
 - a) the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”);
 - b) the federal regulations regarding privacy and promulgated with respect to HIPAA, found at Title 45 CFR Parts 160 and Subparts A and E of 164 (the “Privacy Rule”);
 - c) the federal regulations regarding security and promulgated with respect to HIPAA, found at Title 45 CFR Parts 160 and Subparts A and C of 164 (the “Security Rule”);
 - d) the federal regulations regarding compliance and enforcement with respect to HIPAA, found at Title 45 CFR Part 160, Subparts C, D, and E (the “Enforcement Rule”);
 - e) the federal regulations regarding breach notifications with respect to HIPAA, found at Title 45 CFR Parts 160 and 164 (the “Breach Notification Rule”); and
 - f) the federal regulations regarding electronic data interchange and promulgated with respect to HIPAA, found at Title 45 CFR Parts 160 and 162 (the “Transaction Rule”).
 2. “Business Associate” shall have the same meaning as the term “business associate” in 45 CFR § 160.103.
 3. “Covered Entity” shall have the same meaning as the term “covered entity” in 45 CFR § 160.103.
 4. "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information" in 45 CFR § 160.103.
 5. "Electronic Transaction Rule" shall mean the final regulations issued by HHS concerning standard transactions and code sets under 45 CFR Parts 160 and 162.

II. RIGHTS AND OBLIGATIONS OF COVERED ENTITY

A. Privacy Practices and Restrictions

1. Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR § 164.520, as well as any changes to such notice.
2. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.
3. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522.

B. Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule and/or the Security Rule if done by Covered Entity.

III. RIGHTS AND OBLIGATIONS OF BUSINESS ASSOCIATE

A. General Obligations

1. **Limits on Uses and Further Disclosures.** Business Associate agrees to not use or further disclose PHI other than as permitted or required by the BAA or as Required By Law.
2. **Safeguards.** Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this BAA. Additionally, Business Associate agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
3. **Mitigation.** Business Associate may take steps to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this BAA.
4. **Reporting of Security Incidents.** Business Associate agrees to report to Covered Entity any successful Security Incident affecting PHI in the possession of Business Associate of which it becomes aware. Such report shall be made as soon as possible, but in no event later than ten (10) business days following the date that the Business Associate becomes aware of such successful Security Incident. Business Associate shall report any Security Incident that is attempted but not successful of which it becomes aware only upon receipt of a written request from Covered Entity.
5. **Subcontractors and Agents.** Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply to Business Associate with respect to such information under HIPAA.
6. **Assumption of Obligations and Duties.** Business Associate agrees to be bound by, and comply with, Subpart E of 45 CFR Part 164 when and if Business Associate agrees to carry out one or more of Covered Entity's obligations.
7. **Access to Books and Records.** Business Associate agrees to make internal practices, books, and records relating to the Use and Disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to Covered Entity, or at the request of Covered Entity to the Secretary, in a time and manner designated by Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy and Security Rules.
8. **Compliance with Electronic Transactions Rule.** If Business Associate conducts in whole or in part electronic Transactions on behalf of Covered Entity for which HHS has established standards, Business Associate will comply, and will require any subcontractor or agent it involves with the conduct of such Transactions to comply, with each applicable requirement of the Electronic Transaction Rule. Business Associate shall also comply with the National Provider Identifier requirements, if and to the extent applicable.
9. **Prohibition on Sale of Records.** As of the effective date specified by HHS in final regulations to be issued on this topic, Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an individual unless the Covered Entity or Business Associate obtained from the individual, in accordance with 45 CFR § 164.508, a valid authorization that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by the entity receiving Protected Health Information of that individual, except as otherwise allowed under the HITECH Act.

B. Obligations Relating to Individual Rights

1. Access to PHI. Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, but in no event later than twenty (20) days after receiving a written request from Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR § 164.524.
2. Amendment of PHI. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity, but in no event later than forty (40) days after receiving a written request from Covered Entity.
3. Accounting of Disclosures and Report of Unauthorized Disclosures. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528. Business Associate agrees to provide to Covered Entity or an Individual, in time and manner designated by Covered Entity, but in no event later than forty (40) days after receiving a written request from Covered Entity, information collected in accordance with the previous sentence, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
4. Business Associate shall provide Covered Entity with its documentation of disclosures, including unauthorized uses and disclosures, within twenty (20) business days of receiving a written request from Covered Entity for the same.

C. Permitted Uses and Disclosures by Business Associate

Except as otherwise limited in this BAA or by Applicable Law, Business Associate may:

1. Use or disclose PHI to perform functions, activities or services for, or on behalf of, Covered Entity as specified in the Services Agreement between the parties and in this BAA, provided that such use or disclosure would not violate HIPAA or the Privacy Rule if done by a Covered Entity;
2. Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate;
3. Disclose PHI in its possession to a third party for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; and
4. Use PHI to provide Data Aggregation services to Covered Entity as permitted by 42 CFR § 164.504(e)(2)(i)(B).

D. Notification of Breach to Covered Entity

1. Discovery of Breach. Business Associate shall designate an employee ("Designated Employee") to receive reports of suspected Breaches of Unsecured PHI. Business Associate shall require its employees to report incidents identified as suspected Breaches of Unsecured PHI to the Designated Employee in writing within seventy-two hours of discovering such suspected Breach. Business Associate will be responsible for providing education to employees regarding what may constitute a Breach of Unsecured PHI. Business Associate shall determine whether a Breach of Unsecured PHI occurred.
2. Notification to Covered Entity. Separate and apart from any Security Incident reporting requirement imposed on Business Associate, Business Associate will be required to provide Covered Entity's Privacy Officer with written notification of any Breach within ten (10) business days of the date Business Associate determines a Breach of Unsecured PHI has occurred.

3. In no event shall Business Associate notify third party of any Breach of Unsecured PHI that Business Associate receives under the BAA and the Services Agreement, unless required by law to do so. If Business Associate is required by law to disclose any Breach of Unsecured PHI to any third party, Business Associate will immediately notify Covered Entity and forward any document requiring such disclosure upon receipt, so that Covered Entity may have the opportunity to object to such disclosure. In the event of a Breach of Unsecured PHI, Covered Entity shall notify any affected individual, the media or the Secretary, as required or deemed appropriate by Covered Entity. Business Associate's mitigation obligations under the BAA do not include notification of a Breach of Unsecured PHI to any third party.
4. Documentation of Breaches. Business Associate's Designated Employee will document all Breaches in a log, including the date of discovery of the Breach, as well as details surrounding the Breach. Business Associate shall provide Covered Entity with a copy of the log within twenty (20) days of receiving a written request from Covered Entity for the same.

IV. TERM AND TERMINATION

- A. Term. The term of this BAA shall begin on the Effective Date, and shall end upon the termination of the Services Agreement, or upon termination for cause as set forth in the following paragraph, whichever is earlier.
- B. Termination for Cause. Upon Covered Entity's knowledge of a material breach of this BAA by Business Associate, Covered Entity shall have the following rights:
 1. If the breach is curable, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation. If Business Associate fails to cure the breach or end the violation, Covered Entity may terminate this BAA and the Services Agreement.
 2. If the breach is not curable, Covered may immediately terminate this BAA and the Services Agreement. If termination is not feasible, Covered Entity may report the problem to the Secretary.
- C. Effect of Termination.
 1. Except as provided in the following paragraph, upon termination of this BAA, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of Business Associate, or subcontractors or agents of Business Associate, and shall not apply to PHI that has already been destroyed in accordance with Business Associate's record retention policies. Business Associate shall retain no copies of the PHI.
 2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall notify the Covered Entity that return or destruction of PHI is infeasible. Business Associate shall extend the protections of this BAA to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

V. INDEMNIFICATION

- A. Indemnification of Business Associate. Covered Entity shall be liable for and agree to indemnify the Business Associate for any and all claims, costs and expenses arising from or out of any alleged negligent act or omission of Covered Entity, its agents or employees, in performance of its obligations under this BAA.
- B. Indemnification of Covered Entity. Business Associate shall be liable for and agree to indemnify the Covered Entity for any and all claims, costs and expenses arising from or out of any alleged negligent act or omission of Business Associate, its agents or employees, in performance of its obligations under this BAA.

VI. MISCELLANEOUS

- A. Regulatory References. A reference in this BAA to a section in HIPAA or in the Privacy Rule means the section in effect or as amended, and for which compliance is required.

- B. Amendment. The parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for the parties to comply with the requirements of HIPAA. All amendments to this BAA, except those occurring by operation of law, shall be in writing and signed by both parties.
- C. Survival. The rights and obligations under Section IV.C. of this BAA shall survive the term and termination of this BAA.
- D. Interpretation. Any ambiguity in this BAA shall be resolved in favor of a meaning that facilitates the parties' compliance with HIPAA. The headings in this BAA and the bracketed citations to the Privacy Rule in several paragraphs of this BAA are for reference only and shall not be relevant in interpreting any provision of this BAA.
- E. No Third Party Beneficiaries. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer upon any person, other than Covered Entity or Business Associate, and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- F. Effect on BAA. The terms and conditions of this BAA will override and control any conflicting term or condition of the underlying Services Agreement that addresses privacy and confidentiality specifically of PHI. All nonconflicting terms and conditions of the underlying Services Agreement remain in full force and effect.
- G. Counterparts. The parties may execute this BAA in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by PDF is as effective as executing and delivering this BAA in the presence of the other parties to this BAA. In proving this BAA, a party may produce or account only for the executed counterpart of the party to be charged.
- H. WAIVER. No failure or delay by either party in exercising any right, remedy, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise of any right, remedy, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any other rights or remedies provided by law.
- I. SEVERABILITY. If any provision of this BAA shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof and this BAA shall be construed as restricting, limiting or eliminating the particular provision held to be invalid or unenforceable so as to render the entire BAA valid and enforceable to the fullest extent possible.

Exhibit 3

LICENSE TERMS

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LIMITATION OF LIABILITY.

A. No Liability for Consequential and Other Damages. IN NO EVENT SHALL WAUSAU BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING WITHOUT LIMITATION, LOST PROFITS, LOSS OF BUSINESS, LOSS OF REVENUES, LOSS OF DATA OR INTERRUPTION OR CORRUPTION OF DATA, EVEN IF WAUSAU WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

B. Maximum Liability. IN NO EVENT SHALL WAUSAU'S MAXIMUM AGGREGATE LIABILITY RELATED TO OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY YOU TO WAUSAU DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE MONTH IN WHICH THE CLAIM FIRST AROSE, OR THE TOTAL AMOUNT ACTUALLY PAID BY YOU TO WAUSAU IF SUCH PAYMENTS HAVE BEEN MADE FOR LESS THAN TWELVE (12) MONTHS FROM WHEN THE CLAIM FIRST AROSE.

C. Waiver of Claims. Each party hereby waives its rights to bring any claim against the other party arising in any way from or relating in any way to this Agreement more than one (1) year after such claim first arises.

D. Applicability. THE LIMITATIONS SET FORTH IN THIS LIMITATION OF LIABILITY SECTION WILL APPLY TO ANY AND ALL CLAIMS AND CAUSES OF ACTION WHATSOEVER, REGARDLESS OF WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHER THEORY.

E. Basis of the Bargain; Failure of Essential Purpose. You acknowledge that WAUSAU has set its prices and entered into this Agreement in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth herein, and that the same form an essential basis of the bargain between the parties. The parties agree that the limitations and exclusions of liability and disclaimers of warranties and damages specified in this Agreement will survive and apply even if found to have failed of their essential purpose.

GENERAL: This Agreement constitutes the entire understanding between WAUSAU and You with respect to subject matter hereof. Any change to this Agreement must be in writing, signed by WAUSAU and You. Terms and conditions set forth in any purchase order which differ from, conflict with, or are not included in this Agreement, shall not become part of this Agreement unless specifically accepted by WAUSAU in writing. You shall be responsible for and shall pay, and shall reimburse WAUSAU on request if WAUSAU is required to pay, any sales, use, value added (VAT), consumption or other tax (excluding any tax that is based on WAUSAU net income), assessment, duty, tariff, or other fee or charge of any kind or nature that is levied or imposed by any governmental authority on the Software.

EXPORT AND IMPORT COMPLIANCE: In the event You export the Software from the country in which You first received it, You assume the responsibility for compliance with all applicable export and re-export regulations, as the case may be.

GOVERNING LAW; ARBITRATION: This Agreement shall be governed by, and any arbitration hereunder shall apply, the laws of the State of Wisconsin, U.S.A.

In the event that a dispute arises between the parties in connection with this Agreement, the parties agree to submit the dispute to binding arbitration in accordance with the current rules of the American Arbitration Association. All arbitration proceedings shall be held at a mutually agreeable location. The parties agree that all decisions reached through arbitration will be final and binding upon both parties. The cost of any arbitration will be borne equally by the parties.