

DATE	AUTHORIZED TREASURY SIGNER CIF
CLIENT NAME	

TABLE OF CONTENTS

SECTION	PAGE
I. GENERAL PROVISIONS.....	3
1. Treasury Management Services.....	3
2. Accounts.....	3
3. The Agreement.....	4
4. Notices and Instructions.....	5
5. Submission of Information and Documents.....	6
6. Security Procedures; Customer's Data Security Obligations; Limitation on Liability; Responsibility for Loss.....	8
7. Business Days; Posting; Funds Availability.....	10
8. Honoring Transactions and Instructions; Furnishing Information.....	11
9. Verbal Instructions.....	11
10. Erroneous Instructions.....	11
11. Inconsistent Name and Identifying Number.....	12
12. Account Holder's Liability for Funds Transfers.....	12
13. Account Reconciliation and Reporting of Discrepancies.....	12
14. Settlement of Obligations.....	13
15. Cooperation in Loss Recovery Efforts.....	13
16. Fees.....	13
17. Use of Third Parties.....	14
18. Courier Agreements.....	14
19. Proprietary Property.....	15
20. Confidentiality.....	15
21. Customer Records; Ownership of Data; Response to Data Security Breach Incidents; Responsibility for Loss.....	15
22. Representations and Warranties by Customer and Related Entities.....	16
23. Compliance with Laws.....	24
24. Limitations of Liability.....	24
25. Indemnification.....	25
26. Specific Performance.....	26
27. Termination.....	26
28. Governing Law; Venue; Jury Trial Waiver; Class Action Waiver.....	27
29. Attorney's Fees.....	27
30. Assignment.....	27
31. No Third-party Beneficiaries.....	27
32. Other Agreements; Severability; Construction.....	28
33. Definitions.....	28
II. SERVICE SPECIFIC PROVISIONS.....	37
1. ACH Service.....	37
2. Online Banking.....	47
3. Positive Pay.....	47
4. Remote Deposit Now.....	50
5. Wire Services.....	56
6. Lockbox and Integrated Receivables.....	63

7. Vault Services.....	67
8. Sweep Services.....	68
9. Line of Credit Advance Services.....	70
10. Information Reporting Services.....	70
11. Direct Payables Service.....	71

Schedule A – Treasury Management Services Request Form

Schedule B – Treasury Management User Form

Schedule C – Authorization to Obtain Treasury Management Services

I. GENERAL PROVISIONS**1. Treasury Management Services.**

- i. Generally, Susser Bank (the “Bank” or “we”) offers various Treasury Management Services (individually, each a “Service”, collectively the “Services”) to its commercial customers (each a “Customer” or “you”). The term Customer or You shall also represent those Related Entities or Related Individuals (each defined below) who have duly authorized Customer to act on their behalf and Bank has allowed that arrangement at the request of such Related Entities or Related Individuals. These Services may also be called cash management. The terms treasury management and cash management may be used interchangeably herein. Any reference to a check herein refers to a check issued by financial institution within the United States. Foreign checks will be processed by the Bank outside the Services. Any signer who possesses the power to enter into a cash management agreement with the Bank as indicated on the resolutions on any account agreement with the Bank has the power to enter into this Treasury Management Services Agreement (the “Agreement”). These Services include but are not limited to the following:
 1. ACH Service
 2. Online Banking
 3. Positive Pay
 4. Remote Deposit Now
 5. Wire Services
 6. Lockbox
 7. Vault Services
- ii. Many of the Services are available for use through traditional means of financial commerce as well as through the use of a computer or mobile device (“Online Banking”) offered by the Bank. The execution of the Agreement obligates the parties with regard to the general terms and conditions related to use by the Customer of any Service or Services offered by the Bank, regardless of whether such Service is performed traditionally, online or through some combination thereof. Nonetheless, before the Customer begins using any of the Services, the Customer must deliver a duly authorized and executed copy of the Agreement to the Bank for review and approval.
- iii. Enrollment in a Service or Services. Enrollment in any individual Service is subject to bank approval and requires the completion of the Treasury Management Services Request (the “Request Form”) Schedule A. Enrollment in a Service or Services is accomplished by obtaining, completing and signing the Request, and submitting it to the Bank in person, through email, regular mail, or by electronic signature.

2. Accounts.

- i. Generally. The Customer agrees to maintain a minimum of at least one (1) commercial checking account (“Demand Deposit Account” or “Deposit Account”) with the Bank with funds sufficient to cover the transactions initiated pursuant to the Agreement, and to cover fees required to pay for Services provided thereunder.
- ii. Business Purpose. The Customer agrees that only Demand Deposit Accounts, or other deposit accounts, or other asset accounts (individually, an “Account”; collectively, “Accounts”) established exclusively for business purposes will be used for transactions pursuant to the Agreement, and that in no event will transactions hereunder be conducted using Accounts of the Customer or its employees, officers, directors, members, or owners that were established primarily for personal, family or household purposes. Notwithstanding anything else herein, at the request of Related Individuals who authorize the Bank to link

their Accounts with Customer's Account(s), and upon submission to the Bank by Related Individual and Customer of documentation in form and content satisfactory to the Bank, the Bank, in Bank's sole discretion, may allow the linking of such Accounts.

- iii. Authorization for Transfers to and from Accounts. The Customer expressly authorizes the Bank to debit the appropriate Account in the amount of any bank transfer initiated, pursuant to the Agreement, by the Customer or by any other person the Customer authorizes to access the Account. The Customer agrees that the Bank: (i) may treat any bank transfer, whether initiated online or otherwise, from an Account the same as a duly executed written withdrawal, transfer, or check; (ii) may treat any bank transfer to an Account the same as a deposit by cash or check; and (iii) may treat any bank transfer to a Loan Account held by the Customer the same as a loan payment to the Bank, all in accordance with the terms of the Agreement and the Customer's agreement with the Bank governing the Deposit Account (the "Deposit Account Agreement") or the Customer's agreement with the Bank governing any such Loan Account (the "Loan Account Agreement") (together the "Account Agreements"), as applicable.
- iv. Account Limitations. The Customer's ability to initiate bank transfers between Accounts may be limited by federal law or by the terms of the applicable Account Agreements. The bank transfers from Accounts that are savings or money market Accounts are limited as required by federal regulation in effect at the time a bank transfer is initiated. The Customer agrees that the Bank may, without notice or other obligation to the Customer, for security reasons or as otherwise expressly provided in this Agreement or the applicable Account Agreements (a) refuse to make any bank transfer, or (b) refuse to accept a Remote Deposit Now (also referred to as Remote Deposit Capture) deposit.
- v. Customer Printed Checks. The Bank reserves the right, with respect to any and all of the Services, to require Customer to submit any non-Bank printed checks (i.e. checks that are printed by the Customer or printed by an independent printer at the request of the Customer) for Bank's review and approval regarding format, size and other requirements. If Bank exercises such review and approval right for any of the Services, Customer shall be required to submit such non-Bank printed checks for Bank's review and approval prior to Customer using such non-Bank printed checks.

3. The Agreement.

- i. Generally. The terms and conditions of the Agreement, including the Request, any Service setup detail forms, these Treasury Management Services Procedures, Terms and Conditions, and all attachments, authorizations, schedules and exhibits, together with all amendments or modifications thereto, are cumulative with and in addition to any terms of the applicable Account Agreements and related Account signature cards and authorizations, funds transfer agreements, the applicable Account disclosures, the Bank's service schedule, the Bank's Schedule of Funds Availability, any credit account agreements relating to any credit accounts the Customer may have with the Bank (together, the "Bank Agreements, Schedules and Disclosures"), the rules and regulations of any federal or state agency that supervises the Bank's activities or insures accounts at the Bank, and any applicable clearinghouse operating rules and guidelines, including, but not limited to those of the National Automated Clearing House Association ("NACHA"), and any other applicable local clearing house association, all as may be amended from time to time.
- ii. Inconsistencies. To the extent expressly provided for otherwise herein, should any inconsistency exist or arise between the terms of the Agreement, as relates to any Service or Services, and the terms of any other Bank Agreements, Schedules and Disclosures, the terms of the Agreement shall control, but only to the extent of the inconsistency. Furthermore, to the extent expressly provided for otherwise herein, should any

inconsistency exist or arise between the General Provisions of the Agreement and the applicable Service specific provisions, the terms of the Service specific provisions shall control, but only to the extent of the inconsistency.

- iii. Amendment. The Bank may amend the Agreement from time to time. To the extent permitted by applicable law, the Bank may amend any term of the Agreement without prior notice or obligation to the Customer: (i) if a service provider changes any term without providing the Bank sufficient prior notice to enable the Bank to timely notify the Customer; (ii) for security reasons; (iii) to comply with applicable law; or (iv) as otherwise expressly provided in the Agreement. Use by the Customer of the Service(s) following the effective date of any amendment(s) shall constitute the Customer's acceptance of and agreement to the amendment(s). If the Customer does not agree to the changes as set forth in an amendment, the Customer may choose to terminate the Service(s) affected by the amendment prior to the effective date of the amendment by discontinuing further use of the Service and following the procedures set forth in Section 27 of these General Provisions. Unless otherwise provided for herein, the Agreement may not be amended or modified unless agreed to in writing by the Bank.

4. Notices and Instructions.

- i. Generally. Unless otherwise stated in the Agreement, all notices required pursuant to the Agreement and the Services shall be in writing. The Bank shall be entitled to rely on any written notice or other written, electronic or telephone communication believed by it in good faith to be genuine and to have been initiated by an authorized representative of the Customer to the Bank. Any such communication will be deemed to have been authorized by the Customer. The parties agree that the Bank's records of telephonic or electronic instructions shall be conclusive evidence of the actual notice or instructions given by the Customer and recorded by the Bank.
- ii. Data Recording. The Customer consents to the Bank's recording and monitoring of any telephone conversations and online transmissions or communications including, but not limited to, requests or instructions. The Bank, however, has no duty to record or monitor such telephone conversations or online transmissions and communications, and the election to record and/or monitor is within the Bank's sole discretion.
- iii. Delivery of Notices, Disclosures, Amendments or Other Communications by the Bank. The Customer acknowledges and agrees that, to the extent permitted by applicable law, the Bank may deliver all notices, disclosures, amendments or other communications required hereunder to the Customer by email at the Customer's e-mail address as provided to the Bank. To the extent permitted by applicable law, the Customer agrees that each such communication will be binding and enforceable to the same extent as if it were delivered to the Customer in writing by regular mail, branch posting, or in person.
- iv. Electronic Mail Communication. The Customer may send e-mail to the Bank and receive e-mail from the Bank. Communications sent to the Bank over the Internet are considered unsecured unless the information is sent through the Bank's secure email platform. The Customer agrees that unsecured e-mail will not be used to deliver sensitive personal or private information that includes, but is not limited to bank routing numbers, account numbers, Social Security numbers, Business ATM/Debit card numbers, personal identification numbers ("PINs"), home addresses, Usernames sometimes called User IDs, Passwords, ACH Entries, or to provide required notices to the Bank pursuant to any agreement the Customer has with the Bank, unless such agreement expressly provides for e-mail notification.

THE CUSTOMER ACKNOWLEDGES AND AGREES THAT ANY REQUEST(S) SENT TO THE BANK THROUGH AN UNSECURED ELECTRONIC NETWORK ARE IN VIOLATION OF

BANK AND NACHA POLICY AND PROCEDURES. THE CUSTOMER UNDERSTANDS AND AGREES THAT THE BANK IS NOT LIABLE FOR ANY LOSS OR DAMAGE INCURRED BY THE CUSTOMER WHEN AN UNAUTHORIZED PERSON GAINS ACCESS TO ANY SUCH E-MAIL. THE CUSTOMER AGREES TO INDEMNIFY AND HOLD THE BANK HARMLESS IF THE BANK ACTS WITH ORDINARY CARE IN GOOD FAITH BY RESPONDING TO ANY E-MAIL PURPORTED TO BE SENT BY THE CUSTOMER. THE BANK'S IMPLEMENTATION OF ITS NORMAL PROCEDURES REGARDING RECEIPT AND MAINTENANCE OF CONFIDENTIAL INFORMATION CONSTITUTES ITS EXERCISE OF DUE CARE.

E-mail transmitted by the Customer to the Bank may not be delivered to the Bank immediately. If the Customer needs to contact the Bank immediately to stop a payment, to report an unauthorized use of the Customer's Username, to report unauthorized access to an account, or for any other reason, the Customer shall contact the Bank by telephone at the telephone number provided herein, or in person. The Bank will not be responsible for acting on or responding to any e-mail request made until the Bank actually receives the Customer's e-mail message and the Bank has a reasonable opportunity to act. The Customer should check its e-mail regularly as the Bank may attempt to notify the Customer by e-mail in the event of any technical difficulties or other occurrence that may affect the Bank's online Services.

- v. Address for Notification. All notices to be delivered by the Customer to the Bank pursuant to the Agreement can be made to the physical address, postal address, e-mail address, or telephone number indicated below, as applicable pursuant to the terms of the Agreement and the requirements of the notice:

Bank's physical notification address:

Susser Bank

Attn: Treasury Management

3030 Matlock Rd

Arlington, Texas 76015

E-mail address: tmsupport@susserbank.com

Telephone Number: 817-987-2150

1. All notices to be delivered by the Bank to the Customer pursuant to the Agreement can be made to the Customer's postal address, e-mail address, or telephone number indicated in the Schedule C - Authorization to Obtain Treasury Management Services (the "Authorization"), such notification information as may be amended in writing by the Customer from time to time.

5. Submission of Information and Documents.

- i. Delivery of Documents. The Customer agrees to deliver, in a form and content satisfactory to the Bank, such additional executed, or as the case may be, certified, documents required by the Bank from time to time to obtain and to continue to receive the specific Service(s) requested by the Customer, including Account signature cards, declarations, authorizations, resolutions, implementation documents and updated financial statements. In addition, Customer shall execute a Treasury Management Services guaranty (a "Treasury Management Services Guaranty") immediately upon Bank's request in the event that Bank, in its sole discretion, requires Customer to execute such guaranty to either: (i) receive initial Bank approval for Bank's provision of specific Service(s) to Customer; or (ii) continue receiving specific Service(s) from Bank if there is an occurrence of a material change in Customer's credit and/or risk analysis criteria and Bank determines, in its sole and absolute discretion, that such guaranty is necessary to satisfy Bank's credit and risk management criteria. If Bank requires Customer to execute a Treasury Management Services Guaranty and Customer refuses, Bank may, in its sole and absolute discretion, either refuse to enter into this Agreement and refuse to provide specific Service(s) to Customer or discontinue providing specific Service(s) and/or

immediately terminate any existing Agreement with Customer in accordance with Section 27 of this Agreement.

ii. **Provision of Information.** Prior to initiating a new Service, the Customer agrees to provide all information which the Bank may request including specifications, test files, check samples, transmissions, and documents. If the Bank determines, in its sole discretion, that any specification, test file, sampling, transmission or document does not meet its requirements, the Bank may advise the Customer that the Customer will not be eligible to obtain the Service(s) until requested information that is satisfactory to the Bank is provided by the Customer.

iii. **Authorizations.**

1. By executing the Authorization, the Customer, any Related Entity, and any Related Individual (each a **“Represented Customer”** and collectively **“Represented Customers”**) authorizes by its Authorized Treasury Signer, pursuant to the respective terms for each party, each individual named therein to be a **System Admin**, a **Transactional User** or **Daily Limits Manager**. An Authorized Treasury Signer can be a natural person or an entity. Authorized Treasury Signers have the authority (i) to sign the Agreement and any addenda thereof; (ii) to accept on behalf of the Customer the terms and conditions governing the use of Services, including acceptance of Security Procedures; (iii) to enroll in Services; (vi) to appoint and remove System Admins; (v) and, if no System Admin has been appointed, to provide the required information to set up and administer Services to authorize and remove the authorization of individual Transactional Users who perform transactions related to a Service or Services; and to perform transactions related to any Service hereunder.
2. If a System Admin has been appointed, until the Bank receives written notice from each Represented Customer revoking such appointment [in the manner set forth herein], one or more “System Admins” shall have the sole authority on behalf of each Represented Customer: (i) to authorize and remove the authorization of individual Transactional Users who perform transactions related to a Service or Services; (ii) to audit Service activities of Transactional Users who perform transactions related to a Service or Services; and (iii) to perform transactions related to any Service hereunder.
3. **ONCE YOUR AUTHORIZED TREASURY SIGNER APPOINTS A SYSTEM ADMIN, THE SYSTEM ADMIN WILL HAVE COMPLETE RIGHTS TO EVERY DESIGNATED SERVICE IN THIS AGREEMENT AND MAY DELEGATE SUCH RIGHTS TO ANY TRANSACTIONAL USER. THE REPRESENTED CUSTOMER ASSUMES FULL, COMPLETE, AND SOLE RESPONSIBILITY AND SHALL NOT HOLD THE BANK RESPONSIBLE FOR THE ACTIONS OF ITS SYSTEM ADMIN OR THE ACTIONS OF ANY TRANSACTIONAL USER, INCLUDING, WITHOUT LIMITATION, THE AUTHORIZATIONS GIVEN BY THE SYSTEM ADMIN, ANY TRANSACTIONAL USER, OR ANY PERSON WITH APPARENT AUTHORITY FROM THE CUSTOMER.**
4. As Online Banking provides online access to many Services, the authority for the System Admin assigned to Online Banking will supersede the authority of other Transactional Users to the extent necessary to ensure unanimity whenever a Service is provided through Online Banking (i.e., including, but not limited to online Wire Services, ACH, and Positive Pay). The Bank may rely on the Authorization to be a true and correct representation of the Customer's authorizations. Prior to utilizing any specific Service, the Customer shall furnish the Bank with the necessary documentation in form and content satisfactory to the Bank.

5. **THE CUSTOMER AGREES THAT IN THE EVENT THE CUSTOMER DESIRES TO NAME ADDITIONAL SYSTEM ADMINS OR REMOVE THE AUTHORITY OF AN EXISTING SYSTEM ADMIN, THE CUSTOMER MUST PROVIDE THE BANK WITH WRITTEN AUTHORIZATION IN FORM AND CONTENT SATISFACTORY TO THE BANK ADVISING THE BANK OF THE CHANGE IN AUTHORITY SIGNED BY AN AUTHORIZED TREASURY SIGNER ON THE MOST CURRENT AUTHORIZATION. THE CUSTOMER AGREES THAT THE BANK WILL RELY ON THE MOST CURRENT AUTHORIZATION AND THE MOST CURRENT SERVICE-RELATED TRANSACTIONAL USER AUTHORIZATIONS SUPPLIED BY THE CUSTOMER AND, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE BANK SHALL HAVE NO LIABILITY FOR UNAUTHORIZED ACTIONS TAKEN OR TRANSACTIONS PERFORMED BY THOSE INDIVIDUALS NAMED AS SYSTEM ADMINS ON THE CURRENT AUTHORIZATION OR AS TRANSACTIONAL USERS ON SERVICE-RELATED AUTHORIZATIONS.**
 6. The Customer understands and agrees that a system of reasonable financial controls is in place and that the Customer has instituted a program that encourages Customer's employees to report fraudulent or dishonest activities to Customer's management.
 7. At the written request of the Customer (including a written request by email), Customer shall have access to all Certificate of Deposit Accounts and Loan Accounts with the same tax ID as Customer, Related Entity, or Related Individual.
6. **Security Procedures; Customer's Data Security Obligations; Limitation on Liability; Responsibility for Loss.**
- i. Security Procedures under the Agreement. Security Procedures offered by the Bank are described herein and, if applicable, in documentation related to the applicable Service ("Security Procedures"). As part of the Security Procedures, Bank may employ various authentication technologies. As part of the Bank's Online Banking for commercial Customers, Bank employs various security and authentication technologies to ensure that the Customer is communicating directly with Bank, and also to ensure that the Customer's Computer is communicating with a legitimate Bank computer. Such Bank authentication procedures and technologies include, but are not limited to, use of Customer Online Banking Usernames, passwords and other "Additional Authentication Information" ("AAI") that Bank may require Customers to provide at Bank's sole discretion. Such AAI is required as a component of various Online Banking authentication procedures that Bank may employ, including, but not limited to, security questions and responses and/or use of other hardware-based and software-based security and authentication tools, programs and procedures. The Customer is responsible for the establishment and maintenance of its internal procedures reasonably adapted to insure the confidentiality and security of Security Procedures. **CUSTOMER UNDERSTANDS AND AGREES THAT CUSTOMER WILL BE RESPONSIBLE FOR MAINTAINING SECURITY AND CONTROL OVER ALL USERNAMES AND PASSWORDS OF THE CUSTOMER'S AUTHORIZED TREASURY SIGNER, SYSTEM ADMINS AND TRANSACTIONAL USERS AND SHALL USE SECURITY FOR SUCH ITEMS COMPARABLE TO THE SECURITY AND CONTROL CUSTOMER WOULD USE FOR CASH, OR A MECHANICAL CHECK-SIGNING MACHINE, BUT IN NO EVENT LESS THAN REASONABLE SECURITY AND CONTROL IN THE CIRCUMSTANCES.**

- ii. If the Customer or its employees or agents have reason to believe that any Security Procedure has or may have become known by unauthorized persons (whether or not employed by the Customer), the Customer shall immediately notify the Bank by telephone and confirm such verbal notification in writing to the Bank within twenty-four (24) hours of the verbal notification. The Bank will replace the Security Procedures in accordance with the Bank's standard security requirements related to the applicable Service(s). To the maximum extent permitted by applicable law, the Customer will be solely liable for all transactions, including funds transfer instructions and other communications, initiated before the Bank has received such notification and has had a reasonable opportunity to act on such notification. The Bank reserves the right to change any or all of the Security Procedures offered and/or used at any time by giving verbal or written notice to the Customer. The Customer agrees that its use of the related Service or Services after the Bank provides notice of such changes constitutes Customer's acceptance of the new Security Procedures. The Customer acknowledges that the purpose of Security Procedures is to authenticate the identity of the person initiating the action, not to detect errors in any transmission or content. The Bank is not agreeing to any security or other procedure for the detection of errors. The Customer represents that for the Service or Services it requests, it considers the Security Procedures to be commercially reasonable with respect to the size, type, and frequency of funds transfers it anticipates issuing and the information which will be transmitted. Except to the extent expressly prohibited by law or regulation, Customer will be bound by any transaction or instruction received by the Bank through the Service if the instruction or transaction is in the name of the Customer and: (A) the payment order or other instruction was actually authorized by the Customer; or (B) the Bank verifies the authenticity of the payment order or other instruction using the Security Procedures (or a security procedure selected by Customer), whether or not the payment order or other instruction was actually authorized by the Customer. The Security Procedure is not designed for the detection of errors.
- iii. CUSTOMER WILL INDEMNIFY AND HOLD BANK HARMLESS FOR ANY AND ALL CLAIMS, DEMANDS, EXPENSES (INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES AND COSTS), LOSS OR DAMAGE OF ANY NATURE WHATSOEVER ARISING DIRECTLY OR INDIRECTLY FROM ANY PAYMENT ORDER INITIATED PURSUANT TO THESE TERMS AND CONDITIONS EXCEPT FOR LIABILITY TO CUSTOMER CAUSED SOLELY BY GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE BANK. IF BANK OFFERS A SECURITY PROCEDURE THAT CUSTOMER DECLINES, THE BANK WILL COMPLY WITH CUSTOMER'S REQUEST ONLY ON CONDITION THAT COMPANY EXPRESSLY ASSUMES THE LIABILITY OF ITS DECISION AND THE LIABILITY FOR ANY LOSS THAT MAY OCCUR BECAUSE BANK DID NOT PERFORM THE SECURITY PROCEDURE THAT THE CUSTOMER DECLINED.
- iv. Customer's Data Security Obligations. With regard to obtaining any Services under this Agreement, Customer must comply with the hardware, software, and Security Procedures requirements for a computer, or other electronic or mobile device as set forth in these General Provisions and/or as set forth in any Service specific provisions or any supplemental information and/or instructions provided by the Bank ("Customer's Computer"). The Bank reserves the right as encryption technology develops to impose further reasonable requirements to maintain the appropriate level of security for the Services and transactions contemplated hereunder and the Customer agrees to abide by such requirements. Furthermore, the Customer understands and acknowledges that if Customer does not follow commercially reasonable hardware, software, physical access and physical storage security procedures regarding any Customer-owned Data, including such data containing the sensitive personally identifiable information ("PII") of any individual, the security of Customer's transactions and/or Customer-owned Data (including sensitive PII) may be compromised. Customer understands, acknowledges and agrees that installation, maintenance and operation of Customer's Computer (hardware and software) and related security procedures, including, but not limited to, data

security protection, firewalls and anti-virus software, is the Customer's sole responsibility, and that Customer is solely responsible for securing, encrypting, protecting and otherwise safeguarding the Customer-owned Data. **You are responsible for safeguarding the Security Procedures. Providing these Security Procedures to another person effectively constitutes a grant of authority to access your accounts.**

- v. **Limitation on Liability.** Customer understands, acknowledges and agrees that the Bank is not responsible for any loss or damages resulting from any errors or failures of the Customer's Computer or data processing systems, including, but not limited to any computer virus or malware attack (such as a keystroke logging program or similar malware), any attack by a person attempting or actually gaining unauthorized access to Customer-owned Data, any Internet-related problems that may be associated with the Customer's access and use of the Services, or any loss or damage attributable to Customer's election not to follow Bank's Security Procedures.
- vi. **Serious Potential Threat to Customer's Business; Notification to Bank.** Customer acknowledges and agrees that the threat of fraud resulting from theft of electronic data is a serious potential threat to Customer's business and, accordingly, Customer will take all reasonable steps to make certain that its Computers and data security systems are protected from unauthorized access or use, and in an event of any unauthorized access or use, Customer will take all reasonable steps to immediately inform Bank of the security breach.
- vii. **Responsibility for Loss.** If, despite Customer efforts, Customer suffers any damage or loss as a result of Customer's failure to comply with its data security obligations, and regardless of whether such damage or loss results from the activities of Customer's employees, agents, subcontractors or any unaffiliated third party, any such loss or damage shall be the sole responsibility of Customer.
- viii. **In the Event Customer Experiences a Breach of Security.** In the event that the Customer experiences a breach of security, in addition to the other actions that the Customer must take under the Agreement, the Customer must take any security actions recommended by the Bank to remedy the breach and ensure that the Customer's process is secure. For example, the Bank reserves the right to request, among other things, that the Customer change its logon, reset its password, hire a certified IT security professional to review Customer's system and declare it clear of malware, and until those actions are completed and the Bank deems that the Customer's process is secure, the Bank may turn off Customer's access to the Services.

7. Business Days; Posting; Funds Availability.

- i. **Business Days.** Any day on which most of the Bank's offices are open to the public for conducting substantially all business functions shall be a "Business Day"; provided, however, that Saturdays, Sundays and federal holidays are not Business Days even if a majority of the Bank's offices are open.
- ii. **Posting.** Transactions (such as deposits, funds transfers, instructions, and other Entries) related to any Service will be posted to the applicable Account as provided for in the Bank's then current Schedule of Funds Availability. The Bank may change any cutoff deadline at any time by giving notice, as required by law, of the change to the Customer and post it to the Bank's website.
- iii. **Funds Availability.** Any funds transferred pursuant to a transaction hereunder will be available for withdrawal or advance as provided for in the Bank's then current Schedule of Funds Availability, as amended from time to time, and in accordance with applicable law.

8. Honoring Transactions and Instructions; Furnishing Information.

- i. Generally. The Bank will honor the Customer's transactions and instructions (including adjustments and cancellations) only when the Customer has complied with the Agreement. The Bank will be under no obligation to complete any transaction or instruction that: (i) exceeds the Customer's collected funds on deposit with the Bank, even if the Bank has done so in the past; (ii) is not in accordance with any condition requested by the Customer and agreed to by the Bank; (iii) the Bank has reason to believe may not be authorized by the Customer; (iv) involves funds subject to a hold, dispute or legal process preventing their withdrawal; (v) violates, in the opinion of the Bank, any provision of any present or future risk control program of the Federal Reserve or any other applicable federal or state law; (vi) does not comply with any other requirement stated in the Agreement or any Bank policy, procedure or practice; and/or (vii) for the protection of the Bank or the Customer, the Bank has reasonable cause not to honor.
- ii. Insufficient Account Balances for Service(s). When a Service requires the Customer's Account(s) to contain sufficient, good, and collected funds to cover the Customer's obligations for the required Service, the Customer agrees to maintain sufficient, good, and collected funds in those Accounts from which the funds are to be withdrawn or transferred. If there are insufficient funds in the designated Account to cover the required withdrawal(s), transfer(s), or related fees, except as specifically modified in an applicable implementation document, the Bank may: (i) withhold the Service; (ii) in its sole discretion, elect to dishonor any item or transaction that creates a negative balance and has no duty to notify the Customer prior to dishonoring any overdraft, even if the Bank has paid overdrafts on behalf of the Customer in the past; (iii) in its sole discretion, provide the Service, and the Customer agrees to pay the Bank promptly or on demand the amount of overdraft and any fees or other costs including those set forth in the Account Agreements; and/or (iv) require the Customer to pre-fund transactions prior to settlement date or effective date. The Bank may, in its sole discretion, on occasion provide a Service against insufficient funds in Account(s), but the Bank is not obligated to do so, and any action by the Bank of this nature will not constitute an obligation by the Bank to provide the Service in the future.

9. Verbal Instructions.

- i. At the Bank's option, the Bank may honor the Customer's verbal instructions regarding Service(s). The Customer agrees that the Bank may in good faith rely on any such verbal instructions, which purport to come from the Customer (including any Authorized Treasury Signer, System Admin, Daily Limits Manager, or Transactional User) or the Customer's agent without independent verification by the Bank unless Security Procedures require otherwise.

10. Erroneous Instructions.

- i. **CUSTOMER AGREES THAT TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE BANK WILL NOT BE LIABLE FOR ANY INSTRUCTION, FUNDS TRANSFER ORDER, AMENDMENT OR CANCELLATION, OR ANY LOSS ARISING THEREFROM, ERRONEOUSLY TRANSMITTED BY THE CUSTOMER OR ANYONE AUTHORIZED BY THE CUSTOMER HEREUNDER OR CONTAINING AN ERROR IN CONTENT AS PROVIDED BY THE CUSTOMER OR ANYONE AUTHORIZED BY THE CUSTOMER HEREUNDER, REGARDLESS OF WHETHER THE BANK FOLLOWED THE SECURITY PROCEDURES AGREED UPON HEREIN OR ANY APPLICATION HERETO.**

11. Inconsistent Name and Identifying Number.

- i. If any funds transfer instruction by the Customer describes the intended recipient of funds inconsistently by name and account number, the Customer agrees that payment by the receiving bank (which may be the Bank) may be made on the basis of the account number alone even if that account is not owned by the person or entity named in the funds transfer instruction. If any funds transfer instruction identifies an intermediary bank or the payee's bank inconsistently by name and identifying number, the Customer agrees that the Bank may rely solely on the identifying number as the proper identification of the intermediary bank or the payee's bank even if it identifies a bank different from the bank the Customer identified by name. To the extent permitted by applicable law, the Customer acknowledges and agrees that its obligation to pay the Bank the amount of the funds transfer pursuant to a funds transfer instruction will not be excused in any circumstance described in Section 10 above and that the Customer will reimburse the Bank for any losses or expenses the Bank incurs as a result of the Bank's reliance on the identifying number provided in the funds transfer instruction.

12. Account Holder's Liability for Funds Transfers.

- i. The Customer agrees to be bound by any funds transfer, amendment or cancellation to a funds transfer issued in the Customer's name and received by the Bank, whether or not authorized, if the Bank accepts the funds transfer, amendment or cancellation in good faith and in compliance with the Security Procedures agreed to herein. In the event that a funds transfer is unauthorized but effective pursuant to the Security Procedures agreed to herein, the Bank is entitled to enforce or retain payment for the funds transfer from the Customer unless the Customer can prove that the funds transfer was not caused, directly or indirectly, by a person (i) entrusted at any time with duties to act on the Customer's behalf with respect to such funds transfer or the Security Procedures; or (ii) who obtained access to the Customer's transmitting facilities or who obtained, from a source controlled by the Customer and without authority of the Bank, information facilitating breach of the Security Procedures, regardless of how the information was obtained or whether the Customer was at fault.

13. Account Reconciliation and Reporting of Discrepancies.

- i. Generally. The Account statements provided to the Customer by the Bank will notify the Customer of (i) the execution of funds transfers and all debits or credits to accounts of the Customer held by the Bank resulting from transactions pursuant to the Agreement; and (ii) amounts debited by the Bank from the account(s) for payment of fees for the Services hereunder or other charges pursuant to the Agreement. The Customer agrees that the Bank will not be required to provide any other notice to the Customer of the execution of any funds transfers, debits, credits or charges.
- ii. Notification of Discrepancies. Customer agrees to promptly report to the Bank any discrepancies between the Customer's records and the Bank's records and/or Account statements and any relevant facts pertaining to potentially unauthorized or erroneous transactions or funds transfers of any kind. (i) For funds transfers, such report should be made within thirty (30) calendar days from the date the Customer receives notice from the Bank that the funds transfer was processed or that the Customer's account was debited with respect to the funds transfer. The Customer's failure to notify the Bank of any such discrepancies may result in the Customer forfeiting any interest potentially due on the amount of the unauthorized or erroneous funds transfer due to Customer's failure to provide notification within thirty (30) days as stated herein. (ii) For all ACH transactions that are believed to be unauthorized or erroneous, such report should be made no later than one (1) Business Day following the date of the unauthorized or erroneous Entry so that the Bank can return the item to the Originating Depository Financial Institution (the "ODFI") within the two (2) Business Day period required under NACHA Rules. Failure to do so for debits against an account will preclude the Bank from returning the transaction through the ACH system and re-crediting the account. At the

Customer's request, the Bank will go outside the ACH system and request a credit from the ODFI based on a violation of the ODFI's warranty that the transaction was authorized. If Customer's Account has been compromised or if Customer believes that fraud may have occurred regarding such Account, and Customer had previously declined Bank's recommendation to use the Security Procedure of Positive Pay, Customer shall either implement Positive Pay for that Account, or close the Account and open a new one. If you decline to implement or, if implemented, to utilize or follow the procedures required for Positive Pay, to the extent that the services we offered may have prevented any loss, you will assume the risk of that loss that could have been prevented. You understand and agree that should you decline Positive Pay services, implement the Positive Pay services incorrectly or if you fail to follow the required procedures for the Positive Pay services, you will be precluded from asserting any claims against us for paying any unauthorized, altered, counterfeit or other fraudulent item that the Positive Pay Service is designed to detect or deter, and we will not be required to re-credit your Account or otherwise have any liability for paying such items.

- iii. Foreign Currency Exchange Conversions. The Bank assumes neither risk of loss nor any liability, which any person (including the Customer) may suffer by reason of foreign currency exchange conversions. Any gains resulting from foreign exchange conversion in connection with any Customer transaction pursuant to any Service hereunder shall inure to the Customer.

14. Settlement of Obligations.

- i. To the fullest extent permitted by applicable law, the Customer authorizes the Bank to obtain payment of the Customer's obligations to the Bank under the Agreement from time to time by (i) initiating debit or credit transfers to any of the Accounts; or (ii) deducting the payment from the amount of any bank transfer. Such obligations include, without limitation, fees owed to the Bank, in conjunction with any of the Services or otherwise, and settlement for funds transfers initiated pursuant to the Agreement. At the time any Account is closed (whether by the Customer, by the Bank, or otherwise) or any Service is terminated (whether by the Customer, by the Bank, or otherwise), the Customer agrees that all such fees and other obligations will be immediately due and payable to the Bank, and the Customer authorizes the Bank to withhold the amount of any such fees and other obligations from any Account. Debiting an Account or deducting payment from the amount of any bank transfer is not the Bank's exclusive remedy under this or any other section of the Agreement, and the Bank will not be deemed to have made an election of remedies by making any such debit or deduction on any one or more occasions.

15. Cooperation in Loss Recovery Efforts.

- i. Except as otherwise stated in the Agreement, in the event of any damages for which the Bank or the Customer may be liable to the other or to a third party with respect to the Service(s), the Bank and the Customer will undertake commercially reasonable efforts to cooperate with each other (as permitted by applicable law) in performing loss recovery efforts and in connection with any action(s) that the relevant party may be obligated to defend or elect to pursue against a third party.

16. Fees.

- i. Generally. The Bank reserves the right to change any fee schedule at any time and from time to time. Applicable fees do not include, and the Customer will be solely responsible for, payment of any sales, use, excise, value added, utility tax, or tariffs relating to the Service(s) provided hereunder, and for all telephone charges, Internet access service charges, tolls, tariffs, and other costs for Online Banking Services initiated by the Customer or any person authorized by the Customer.

- ii. **Payment of Fees.** Any amount(s) due the Bank for the Service(s) will be charged as a direct fee debited to the Customer specified Account. If the Customer specified Account has insufficient funds to pay any amount due; the Bank may debit any Account maintained by the Customer at the Bank. If there are no Accounts at the Bank with sufficient funds to cover the amount due the Bank, the Customer agrees to pay such amounts directly to the Bank upon demand. The Customer also agrees to reimburse the Bank for any actual expenses the Bank may incur to effect, administer or revoke any Service(s). In the event any fees or taxes are owed to the Bank and are not paid; the Bank shall have no obligation to execute any Service for the Customer, or to continue any Service(s) previously provided to Customer.

17. Use of Third Parties.

- i. **The Bank's Use of Third Parties.** The Bank's ability to provide certain Services depends on its ability to provide access to third-party networks and other third-party services. In the event the Bank determines, in its sole discretion, that it is unable to provide third-party network or services access, the Bank may discontinue the related Service or may provide the Service through an alternate third-party network or service and shall have no liability for the unavailability of such Service.
- ii. **The Customer's Use of Third Parties.** The Customer shall notify the Bank in writing as specified in Section 4 of the name of any third party whom it hires, employs, or to whom it delegates its duties or responsibilities under the Agreement, before that third party initiates any transaction or performs an obligation authorized or required under the Agreement. The Customer agrees that it shall be solely responsible for all acts of any such third party. The Customer shall provide information including financial information which the Bank may, in its sole discretion, require from time to time regarding any third-party vendor which the Customer hires, employs, or retains in any manner, to initiate transactions or assume any of the Customer's duties under the Agreement. The Customer understands and agrees that because of the risks involved in certain of the Services that the Customer may utilize, the Bank may refuse, in its sole discretion, to provide such Services to the Customer if the third party retained by the Customer does not meet the Bank's qualification criteria. The Bank's acceptance of any third party retained by the Customer based on the Bank's qualification criteria is not a representation or warranty by Bank regarding the fitness of the third party's capabilities or financial condition, nor is such acceptance by Bank an endorsement of any third party's ability to perform the third-party services for Customer. The Customer agrees that it shall not allow any third party to use any Service hereunder or to process any third party's transactions pursuant to the Services hereunder through the Customer or its accounts without the Bank's prior written consent.

18. Courier Agreements.

- i. The Customer may utilize a courier to conduct transactions pursuant to the Agreement. In so doing, the Customer agrees at all times and in all respects, regardless of the source of payment for the courier services, that (i) the courier is the agent of the Customer and not the Bank; (ii) the Bank makes no representations or warranties regarding any courier, and assumes no responsibility with respect to any services performed or promised by any courier; and (iii) the Customer assumes all risk of loss (including loss or theft by third parties or employees of the Customer or the courier) prior to the Bank's acceptance of such transactions from the courier and subsequent to the courier's acceptance of transactions from the Bank. The Customer agrees that the Customer and the courier will be responsible for all loss recovery procedures and processes, although the Bank may undertake commercially reasonable efforts to facilitate loss recovery.

19. Proprietary Property.

- i. The Customer acknowledges and agrees that all trademarks, trade names, service marks, copyrights, programs, specifications, software, systems designs, applications, routines, techniques, enhancements, software codes, test keys, security devices, Security Procedures, documentation, manuals, ideas and formulas (collectively, referred to herein as the “Bank Proprietary Property”) utilized or developed and provided by the Bank in connection with the Agreement and the Services provided hereunder, whether online via the Bank’s website or otherwise, are proprietary property of the Bank having great commercial value to the Bank. The Customer shall have no ownership interest in the Bank Proprietary Property or other rights related thereto, and the Customer agrees to keep the Bank Proprietary Property confidential at all times. The Customer may use the Bank Proprietary Property only for the purposes for which it was provided by the Bank and shall notify the Bank immediately of any breach of this section of which it becomes aware. The Bank may provide the Customer with use of the Bank’s license to specific software in order to receive a particular Service. Unless agreed to the contrary between the parties regarding certain Services, with such agreement approved by Bank in Bank’s sole discretion, upon termination of the Agreement or any applicable Service, such license in Bank’s Proprietary Property and any licensed software shall automatically expire and the Customer agrees to immediately cease using any Bank Proprietary Property and any licensed software relating to the Service or Services effected by such termination. Additionally, and unless contrary to prior agreement regarding the software, the Customer agrees to erase any software comprising the Bank Proprietary Property and relating to the Service or Services terminated to the extent such software is stored in the Customer’s Computers, and, at the request of the Bank, to return all copies of all items relating to the Bank Proprietary Property which are in the possession of the Customer. Alternatively, and at the Bank’s option, the Customer will destroy all copies of all items relating to the Bank Proprietary Property which are in the possession of the Customer and, upon request from the Bank, provide written certification to the Bank that such destruction has occurred.

20. Confidentiality.

- i. The Customer and the Bank each agree that all information concerning the other party or parties which comes into its possession in connection with any Service and/or the performance of the Agreement including, but not limited to, software licensed for the Customer’s use by the Bank, user guides, and Security Procedures including security access codes, PINs, or any other AAI, will be maintained as confidential and shall not be used or divulged to any other party except as may be appropriate to enable the Bank to provide the Service or as required by applicable law. The Customer agrees that the Bank may share any information concerning the Customer’s accounts and account transactions with any of the Bank’s affiliates, subsidiaries, parent, Customer, or service providers and to the extent the Bank determines necessary, with the Customer’s third-party processor(s), and state or federal regulators, bank examiners or auditors.

21. Customer Records; Ownership of Data; Response to Data Security Breach Incidents; Responsibility for Loss.

- i. Customer Records. The Agreement will not relieve the Customer of any obligation imposed by law, contract, or otherwise regarding the maintenance of records or from employing adequate audit, accounting, and review practices. The Customer shall retain and provide to the Bank upon request all information necessary to remake or reconstruct any deposit, transmission file, or entry for at least ten (10) Business Days, or longer as set forth in a separate Service provision, following receipt by the Bank of the deposit, transmission file, entry, or other order affecting any of the Customer’s account(s); provided, however, that the Bank’s records, kept in the ordinary course of business, will be presumed to accurately reflect the contents of the Customer’s instructions to the Bank and, in the absence of manifest error, will be binding and conclusive.

- ii. **Ownership of Data.** The parties understand, acknowledge and agree that all data provided by Customer to Bank (including, but not limited to, electronic images of Substitute Checks retained on any Processing Equipment, Processing Software, or any other processing equipment or software [including Customer's Computer] used by Customer in conjunction with Remote Deposit Now Services), and all data produced, compiled or otherwise provided by Bank to Customer, in any form or format, is the sole and exclusive property of Customer and copies thereof shall be provided to Customer at Customer's request from time to time and at any time ("Customer-owned Data"). Once Customer-owned Data is delivered by Bank to Customer, retrieved by Customer from Bank, or otherwise created as a by-product of a transaction between Customer and Bank and retained by Customer, such Customer-owned Data is solely within Customer's possession and control.
- iii. **Response to Data Security Breach Incidents.** As stated in Section 6 above, Customer has the sole responsibility for security and protection of Customer-owned Data. In the event of any security breach incident involving any potential or actual unauthorized access or acquisition of Customer-owned Data (e.g. computer hacking, virus attack, or theft or loss of any equipment containing Customer-owned Data), it is Customer's sole responsibility to determine whether Customer has the obligation, under applicable law, to notify potentially affected individuals whose sensitive PII may have been compromised by the security breach incident. Customer must conduct, at its sole cost and expense, any audit and forensic investigation of such security breach incident. Customer bears the sole responsibility for any and all costs of complying with required data breach notifications to individuals, credit bureaus and/or governmental entities as required by applicable law, and any and all costs for credit report monitoring or fraud monitoring associated with such security breach incident.
- iv. **Responsibility for Loss.** If, despite Customer efforts, Customer suffers any damage or loss as a result of any unauthorized access or data security breach (e.g. computer hacking, virus attack, or theft or loss of equipment or other information containing Customer-owned Data), and regardless of whether such unauthorized access or breach results from the activities of Customer's employees, agents, subcontractors, or any unaffiliated third party, any such loss or damage shall be the sole responsibility of the Customer.

22. Representations and Warranties by Customer, Related Entities, and Related Individuals.

i. Representations and Warranties by Customer.

- 1. The Customer represents, warrants and agrees that (i) the execution, delivery and performance by the Customer under the Agreement are within the Customer's powers, have been duly authorized by all necessary action and do not contravene the Customer's governing documents (if any) or any law or contractual restrictions; (ii) no authorization, approval or other act, and no notice to or filing with any governmental authority or regulatory body is required for the execution, delivery and performance by the Customer of the Agreement; (iii) the Agreement constitutes the legal, valid and binding obligation of the Customer and that the Agreement is enforceable against the Customer in accordance with the terms of the Agreement; (iv) no information furnished by the Customer to the Bank in connection with the Agreement is inaccurate in any material respect, contains any material misstatement of fact, or omits any fact necessary to make such statements not misleading, as of the date it is dated, or if not dated, the date it is given to the Bank; and (v) the Customer has not been induced to enter into the Agreement by any representations or statements, verbal or written that have not been expressly incorporated herein by reference. The Customer agrees to deliver to the Bank, upon execution of the Agreement and at any time upon the Bank's request, a certified copy of a duly adopted resolution, unanimous consent or other similar corporate document or official record authorizing the execution of the Authorization and Agreement and the granting of authority to the person(s) identified therein.

- ii. In addition, in the event that Customer desires to obtain any Services under this Agreement for any of Customer's Related Entities and/or Related Individuals and link Customer with a Related Entity and/or Related Individual Account, subject to Bank's sole discretion, as Customer shall list such Related Entities and/or Related Individuals in any addendum, exhibit or schedule used in connection with this Agreement, the Customer makes the following additional representations and warranties to Bank each time that Customer lists a Related Entity and/or Related Individual that is authorized to obtain Services under this Agreement:
1. If Customer is a Parent of any Subsidiary Related Entity listed, that Customer is authorized under applicable governing documents to exercise both the voting power and equity of the Related Entity, and that no third party holds any veto power or approval right over (A) Customer's ability to appoint a majority of the directors, managers or other members of the Related Entity's governing body, (B) Customer's ability to determine the Related Entity's strategy and direction, or (C) Customer's ability to bind the Related Entity to this Agreement;
 2. If Customer is a Subsidiary of any Parent Related Entity listed, that Customer has been duly authorized by the Parent to enter into this Agreement, to bind the Parent to this Agreement and to take all necessary actions to obtain Services under this Agreement, and that no third party holds any veto power or approval right over Customer's ability to fulfill Customer's obligations under this Agreement;
 3. If Customer is an Affiliate of any Affiliate Related Entity listed, that Customer is duly authorized by its governing documents, or by actions of the Affiliate Related Entity, to enter into this Agreement, to bind the Affiliate Related Entity to this Agreement, and to take all necessary actions to obtain Services under this Agreement, and that no third party holds any veto power or approval right over Customer's ability to fulfill Customer's obligations under this Agreement;
 4. If Customer wishes to link with a Related Individual, Customer warrants that each Related Individual is an owner of the Customer or a Related Entity or a relative of an owner of the Customer or a Related Entity.
- iii. If the Customer is not the Trustee of a Related Entity Trust, the Customer shall be considered the agent of a Related Entity Trust when acting on behalf of the Related Entity Trust under this Agreement. Customer shall specify any Related Entity Account it wishes to link to on the Request Form (or similar document) as provided by Bank. However, Customer may request linkage with any Related Entity Loan Account or Related Entity Certificate of Deposit Account by email or other written communication alone.
- iv. Representations and Warranties by Related Entity.
1. Each Related Entity represents, warrants and agrees that
 - (i) The execution, delivery and performance by the Related Entity under the Agreement are within the Related Entity's powers, have been duly authorized by all necessary action and do not contravene the Related Entity's governing documents (if any) or any law or contractual restrictions;
 - (ii) No authorization, approval or other act, and no notice to or filing with any governmental authority or regulatory body is required for the execution, delivery and performance by the Related Entity of the Agreement;
 - (iii) The Agreement constitutes the legal, valid and binding obligation of the Related Entity and that the Agreement is enforceable against the Related Entity in accordance with the terms of the Agreement;

- (iv) No information furnished by the Related Entity to the Bank in connection with the Agreement is inaccurate in any material respect, contains any material misstatement of fact, or omits any fact necessary to make such statements not misleading, as of the date it is dated, or if not dated, the date it is given to the Bank; and
 - (v) The Related Entity has not been induced to enter into the Agreement by any representations or statements, verbal or written that have not been expressly incorporated herein by reference.
- 2. The Related Entity agrees to deliver to the Bank, upon execution of the Agreement and at any time upon the Bank's request, a certified copy of a duly adopted resolution, unanimous consent or other similar corporate document or official record authorizing the execution of the Authorization and Agreement and the granting of authority to the person(s) identified therein.
 - 3. Related Entity represents and warrants that it is either a Parent, Subsidiary, or Affiliate of the Customer, and that if Customer is a Parent of any Subsidiary Related Entity listed, that the Related Entity has duly authorized Customer Parent under applicable governing documents to exercise both the voting power and equity of the Related Entity, and that no third party holds any veto power or approval right over (A) Customer's ability to appoint a majority of the directors, managers or other members of the Related Entity's governing body, (B) Customer's ability to determine the Related Entity's strategy and direction, or (C) Customer's ability to bind the Related Entity to this Agreement.
 - 4. If Customer is a Subsidiary of any Parent Related Entity listed, that the Related Entity has duly authorized the Subsidiary Customer to enter into this Agreement, to bind the Related Entity to this Agreement and to take all necessary actions to obtain Services under this Agreement, and that no third party holds any veto power or approval right over Customer's ability to fulfill Customer's obligations under this Agreement.
 - 5. If Customer is an Affiliate of any Affiliate Related Entity listed, that Customer is duly authorized by its governing documents, or by actions of the Affiliate Related Entity, to enter into this Agreement, to bind the Affiliate Related Entity to this Agreement, and to take all necessary actions to obtain Services under this Agreement, and that no third party holds any veto power or approval right over Customer's ability to fulfill Customer's obligations under this Agreement.
- v. Customer and each Related Entity agrees that it has:
- 1. Fully advised the appropriate owners, officers, and other personnel regarding the terms hereof and taken any and all actions required by its governing documents to appoint the Authorized Treasury Signer to act on its behalf and that the Authorized Treasury Signer has full authority to execute this Agreement on its behalf;
 - 2. Agreed that any Related Entity may be linked with or removed from a link with Customer and any other Related Entity at any time and confirmed there are no prohibitions against linking these accounts by any of the governing documents;
 - 3. Authorized the initiation of transactions using the Bank's Security Procedures applicable to any Service and agrees that the Security Procedures provide a commercially reasonable process for the Bank to authenticate transactions and instruction received through the Service;
 - 4. Agreed that any Authorized Treasury Signer may execute this Agreement and initiate any Service by electronically providing a signature in the applicable spaces;

5. Agreed that any Authorized Treasury Signer or System Admin may add any Certificate of Deposit Account to the list of Accounts subject to this Agreement, if the Certificate of Deposit Account is titled in the same name and tax ID as the Customer or any Related Entity with other Accounts already part of this Agreement, by emailing the Treasury Management Department of the Bank;
6. Agreed that any Authorized Treasury Signer or System Admin may add view and credit access to any Loan Account to the list of Accounts subject to this Agreement, if the Loan Account is titled in the same name and tax ID as the Customer or any Related Entity with other Accounts already part of this Agreement, by emailing the Treasury Management Department of the Bank;
7. Agreed that any Authorized Treasury Signer, System Admin, or Transactional User may initiate any Service by electronically providing a signature in the applicable spaces;
8. Agreed that if it rejects or opts out of any or all of Bank's Security Procedures, it acknowledges that its security risks are greater than they would be if it had adopted Bank's Security Procedures and assumes all liability for any risk that would have been avoided or lowered had it had used the Bank's Security Procedures;
9. Established a separate agreement between any Related Entity and the Customer, pursuant to which the Related Entity authorizes the Authorized Treasury Signer, any System Admin, or any Transactional User to act on behalf of the Related Entity to authorize the Bank to provide Services to the Related Entity and understands any possible negative impact on the Related Entity that may arise due to this authorization;
10. Agreed that the Bank will not control or restrict any transaction effected by any Authorized Treasury Signer, any System Admin, or any Transactional User on behalf of the Customer or any Related Entity;
11. Agreed that the Bank may share information regarding any Related Entity with other Related Entities as well as any Authorized Treasury Signer, System Admin, or Transactional User;
12. Agreed that the delivery of notices, documents and correspondence to Customer in connection with the Services shall be deemed to be delivery to any Related Entity;
13. Agreed that Customer and/or the Authorized Treasury Signer has been appointed as any Related Entity's agent and attorney-in-fact for the above purposes, including initiating payment orders and providing instructions to the Bank, and the Related Entity agrees to be bound by any such payment order or instruction;
14. Agreed that any acts on behalf of the Customer and any Related Entity relating to the Services performed prior to the passage of these resolutions are hereby ratified and approved;
15. Agreed that that Bank will not enforce any request for two or more signatures to withdraw funds from any account;
16. Agreed, that if Related Entity is a Trust, Related Entity has authorized Customer (if Customer is not the Trustee) and the Authorized Treasury Signer (if Authorized Treasury Signer is not the Trustee) as the Trust's agent under this Agreement;
17. Agreed that Bank did not, at any time, solicit Related Entity to authorize Customer to act on behalf of Related Entity;

18. Agreed that Bank is allowing Related Entity to authorize Customer under the Agreement as an accommodation to and at the express request of Related Entity;
19. Agreed that Bank is not responsible for reviewing and understanding any negative impact on the Related Entity that may arise due to the authorization of the Customer under the Agreement, including but not limited to, loss of any insurance coverage, increased possibility of liability for obligations or actions of the Customer in insolvency, or increased losses due to unauthorized transactions;
20. Agreed that Bank will not control or restrict any transaction effected by Customer on any of Related Entity Accounts;
21. Agreed that Customer may access information and funds in any of Related Entity Accounts, using the Service, and such access may increase the risk of unauthorized activity, improper comingling, and misapplication of funds;
22. Agreed that the multiple account access feature will allow Customer to utilize a single set of Security Procedures to access all Customer and Related Entity Accounts using the Service which may result in significant diminution in the protection offered by such security codes or procedures;
23. Agreed that the Security Procedures provide a commercially reasonable process for the Bank to authenticate transactions and instruction received through the Service, taking into consideration the size, type and frequency of transactions conducted by Related Entity;
24. Agreed that except to the extent expressly prohibited by law or regulation, Customer and each Related Entity will be bound by any transaction or instruction received by the Bank through the Service if the instruction or transaction is in the name of the Related Entity or in the name of the Customer and: a. The payment order or other instruction was actually authorized by the Related Entity or the Customer; or b. the Bank verifies the authenticity of the payment order or other instruction using the Security Procedures (or a security procedure selected by Customer), whether or not the payment order or other instruction was actually authorized by the Related Entity or the Customer;
25. Agreed that Bank's obligations with respect to Customer or Related Entity funds shall be limited strictly and specifically to those expressly set forth in the Agreement;
26. Agreed that notwithstanding any agreed limitation on the Bank's information sharing rights under law or otherwise, Customer and Related Entity instructs Bank to share information regarding Related Entity with Customer and agrees that Customer may share Related Entity information with System Admins and with Transactional Users authorized by Customer or System Admin;
27. Agreed that Customer and Related Entity fully agrees to be bound by the terms hereof in respect of its Accounts, including with respect to, among other things, the charging of fees to its Accounts as described in the Agreement;
28. Agreed that Customer and Related Entity hereby assumes all obligations and risks pursuant to its authorization of Customer with respect to transactions affecting Related Entity's Accounts; and
29. Agreed that Customer and Related Entity has consulted with its legal counsel and accountant prior to authorizing Customer.

vi. Representations and Warranties by Related Individual.

1. Related Individual understands that Bank is acting in reliance upon Related Individual's representations and warranties and would not otherwise link Related Individual Accounts to the Customer's Accounts.
2. Each Related Individual represents, warrants and agrees that
 - (i) The Agreement constitutes the legal, valid and binding obligation of the Related Individual and that the Agreement is enforceable against the Related Individual in accordance with the terms of the Agreement;
 - (ii) No information furnished by the Related Individual to the Bank in connection with the Agreement is inaccurate in any material respect, contains any material misstatement of fact, or omits any fact necessary to make such statements not misleading, as of the date it is dated, or if not dated, the date it is given to the Bank; and
 - (iii) The Related Individual has not been induced to enter into the Agreement by any representations or statements, verbal or written that have not been expressly incorporated herein by reference. Related Individual represents and warrants that he or she is an owner of the Customer or a Related Entity or a relative of an owner of the Customer or a Related Entity.
 - (iv) Agreed that any Related Individual will not have access to the Services provided under the Agreement unless the Related Individual is designated as a Transactional User or a System Admin;

vii. Customer and each Related Individual agree:

1. That any Related Individual may be linked with or removed from a link with Customer and any other Related Individual or Related Entity at any time;
2. That they authorize the initiation of transactions using the Bank's Security Procedures applicable to any Service and agree that the Security Procedures provide a commercially reasonable process for the Bank to authenticate transactions and instruction received through the Service;
3. That any Authorized Treasury Signer may execute this Agreement and initiate any Service on their behalf by electronically providing a signature in the applicable spaces;
4. That any Authorized Treasury Signer or System Admin may add any Certificate of Deposit Account to the list of Accounts subject to this Agreement, if the Certificate of Deposit Account is titled in the same name and tax ID as the Customer or any Related Individual with other Accounts already part of this Agreement, by emailing the Treasury Management Department of the Bank;
5. That any Authorized Treasury Signer or System Admin may add view and credit access to any Loan Account to the list of Accounts subject to this Agreement, if the Loan Account is titled in the same name and tax ID as the Customer or any Related Individual with other Accounts already part of this Agreement, by emailing the Treasury Management Department of the Bank;
6. That any Authorized Treasury Signer, System Admin, or Transactional User may initiate any Service by electronically providing a signature in the applicable spaces;

7. That if he or she rejects or opts out of any or all of Bank's Security Procedures, he or she acknowledges that his or her security risks are greater than they would be if he or she had adopted Bank's Security Procedures and assumes all liability for any risk that would have been avoided or lowered had he or she had used the Bank's Security Procedures;
8. That they established a separate agreement between Related Individual and the Customer, pursuant to which the Related Individual authorizes the Authorized Treasury Signer, any System Admin, or any Transactional User to act on behalf of the Related Individual to authorize the Bank to provide Services to the Related Individual and understands any possible negative impact on the Related Individual that may arise due to this authorization;
9. That the Bank will not control or restrict any transaction effected by any Authorized Treasury Signer, any System Admin, or any Transactional User on behalf of the Customer or any Related Individual;
10. That any Related Individual will not have access to the Services provided under the Agreement unless the Related Individual is designated as a Transactional User or a System Admin;
11. That the Bank may share information regarding any Related Individual with other Related Entities as well as any Authorized Treasury Signer, System Admin, or Transactional User;
12. That the delivery of notices, documents and correspondence to Customer in connection with the Services shall be deemed to be delivery to any Related Individual;
13. That Customer and/or the Authorized Treasury Signer has been appointed as any Related Individual's agent and attorney-in-fact for the above purposes, including initiating payment orders and providing instructions to the Bank, and the Related Individual agrees to be bound by any such payment order or instruction;
14. That any acts on behalf of the Customer and any Related Individual relating to the Services performed prior to the passage of these resolutions are hereby ratified and approved;
15. That that Bank will not enforce any request for two or more signatures to withdraw funds from any account;
16. That Bank did not, at any time, solicit Related Individual to authorize Customer to act on behalf of Related Individual;
17. That Bank is allowing Related Individual to authorize Customer under the Agreement as an accommodation to and at the express request of Related Individual;
18. That Bank is not responsible for reviewing and understanding any negative impact on the Related Individual that may arise due to the authorization of the Customer under the Agreement, including but not limited to, loss of any insurance coverage, increased possibility of liability for obligations or actions of the Customer in insolvency, or increased losses due to unauthorized transactions;
19. That Bank will not control or restrict any transaction effected by Customer on any of Related Individual Accounts.

20. That Customer may access information and funds in any of Related Individual Accounts, using the Service, and such access may increase the risk of unauthorized activity, improper comingling, and misapplication of funds;
21. That the multiple account access feature will allow Customer to utilize a single set of Security Procedures to access all Customer and Related Individual Accounts using the Service which may result in significant diminution in the protection offered by such security codes or procedures;
22. That the Security Procedures provide a commercially reasonable process for the Bank to authenticate transactions and instruction received through the Service, taking into consideration the size, type and frequency of transactions conducted by the Customer and the Related Individual;
23. That except to the extent expressly prohibited by law or regulation, Customer and each Related Individual will be bound by any transaction or instruction received by the Bank through the Service if the instruction or transaction is in the name of the Related Individual or in the name of the Customer and: a. The payment order or other instruction was actually authorized by the Related Individual or the Customer; or b. the Bank verifies the authenticity of the payment order or other instruction using the Security Procedures (or a security procedure selected by Customer), whether or not the payment order or other instruction was actually authorized by the Related Individual or the Customer;
24. That Bank's obligations with respect to Customer or Related Individual funds shall be limited strictly and specifically to those expressly set forth in the Agreement;
25. That notwithstanding any agreed limitation on the Bank's information sharing rights under law or otherwise, Customer and Related Individual instructs Bank to share information regarding Related Individual with Customer and agrees that Customer may share Related Individual information with System Admins and with Transactional Users authorized by Customer or System Admin;
26. That Customer and Related Individual fully agrees to be bound by the terms hereof in respect of his or her Accounts, including with respect to, among other things, the charging of fees to his or her Accounts as described in the Agreement;
27. That Customer and Related Individual hereby assumes all obligations and risks pursuant to his or her authorization of Customer with respect to transactions affecting Related Individual's Accounts; and
28. That Customer and Related Individual has consulted with his or her legal counsel and accountant prior to authorizing Customer.

viii. No Two-Signature Monitoring Available.

1. Each Customer and Related Entity understands and agrees that Bank will not monitor for any two-signature requirement the Customer or Related Entity may have for any request for funds including checks. Each Customer and Related Entity represents, warrants and agrees that should there be any such two-signature requirement in the Customer or Related Entity's governing documents, each Customer or Related Entity have been duly authorized by all necessary action to agree that Bank will not monitor any two-signature requirement.

23. Compliance with Laws.

- i. Bank and Customer each agree to comply with provisions of all applicable federal, state, county or municipal laws, regulations or ordinances, and shall be responsible for obtaining any and all authorizations from any applicable governmental authority that may be required for the party to perform hereunder. Furthermore, both parties agree to comply with applicable federal and state privacy laws and anti-money laundering laws. Customer agrees that it shall not use any Services, including Remote Deposit Now Services, in any manner that is designed or has the effect of violating or evading any laws with regards to currency controls, money laundering or banking secrecy.

24. Limitations of Liability.

- i. Generally.
 1. To the extent permitted by law, and except for the remedies provided expressly herein for breach of the Agreement, the Customer agrees that the Bank will have no liability whatsoever for any loss, damage, or claim (collectively, a "Claim") arising out of the performance of or non-performance of any Service in accordance with the terms of the Agreement, **EVEN IF SUCH CLAIM ARISES, IN WHOLE OR IN PART, FROM THE BANK'S NEGLIGENCE**, but excluding any claim arising from the Bank's gross negligence or willful misconduct.
 2. The Bank's duties and responsibilities to the Customer are strictly limited to those described in the Agreement, except with respect to any provisions of the law which cannot be varied or waived by agreement. **TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE BANK WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE OR ANTICIPATED PROFITS) OR FOR ANY INDIRECT LOSS THAT THE CUSTOMER MAY INCUR OR SUFFER IN CONNECTION WITH THE SERVICES PROVIDED HEREUNDER (EVEN IF THE BANK HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES), INCLUDING WITHOUT LIMITATION, ATTORNEYS' FEES.**
 3. Any third-party service provider used by Bank is an independent contractor and not the Bank's agent.
 4. **TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, BANK AND ITS AFFILIATES AND SUPPLIERS MAKE NO WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, ABOUT ANY OF THE SERVICES, ANY PROCESSING EQUIPMENT OR ANY PROCESSING SOFTWARE DESCRIBED IN THIS AGREEMENT, AND HEREBY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT.**
 5. To the fullest extent permitted by applicable law, and without limiting the generality of the foregoing, the Bank shall not be liable at any time to the Customer or any other person or entity for loss, charge, fee, penalty, expense or other damage resulting from any failure or delay of the performance of the Bank's responsibilities under the Agreement which is caused or occasioned by any act or thing beyond the Bank's reasonable control, including, without limitation, legal restraint, interruption of transmission or communication facilities, equipment failure, electrical or computer failure, war, emergency conditions, acts of God, fire, storm, or other catastrophe, or inability to obtain or delay in obtaining Wire Services, Internet access, electronic transfers, or electronic file exchange, or refusal or

delay by a service provider or another bank or financial institution. In addition, the Bank shall be excused from any failure or delay in executing a transaction hereunder, if such execution would result in the violation of any applicable state or federal law, rule, regulation or guideline.

6. To the fullest extent permitted by applicable law, the Customer agrees that the Bank shall not have any liability whatsoever for any loss caused by the act, error, or omission of the Customer or any other person, including, without limitation, any service provider, any Internet access service provider, any federal reserve bank or transmission or communications facility or any intermediary or receiving financial institution, and no such person shall be deemed the Bank's agent. The Customer understands and agrees that the fees charged for the performance of the Service(s) have been established in contemplation of these limitations on liability.

ii. Statute of Limitations.

1. The Customer agrees that any Claim, action, suit or proceeding against the Bank for damages resulting in any respect from its acts or omissions in its performance of the Service(s) hereunder must be brought within two (2) years from the date of the Bank's alleged act or omission.

iii. Notification in the Event of Claim.

1. The Customer agrees to immediately notify the Bank of any Claim by the Customer, or any Claim that is made to the Customer by a third party, where an act or omission by the Bank in connection with any Service is alleged to have caused the Customer or such third party to sustain any damages.

iv. Other Limitations.

1. The Customer agrees that any Account(s) it may have at the Bank may be subject to additional liability limitations that are described in the Account Agreements for any such account(s).

v. Reporting of Errors.

1. The Customer acknowledges that it is not possible for Services provided by the Bank hereunder to be free of operator, program or equipment error, and that errors in processing and compiling account data may occasionally occur, requiring adjustments. As such, the Customer agrees to review and verify all results and to maintain adequate controls for insuring both the accuracy of data transmissions and the detection of errors. Unless otherwise required by law, the Bank's sole responsibility for reporting errors caused by it will be to reprocess information and reports for the applicable period in question and to submit corrected reports at its own expense to the Customer.

25. Indemnification.

- i. **TO THE EXTENT PERMITTED BY LAW, THE CUSTOMER AGREES TO INDEMNIFY, DEFEND, RELEASE AND HOLD HARMLESS THE BANK AND ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS, INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY DAMAGE, LOSS, OR LIABILITY, INCLUDING WITHOUT LIMITATION FINES, PENALTIES, REASONABLE ATTORNEYS' FEES AND COURT COSTS (COLLECTIVELY, A "LOSS") WHICH RESULT, DIRECTLY OR INDIRECTLY, FROM THE BANK'S PROVIDING SERVICES TO THE CUSTOMER HEREUNDER, EVEN IF SUCH LOSS ARISES, IN WHOLE OR IN PART, FROM THE BANK'S NEGLIGENCE, BUT EXCLUDING ANY LOSS ARISING FROM**

THE BANK'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, UNLESS OTHERWISE EXPRESSLY PROVIDED IN THE AGREEMENT OR THE APPLICABLE ACCOUNT AGREEMENTS.

26. Specific Performance.

- i. The Customer agrees that money damages may not be sufficient remedy for any breach of the Agreement and that the Bank shall be entitled to specific performance in addition to any other remedies, at law or in equity, as a remedy for any breach.

27. Termination.

- i. By the Bank With Cause. The Bank may, in its sole discretion, terminate the Agreement in its entirety or with respect to one or more specified Service(s) effective immediately if: (i) the Customer fails to maintain adequate collected balances to cover all transactions, costs and expenses relating to one or more Service(s); (ii) there is an occurrence of a material change in the Customer's credit and/or risk analysis criteria as determined by the Bank in its sole and absolute discretion; (iii) the Bank at any time determines that the Customer or the Customer's third-party vendor does not meet the Bank's risk or other qualification requirements; (iv) there is an occurrence of a material change in Customer's credit and/or risk analysis criteria as determined by Bank in its sole and absolute discretion, and Customer refuses to execute the Bank's Treasury Management Services Guaranty upon request of Bank; (v) Bank discovers any willful misconduct (including but not limited to writing or knowingly passing bad checks, or types of fraudulent activity) on the part of Customer or any other party with respect to electronic images submitted by Customer if Customer utilizes the Bank's Remote Deposit Now Services or originated electronic Entries if the Customer utilizes the Bank's Services; (vi) the Customer is in default of any terms of a Service specific provisions of this Agreement where such default gives Bank the right to terminate, immediately or otherwise, the Agreement or a specific Service; (vii) the Customer has selected a particular Service, but Customer has not used such Service for a period of time deemed to constitute an inactive Service by Bank (in Bank's sole discretion); or (viii) the Customer is in default of any terms of the Agreement or any other agreement with the Bank. In any of these events, the Bank's sole obligation shall be to provide notice of its termination of the Agreement to the Customer as soon as is commercially reasonable.
- ii. By Either Party for Any Reason. Either party may terminate the Agreement, with or without cause, in its entirety or with respect to one or more specified Service(s) at any time, upon thirty (30) days written notice to the other of its intent to do so.
- iii. Rights and Responsibilities Upon Termination. In the event of termination of the Agreement or any Service hereunder, the rights and responsibilities of the parties shall continue through any applicable settlement period including the Customer's responsibility to pay the Bank for Service(s), and to maintain a Reserve Account as otherwise stated in this Agreement, with respect to transactions processed prior to the effective date of termination. If this Agreement, or any Service, is terminated by Bank, Bank may accelerate all amounts due and to become due under this Agreement, and Customer shall promptly make full payment to Bank of all amounts due and amounts incurred under this Agreement. If Customer utilizes the Remote Deposit Now Services, termination of this Agreement for any reason shall automatically terminate the limited license to the Processing Software granted in the Remote Deposit Now Services Section, and Bank has the right to demand immediate return of the Processing Software, the Processing Equipment and all Documentation (as those terms are defined in the Remote Deposit Now Services Section and in Definitions). In the event that Customer fails to immediately return such items upon the written demand of Bank, Bank shall have the authority to enter the premises of Customer to remove such items.

28. Governing Law; Venue; Jury Trial Waiver; Class Action Waiver.

- i. The Customer and the Bank agree that any controversy or Claim between the Customer and the Bank, or between the Customer and any of the officers, employees, agents, or affiliated companies of the Bank, arising out of or relating to the Agreement, or any of the transactions contemplated under the Agreement, or any of the Services provided pursuant to the Agreement, or any of the discussions or negotiations leading up to the making of the Agreement, or any relationship that results from any of the foregoing, whether based in contract, or an alleged tort, or on any other legal theory, and whether asserted as an original or amended claim, counterclaim, cross claim, or otherwise, shall be governed by federal law and all applicable substantive laws of the State of Texas (without regard to its conflict of laws principles), including the Uniform Commercial Code as adopted by the State of Texas. The Bank is located in Texas and that is where the Customer opens the Customer account(s). In addition, Bank is subject to certain federal and state regulations, as well as national and local clearing house rules regarding some of the matters addressed in this Agreement, and Bank must comply with these laws, regulations and rules. The Customer agrees that if there is any inconsistency between the terms of this Agreement and any applicable law, regulation or rule, the terms of this Agreement will prevail to the extent any such law, regulation or rule may be modified by agreement. Venue for the resolution of any disputes under this Agreement shall be in the state or federal courts located in Tarrant County, Texas. **AS PERMITTED BY APPLICABLE LAW, CUSTOMER AND BANK, FOR THEMSELVES AND EACH OF THEIR RELATED ENTITIES, RELATED INDIVIDUALS, SUCCESSORS AND ASSIGNS, HEREBY IRREVOCABLY WAIVE THE RIGHT TO TRIAL BY JURY OF ALL DISPUTES, CONTROVERSIES AND CLAIMS BY, BETWEEN OR AGAINST EITHER THE CUSTOMER OR THE BANK WHEN THE DISPUTE, CONTROVERSY OR CLAIM IS TO BE DECIDED BY A COURT. ANY SUCH DISPUTES, CONTROVERSIES, OR CLAIMS SHALL BE RESOLVED BY A JUDGE SITTING WITHOUT A JURY. IF PERMITTED BY APPLICABLE LAW, CUSTOMER AND BANK ALSO WAIVE THE RIGHT TO LITIGATE IN COURT OR AN ARBITRATION PROCEEDING ANY DISPUTE, CONTROVERSY, OR CLAIM AS A CLASS ACTION, EITHER AS A MEMBER OF A CLASS OR AS A REPRESENTATIVE, OR TO ACT AS A PRIVATE ATTORNEY GENERAL.**

29. Attorney's Fees.

- i. If either party named herein brings an action to enforce the terms of this Agreement or to declare rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to his reasonable attorney's fees to be paid by the losing party as fixed by the court.

30. Assignment.

- i. The Customer may not assign all or any part of its rights or obligations under the Agreement without the Bank's prior express written consent, which may be withheld in the Bank's sole discretion. The Bank may assign or delegate all or any part of its rights or obligations under the Agreement, including, without limitation, the performance of the Services described herein. The Agreement will be binding on and inure to the benefit of the successors and permitted assigns of either party.

31. No Third-party Beneficiaries.

- i. The Agreement is for the benefit of the Customer and the Bank and is not intended to grant, and shall not be construed as granting, any rights to or otherwise benefiting any other person, except as expressly otherwise provided for in the Agreement.

32. Other Agreements; Severability; Construction.

- i. If any provision of the Agreement or of any writing used in connection with the Agreement is unlawful or unenforceable, each such provision or writing will be without force and effect without thereby affecting any other provision hereof. No waiver of the provisions herein shall be effective unless in writing and signed by the party to be charged with such waiver. No waiver shall be deemed a continuing waiver unless expressly so stated in writing. The headings in the Agreement are for convenience or reference only and will not govern the interpretation of the provisions. Unless it would be inconsistent to do so, words and phrases used in the Agreement should be construed so the singular includes the plural and the plural includes the singular. Any provision that by its terms or operation is designed to survive termination, expiration or cancellation of this Service shall so survive.

33. Definitions.

For purposes of this Agreement and where applicable, to the Bank's Quick Reference Guides, the following definitions apply. If any capitalized term is used in Regulation CC (Vol. 12 of the U.S. Code of Federal Regulations, part 229) promulgated by the Board of Governors of the Federal Reserve Board (the "FRB"), as it may be amended, substituted for, or recodified from time to time ("Reg. CC"), then such term generally shall have the meaning assigned to it in Reg. CC. To the extent that any of the defined terms use a term not defined herein but otherwise defined in Reg. CC, then such definition also incorporates the meaning assigned to the applicable term as set forth in Reg. CC. Other non-grammatical capitalized terms used in the Agreement, if defined herein or in the Agreement, are given the meaning assigned to such terms the first time the term is used. All other non-grammatical capitalized terms used that are not otherwise defined herein shall have the meaning given to such term in Article 3 or Article 4 of the Uniform Commercial Code effective in Texas as amended from time to time ("UCC").

"AAI" means Additional Authentication Information.

"Account" means a Demand Deposit Account, or other deposit account, or other asset or loan account established by Customer, Related Entity, or Related Individual.

"Account Agreements" means any Deposit Account or Loan Agreement applicable to a Customer, Related Entity, or Related Individual.

"ACH" means Automated Clearing House.

"ACH Blocking" means ACH debit and/or credit Entries are returned to the Originator with no notice to Customer.

"ACH Entries" means transactions on the ACH network.

"ACH Filtering Services" means except for those ACH Entries originated by the Bank on its own behalf, all ACH Entries originated by another party either through Bank's services or received from another ODFI will be blocked unless an approved identifier for that transaction has been provided to Bank. The company ID of the Originator or the individual ID of the Receiver are the available identifiers of the transactions.

"ACH Services" means Bank's ACH origination services that allow the Customer to be an Originator of ACH Entries.

"Agreement" means the Treasury Management Services Agreement (also referred to as a cash management agreement).

“Affiliate” means a person or entity directly or indirectly controlling, being controlled by, or under common control with another person or entity.

“ANS X9.13” means the standard promulgated by ANSI entitled “Specifications for Placement and Location of MICR Printing” for Original Checks, or any amended or successor standard designated by the FRB.

“ANS X9.37” means the standard promulgated by ANSI entitled “Specifications for Electronic Exchange of Check and Image Data” or any amended successor standard designated by the FRB for all forward and return image cash letter files.

“ANS X9.100-140” means the image quality standard promulgated by ANSI entitled “Specifications for an Image Replacement Document – IRD” or any amended or successor standard designated by the FRB.

“ANSI” means the American National Standards Institute.

“Authorization” means each authorization provided by the Customer pursuant to Schedules A, B, and C attached to the Agreement.

“Authorized Account” means each account authorized by the Customer pursuant to Schedules A, B, and C attached to the Agreement.

“Authorized Treasury Signer” means a natural person or entity who has the authority to do the following: 1) to sign the Agreement and any addenda thereof and accept on behalf of the Customer the terms and conditions governing the use of Services, including acceptance of Security Procedures; 2) to appoint Daily Limits Managers, 3.) to appoint and remove System Admins; and 4.) to exercise all of the powers of a System Admin. If an entity, the entity shall authorize a natural person to sign on behalf of the entity in its role as Authorized Treasury Signer.

“Automated Clearing House Operator” – An ACH Operator is the central clearing facility operated by a private organization or the Federal Reserve Bank on behalf of Depository Financial Institutions.

“Bank” means Susser Bank and any agents or Third-Party Providers of the Bank.

“Bank Agreements, Schedules and Disclosures” means Account Agreements and related Account signature cards and authorizations, funds transfer agreements, the applicable Deposit and Loan Account disclosures, the Bank’s service schedule, the Bank’s Schedule of Funds Availability, any credit account agreements relating to any credit accounts the Customer may have with the Bank and any other agreement, schedule or disclosure given by Bank to the Customer, Related Entity, or Related Individual.

“Bank Proprietary Property” means all trademarks, trade names, service marks, copyrights, programs, specifications, software, systems designs, applications, routines, techniques, enhancements, software codes, test keys, security devices, Security Procedures, documentation, manuals, ideas and formulas utilized or developed and provided by the Bank in connection with the Agreement and the Services provided hereunder, whether online via the Bank’s website or otherwise and have great commercial value to the Bank.

“Business Day” means any day on which a majority of the Bank’s offices are open to the public for conducting substantially all business functions shall be a “Business Day”; provided, however, that Saturdays, Sundays and federal holidays are not Business Days even if a majority of the Bank’s offices are open.

“Certificate of Deposit Account” means an account for a certificate of deposit for Customer or Related Entity or Related Individual.

“Check 21” means FRB Reg. CC, Subpart D, promulgated to implement the provisions of the Check Clearing for the 21st Century Act.

“Claimant Bank” means a bank that submits a claim for a re-credit for a Substitute Check to an Indemnifying Bank under Section 229.55 of Check 21.

“Collecting Bank” means any bank handling a check for forward collection, except the paying bank.

“Credit Party” means the party identified by the Customer who will initiate transfers from Customer’s account as part of a Repetitive Wire Drawdown Agreement (also known as a reverse wire agreement).

“Customer” means the commercial customer who has requested any Service from the Bank and also means a Related Entity and/or Related Individual represented by the Customer. See Represented Customer below.

“Customer’s Computer” means a computer or other electronic or mobile device with the appropriate hardware, software, and Security Procedures requirements as set forth in these General Provisions and/or as set forth in any Service specific provisions or any supplemental information and/or instructions provided by the Bank in order to use any Service.

“Customer-owned Data” means all data provided by Customer to Bank (including, but not limited to, electronic images of Substitute Checks retained on any Processing Equipment, Processing Software, or any other processing equipment or software (including Customer’s Computer) used by Customer in conjunction with Remote Deposit Now Services), and all data produced, compiled or otherwise provided by Bank to Customer, in any form or format, is the sole and exclusive property of Customer.

“Cutoff Time” means the deadline on the Bank’s website as updated from time to time for Customer to complete any action such as approvals, delivery or uploading of files, or any other action necessary for Bank to perform the requested Service.

“Daily Limits Manager” means the person authorized to request a temporary increase or decrease in the daily limits for Treasury Management Services.

“Demand Deposit Account” or “Deposit Account” means a commercial checking account for the Customer or Related Entity and means a consumer checking account for a Related Individual.

“Demand Deposit Account Agreement” or “Deposit Account Agreement” means the agreement between Customer or Related Entity or Related Individual and Bank relating to a checking account at the Bank.

“Direct Send File Processing” means the method by which the Customer may elect to send ACH Debit and Credit files to the Bank via SFTP.

“Direct Payables” means a transaction-based service that enables Customers to direct Bank to transmit payment requests drawn on Customers’ designated Account(s) by file delivery.

“Documentation” means the electronic files or written materials that provide the description, methods of operation, and required environmental and maintenance procedures of the Processing Equipment and Processing Software, including any online or manual help files.

“Domestic Wire” means a Wire Transfer that will not go outside of the United States and will be in U.S. dollars.

“Drawdown Wire” or “Reverse Wire” means the wire initiated by the Credit Party to transfer funds from the Customer’s account at the Bank to the Credit Party.

“Drawee Financial Institution” means the Financial Institution of the Drawee of a remotely deposited check.

“Electronic Transmission” means the method by which Customer may elect to send or receive instructions or reports from Bank related to Services, including, without limitation, facsimile transmission, voice mail, secured e-mail, or other electronic or telephonic methods.

“Effective Entry Date” means the business day that Customer shall specify on which it desires each batch of Entries to be Settled.

“EFTA” means the Electronic Funds Transfer Act.

“Electronic Deposit” means a file that contains information regarding each Sufficient Image Copy to be transmitted by Customer to Bank in the same batch as the Electronic Deposit and that meets all of the requirements imposed from time to time by Bank in the Procedures.

“Entry” means a transaction on the ACH network.

“Exception Check” means a Presented Check that does not match a check included in an Issued Check File.

“Exception Check Report” means a list of Exception Checks which is provided by Bank to Customer by the terms of this Agreement.

“Exception Item” means a Presented Item that does not match an item included in an Issued Check File in Positive Pay.

“Exception Item List” means a list of Exception Items.

“Exception Item Notification” means a notification by the Bank to the Customer by email, text, or other electronic means.

“Exception Report” means a report issued by the Bank and made available to the Customer at or before the time set forth on the Bank’s website of each Business Day, for the prior Business Day for each Account for which the Customer has requested the Positive Pay Service.

“Exposure Limit” means the amount (determined by Bank in its sole and absolute discretion as part of the ACH Services approval and underwriting process) consisting of Customer’s total dollar amount of all delivered and unsettled Entries in the ACH network.

“FDIC” means the Federal Deposit Insurance Corporation.

“Foreign Wire” or “International Wire” means a Wire Transfer that eventually will be credited to an account outside the United States or will be sent in a currency other than U.S. Dollars.

“FRB” means the Federal Reserve Board.

“Indemnifying Bank” means a bank that provides an indemnity under Section 229.53 of Check 21 with respect to a Substitute Check.

“Image Exchange Items” means a digital image of a check cleared and settled directly with a financial institution without conversion to a substitute check.

“Issued Check File” means a file as part of the Positive Pay Service, delivered or transmitted by the Customer to the Bank, containing the serial number, amount, date issued and status of each check by Account number in the format agreed to by the Bank and the Customer.

“Limits” means the various exposure, file, daily dollar, and transaction limits for the Services.

“Loan Account” means an account relating to a loan for Customer or Related Entity or Related Individual.

“Loan Account Agreement” means the agreement between Customer or Related Entity or Related Individual and Bank relating to a loan at the Bank.

“Login ID” means a Username.

“Magnetic Ink Character Recognition Line” or “MICR Line” mean the numbers, which may include the routing number, account number, check number, check amount and other information, that are printed near the bottom of a check in magnetic ink in accordance with the Standards.

“MICR” means Magnetic Ink Character Recognition Line.

“Micro-Entries” means an Entry used by an Originator for the purpose of verifying a Receiver’s Account. Micro-entries are ACH credits of less than \$1 and any offsetting ACH debits.

“NACHA” means the National Automated Clearing House Association.

“Nested Third-Party Sender” is a Third-Party Sender that has an agreement with another Third-Party Sender to act on behalf of an Originator and does not have a direct agreement with the ODFI.

“Non-Repetitive Transfers” means funds transfer requests made routinely with only the debit account remaining constant.

“ODFI” means the Originating Depository Financial Institution (ODFI). The ODFI is the financial institution that receives the payment instructions from Originators and forwards the entries to the ACH Operator.

“Online Banking” means accessing any Service electronically through a computer or mobile device through any portal that the Bank offers and for which the Customer possesses credentials.

“Online Wire Transfer” means a Wire Transfer initiated by a Customer via the Bank's Online Banking Services.

“On-Us Entries” means Entries received for debit/credit to an account maintained with the Bank.

“Organization” includes, but is not limited to, a corporation, limited or general partnership, limited liability partnership or limited liability limited partnership, limited liability company, trust, business trust, real estate investment trust, cooperative, association, or other organization, regardless of whether the organization is for-profit, nonprofit, domestic or foreign.

“Original Check” means the first paper check issued to or endorsed in favor of Customer with respect to a particular payment transaction.

“Originator” means an entity or natural person that agrees to initiate ACH entries into the payment system according to an arrangement with a Receiver. The Originator is usually a company directing a transfer of funds to or from a consumer or another company’s account.

“Parent” means an organization that, directly or indirectly through or with one or more of its subsidiaries: (a) owns at least 50 percent of the outstanding ownership or membership interests of another organization; or (b) possesses at least 50 percent of the voting power of the owners or members of another organization.

“Pay Request” means the instruction of Customer to Bank ordering Bank to pay an Exception Check.

“Person” includes a corporation, organization, government or governmental subdivision or agency, trust, business trust, real estate trust, estate, partnership, association, and any other legal entity.

“PII” means personally identifiable information.

“PIN” means personal identification number.

“Prefunding” means the option offered by the Bank, at the Bank’s discretion, to the Customer to obtain ACH Services on a pre-funded basis if a Customer prefers to prefund ACH credit Entries or does not meet the Bank’s minimum credit and risk analysis requirements to become fully approved for ACH Services.

“Presented Check” means a check drawn on an Authorized Account and presented to Bank for payment through the check collection system.

“Presented Item” means either a Presented Check or another item such as an ACH Entry drawn on an Authorized Account and presented to Bank for payment.

“Processing Equipment” means the personal computer central processing unit (CPU), keyboard, mouse and scanner and any other equipment made available by Bank (or provided by Customer subject to Bank’s approval) to permit its commercial banking Customer to engage in Remote Deposit Now activities.

“Processing Software” means the software either loaded on the Processing Equipment by Bank or otherwise downloaded to the Processing Equipment that administers the Remote Deposit Now process, captures Original Check images and transmits captured images for deposit.

“RCK” means Returned Check ACH Entry.

“RDFI” means a Receiving Depository Financial Institution. The RDFI is the Depository Financial Institution that receives ACH entries from the ACH Operator and posts the entries to the accounts of its depositors (Receivers).

“Receiver” means a natural person or an organization that has authorized an Originator to initiate an ACH entry to the Receiver’s account with the RDFI. A Receiver may be either a company or a consumer, depending on the type of transaction.

“Reconverting Bank” means (1) the bank that creates a Substitute Check; or (2) with respect to a Substitute Check that was created by a person that is not a bank, the first bank that transfers, presents, or returns that Substitute Check or, in lieu thereof, the first paper or electronic representation of that Substitute Check.

“Recurring TEL Entry” means a TEL Entry that an Originator repeats at regular intervals without additional authorization from the Receiver.

“Reg. CC” means Regulation CC (Vol. 12 of the U.S. Code of Federal Regulations, part 229) promulgated by the Board of Governors of the FRB, as it may be amended, substituted for, or recodified from time to time.

“Related Individual” means a consumer with one or more Accounts with Bank who authorizes the Bank to link their Accounts with any Customer Account with the submission to the Bank by Related Individual and Customer of documentation in form and content satisfactory to the Bank and the Bank, in Bank’s sole discretion, allows the linking of such Accounts.

“Related Entity” means either (a) a Parent, (b) a Subsidiary, or (c) an Affiliate of Customer.

“Remote Deposit Now” means the remote deposit capture service provided by the Bank, also known as Remote Deposit Capture or RDN.

“Repetitive Transfers” means funds transfer requests made routinely with instructions remaining constant except for the date and dollar amount.

“Repetitive Wire Drawdown Agreement” means an agreement between Bank and Customers in which Customer authorizes the credit party identified in such form (the "Credit Party") to initiate transfers from the Customer’s designated account(s) to Credit Party’s account (each a "Drawdown Wire").

“Represented Customer” means any Related Entity and any Related Individual who has authorized the Customer to act on behalf of the Related Entity or Related Individual. All Represented Customers are also a Customer,

“Reserve Account” means a separate account funded with an amount required to protect the Bank against the risks associated with Customer’s ACH operations.

“Return Request” means the instruction of Customer to Bank ordering Bank not to pay an Exception Check.

“SEC” means Standard Entry Class as used for ACH codes.

“SFTP” means a method for Customer to send files to the Bank via a Secure File Transfer Protocol that requires authentication and verification, such as the use of an ID, password and/or specified IP address, in accordance with this Agreement.

“Security Procedures” means the Security Procedures offered by the Bank described in this Agreement and, if applicable, in documentation related to the applicable Service and which may employ various authentication technologies to ensure that the Customer is communicating directly with Bank, and also to ensure that the Customer’s Computer is communicating with a legitimate Bank computer. Such Bank authentication procedures and technologies include, but are not limited to, use of Customer Online Banking Usernames, passwords and other AAI that Bank may require Customers to provide at Bank’s sole discretion. Such AAI is required as a component of various Online Banking authentication procedures that Bank may employ, including, but not limited to, security questions and responses and/or use of other hardware-based and software-based security and authentication tools, programs and procedures.

“Service” means any of the various Treasury Management services provided by the Bank.

“Standards” means the applicable standards set forth in CTA, Check 21 or as promulgated by ANSI for image quality and transmission protocols, including but not limited to, ANS X9.13 and ANS X9.100- 140 (or any amendment or substitute for such standards as may be promulgated from time to time), whether such standard pertains to the MICR Line, the image quality of the Original Check, the placement of an image of the Original Check on the Substitute Check, or the manual or electronic transfer of a Sufficient Image Copy or other electronic representation of an Original Check or a Substitute Check, unless the FRB, by rule or order determines that a different standard is to apply.

“Single TEL” – see TEL Entry

“Standing TEL” means that the Receiver has established his, her, or its Account and routing information to Originator, but Receiver must act further before Originator is authorized to create a TEL Entry.

“Subsequent TEL” means a situation where the Receiver acts after setting up previous Entry information with Originator and authorizes Originator to create a TEL Entry.

“Subsidiary” means an organization for which another organization, either directly or indirectly through or with one or more of its other subsidiaries: (a) owns at least 50 percent of the outstanding ownership or membership interests of the organization; or (b) possesses at least 50 percent of the voting power of the owners or members of the organization.

“Substitute Check” means a paper reproduction of an Original Check that (1) contains an image of the front and back of the Original Check; (2) bears a MICR line that, except as provided under the applicable Standard, contains all the information appearing on the MICR line of the Original Check at the time that the Original Check was issued and any additional information that was encoded on the Original Check's MICR line before an image of the Original Check was captured; (3) conforms in paper stock, dimension, and otherwise with ANS X9.100-140 (unless the FRB by rule or order determines that a different standard applies); and (4) is suitable for automated processing in the same manner as the Original Check.

“Substitute Check Image” means the Substitute Check image used by the Customer in the Remote Deposit Now Services.

“Sufficient Copy” and “Copy” means (1) A sufficient copy is a copy of an Original Check that accurately represents all of the information on the front and back of the Original Check as of the time the Original Check was truncated or is otherwise sufficient to determine whether or not a claim is valid. (2) A copy of an Original Check means any paper reproduction of an Original Check, including a paper printout of an electronic image of the Original Check, a photocopy of the Original Check, or a Substitute Check.

“Sufficient Image Copy” means an electronic image of an Original Check or Substitute Check that is capable of printing a Sufficient Copy of such Original Check or Substitute Check.

“System Admin” means a natural person who has been designated by you in the Request Form and has the authority to do the following: 1) to provide the required information to set up and administer Services; 2) to authorize and remove the authorization of individual Transactional Users who perform transactions related to a Service or Services; 3) to grant access to specific Accounts and Service Functions; 4) to audit Service activities of Transactional Users who perform transactions related to a Service or Services; and 5) to perform transactions related to any Service hereunder.

“TDB” means the Texas Department of Banking.

“TEL Entries” means a Telephone-Initiated Entry. TEL is a single entry (Single TEL Entry) or recurring entry (Recurring TEL Entry), debit or credit, to an Account, usually a consumer Account.

“Teller Check” means a check drawn on the Bank presented for immediate payment in person.

“Temporary Increase” means an increase in the applicable limit to the close of business of that day and in no case more than twenty-four (24) hours.

“Third-Party Provider” means any third-party entity that provides a service to the Customer on behalf of the Bank.

“Third-Party Sender” means, as defined by the NACHA Operating Rules, a type of Third-Party Service Provider that acts as an intermediary in transmitting entries between an originator and an ODFI, including through direct access, and acts on behalf of an originator or another Third-Party Sender.

“Transactional Users” means a natural person who is authorized as to one or more Service with documentation in form and content satisfactory to the Bank as an employee or agent of Customer to perform any of the transactions required by the Customer under the Agreement for that Service.

“Treasury Management Services Guaranty” means a guaranty in the form presented by the Bank to be signed by the Customer upon Bank’s request for Customer to either: (i) receive initial Bank approval for Bank’s provision of specific Service(s) to Customer; or (ii) continue receiving specific Service(s) from Bank if there is an occurrence of a material change in Customer’s credit and/or risk analysis criteria and Bank determines, in its sole and absolute discretion, that such guaranty is necessary to satisfy Bank’s credit and risk management criteria.

“Truncate” means to remove an Original Check from the forward collection or return process and send to a recipient, in lieu of such Original Check, a Substitute Check or, by agreement, information relating to the Original Check (including data taken from the MICR line of the Original Check or an electronic image of the Original Check), whether with or without the subsequent delivery of the Original Check.

“UCC” means the Uniform Commercial Code.

“Username” means the name used by the Customer to log on to access the Services, also known as User ID.

“WEB Entry” means an Internet Initiated/Mobile Entry. WEB is a single entry or recurring entry, debit or credit, to a consumer account.

“Wire Templates” means formats for repetitive, non-repetitive, foreign and tax wires established in the Bank's Online Banking Services by the Customer or manually established by the Customer based on the Customer's request.

“Wire Services” means services surrounding wires offered by the Bank.

“Wire Transfer” means a transfer of funds by wire.

“Wire Transfer Request” means a request by customer to transfer funds by wire.

II. SERVICE SPECIFIC PROVISIONS

1. ACH Services.

- i. The Service. The Bank participates in the ACH Network, which is a batch processing, store- and-forward system. Transactions received by the Bank during the day are stored and processed later in a batch mode.
- ii. The ACH Network. The ACH Network consists of: (i) Originators who initiate the transaction (the “Entry”); (ii) Originating Depository Financial Institutions (the “ODFI”) that receive payment instructions from Originators and forward them to the ACH Operator; (iii) the ACH Operator (normally the Federal Reserve Bank) which is a central clearing facility that receives and forwards transactions to Financial Institutions; (iv) Receiving Depository Financial Institutions (the “RDFI”) that post the transactions to the accounts of their depositors; and (v) Receivers of transactions which are companies or persons who have authorized the Entry to their account.
- iii. Rules. The operation of the ACH Network is governed by NACHA’s Operating Rules and Operating Guidelines (the “NACHA Rules”). A COPY OF THE OPERATING RULES OF NACHA (ACH RULES BOOK) AND ANY AMENDMENTS THEREOF, MUST BE OBTAINED AT <http://www.nacha.org>. Customer will acquire and review the ACH Rules Book on a yearly basis to remain current with ACH Origination rules and requirements. Customer hereby agrees to: (i) comply with all NACHA Rules (including, but not limited to, ACH rules) as now existing or subsequently amended; (ii) abide by the applicable laws of the State of Texas and of the United States, including but not limited to the Bank Secrecy Act, the U.S.A. PATRIOT Act, and sanctions enforced by the U.S. Treasury Department’s Office of Foreign Assets Control (“OFAC”); and (iii) obtain all information regarding the list of sanctioned individuals periodically issued by OFAC, and refrain from engaging in prohibited transactions with such sanctioned individuals or entities (particularly if Customer is providing third-party ACH processing services to other entities). Customer hereby understands and agrees that Bank is only able to provide ACH Services to Customer via Bank’s role as both an ODFI and RDFI, as applicable, under the NACHA Rules, that Bank must comply with all of the NACHA Rules in order to provide ACH Services, and that Bank’s compliance with the NACHA Rules includes, but is not limited to, immediately ceasing any ACH Services provided to Customer if Bank must, in Bank’s sole and absolute discretion, take such action against Customer to comply with NACHA Rules and to avoid or mitigate any fines or penalties being assessed against Bank by NACHA for Customer’s ACH activities.
- iv. Origination. The Bank, as an ODFI, agrees to provide ACH origination services (the “ACH Services”) to allow the Customer to be an Originator of ACH Entries pursuant to the terms of the Agreement and this ACH Services Section.
- v. ACH Services Approval and Underwriting Process.
 1. Bank Approval and Monitoring of Customer’s ACH Operations Risk. Customer agrees and acknowledges Bank shall provide ACH Services to Customer subject to Bank’s prior approval. To obtain approval from the Bank, the Customer is required to undergo the Bank’s screening and risk analysis process regarding the

Customer's proposed ACH operations. In addition, after any initial approval for ACH Services by Bank, Bank shall also, from time-to-time and in its sole discretion (including the occurrence of certain events described in subsection (iii) below), undertake additional ACH operations credit and risk analysis monitoring activities that are deemed necessary, in Bank's sole and absolute discretion, while Bank is providing ACH Services to an approved Customer. Customer agrees to cooperate with Bank regarding any ongoing risk analysis activities by Bank, including providing financial or other documents in a timely manner upon Bank's request, and taking any risk mitigation or other ACH Entry origination procedures as required by Bank.

2. **ACH Operations Credit and Risk Criteria.** Bank's ACH operations credit and risk analysis shall be based on certain factors deemed relevant by the Bank in its sole discretion, including, but not limited to, the following factors: (i) the credit worthiness, financial condition and financial performance of the Customer, particularly the Customer's capital adequacy relative to the Customer's ACH activity volume; (ii) the nature, conduct and geographic location of the Customer's business, including whether the Customer engages in certain high-risk ACH activities or transaction environments, or whether certain "Standard Entry Class" ("SEC") codes that the Bank either deems to be high-risk or does not allow are present in Customer's ACH transactions; (iii) the historic level and dollar amounts of Customer's ACH returns, including any return levels or dollar amounts in excess of generally acceptable ACH return parameters (as determined by the Bank in its sole discretion), or a sudden increase in Customer's ACH return levels; and (iv) whether the Customer adheres to all authorization requirements set forth in detail in below.
3. **Material Change in Credit and Risk Analysis Criteria.** In the event a Customer approved for ACH Services either fails to maintain the minimum risk analysis criteria as required by the Bank, or if, in the opinion of the Bank, the Customer undergoes a material change in its operations that Bank believes increases the risk of the Customer's ACH operations, then the Bank may, in its sole discretion, take any and all of the following actions: require the Customer to prefund its ACH activities (as defined below); require the Customer to establish a Reserve Account (as defined below); or terminate ACH Services to the Customer, generally upon prior written notice from Bank, or immediately if Bank deems immediate termination necessary, in Bank's sole discretion, to comply with NACHA Rules. Events that constitute a material change in a Customer's business operations include, but are not limited to: (i) levels of ACH returns that exceed generally acceptable return levels (as determined by Bank); (ii) a significant or sudden increase in the Customer's ACH return levels as compared to the Customer's historic ACH return levels; (iii) significant changes in the nature of the Customer's business, including its product and services lines or transaction environments; or (iv) the occurrence of any other event that the Bank believes represents a material change in the Customer's financial performance or financial condition. Upon learning of any such material change, the Bank will inform Customer of the issue, and the Bank may exercise its right to temporarily suspend the Customer's ACH Services in order to investigate the issue. After investigation, the Bank may invoke its rights to require the Customer to prefund ACH Services or to establish a Reserve Account, or the Bank may, in its sole discretion, exercise its right to terminate ACH Services to the Customer generally upon prior written notice from Bank, or immediately if Bank deems immediate termination necessary, in Bank's sole discretion, to comply with NACHA Rules.
4. **Reserve Account.** Upon written notification by the Bank, a Customer shall immediately establish a separate account funded with an amount required to protect the Bank against the risks associated with Customer's ACH operations (the "Reserve Account"). Such Reserve Account must be established by the date requested by the Bank, and the required Reserve Account amount expressly includes any existing or anticipated Customer-related ACH returns, including all fees, costs, fines and penalties assessed against either Customer or Bank associated with such Customer-related ACH returns. The Reserve Account will not bear interest, and the Customer will not have any right or interest in the Reserve Account funds; provided that

upon satisfaction of all of Customer's obligations under this Agreement, the Bank will pay any funds remaining in the Reserve account no sooner than ninety (90) days after the effective date of termination of Customer's ACH Services pursuant to NACHA Rules and Federal Reserve Board's Regulation E. Effective upon the establishment of any Reserve Account, the Customer irrevocably grants Bank a security interest in the Reserve Account and any and all funds in the Account, together with the proceeds thereof. Customer also agrees to execute and deliver to Bank such instruments and documents that Bank may reasonably request to perfect and confirm the security interest and the Bank's right of setoff in the Reserve Account. Customer understands and acknowledges that Customer's failure to establish and fund a Reserve Account immediately upon Bank's request shall be grounds for immediate termination of Customer's ACH Services provided by Bank, with such termination in Bank's sole discretion.

5. Prefunding of ACH Credit Entries. The Bank may choose to offer the Customer the option of obtaining ACH Services on a pre-funded basis ("Prefunding") if Customer prefers to prefund ACH credit Entries or does not meet the Bank's minimum credit and risk analysis requirements to become fully approved for ACH Services. The Bank can also exercise its rights under hereunder to require a Customer approved for ACH services to begin Prefunding its ACH Services. If the Bank exercises its rights to require Prefunding under this Agreement and Customer does not immediately comply with Bank's request, then such non-compliance shall be grounds for immediate termination of Customer's ACH Services provided by Bank, with such termination in Bank's sole discretion. If Customer uses Prefunding for ACH Services, the Customer is required to submit the ACH credit Entry file one (1) Business Days in advance of the desired settlement date. If the Customer's account has funds that are at least equal to the amount of the ACH credit Entry file, then the ACH credit Entry file will be processed as normal on the desired settlement date. However, if the Customer does not have the necessary funds collected in their account, then the ACH system will reject the file.
- vi. Delivery of Entries. The Customer shall deliver Entries to the Bank's Treasury Management Department. Entries shall be deemed delivered to the Bank when the applicable Security Procedures with respect to submission as set forth herein have been complied with and the submission to the Bank is completed in accordance with the Agreement.
- vii. Effective Date. The Customer shall specify the date on which it desires each batch of Entries to be Settled (the "Effective Entry Date"). The Effective Entry Dates specified for all Entries must be Business Days.
- viii. Cutoff Times. ACH Entries shall be delivered to the Bank no later than the Cutoff Time for this Service set forth on the Bank's website one (1) Business Day prior to their Effective Entry Date ("Cutoff Time"). If Entries are delivered to the Bank after the Cutoff Time on a Business Day, the Bank may treat such Entries as having been received on the next following Business Day. Entries delivered to the Bank shall be prepared and submitted in compliance with the formatting and other requirements as set forth in the NACHA Rules and in accordance with the provisions of the Agreement.
- ix. Sensitive Information. The Customer shall not send banking information over an unsecured Internet connection. Communications sent to the Bank over the Internet are considered unsecured unless the information is encrypted through the Bank's secure email system at secure.susserbank.com. Banking information is sensitive personal or private information that includes, but is not limited to: banking routing number, account number, Social Security number, and ACH Entries. **THE CUSTOMER ACKNOWLEDGES AND AGREES THAT ANY REQUESTS SENT VIA E-MAIL OR OTHER ELECTRONIC COMMUNICATION TO THE BANK THROUGH AN UNSECURED ELECTRONIC NETWORK ARE IN VIOLATION OF BANK AND NACHA POLICY AND PROCEDURES. THE CUSTOMER UNDERSTANDS AND AGREES THAT THE BANK IS NOT**

LIABLE FOR ANY LOSS OR DAMAGE INCURRED BY THE CUSTOMER WHEN AN UNAUTHORIZED PERSON GAINS ACCESS TO ANY SUCH E-MAIL OR OTHER ELECTRONIC COMMUNICATION. THE CUSTOMER AGREES TO INDEMNIFY AND HOLD THE BANK HARMLESS IF THE BANK ACTS WITH ORDINARY CARE IN GOOD FAITH BY RESPONDING TO ANY E-MAIL OR OTHER ELECTRONIC COMMUNICATION PURPORTED TO BE SENT BY THE CUSTOMER. THE BANK'S IMPLEMENTATION OF ITS NORMAL PROCEDURES REGARDING RECEIPT AND MAINTENANCE OF CONFIDENTIAL INFORMATION CONSTITUTES ITS EXERCISE OF DUE CARE.

- x. Authorization of Entries.
1. Authorization. Obtain authorization from the "Receiver" of any Entry (e.g., the Customer's employee or customer or other person whose account is to be debited/credited for the Entry) through either a written authorization agreement, as required by the NACHA Rules or by any other method of authorization allowed under and in accordance with the NACHA Rules, before initiating any Entry to the Receiver's account; such authorization agreement must authorize the Customer to initiate Entries to the Receiver's account and to initiate, if necessary, Entries and adjustments for any Entries made in error to the Receiver's account. The Customer shall comply with all provisions of the federal Electronic Funds Transfer Act ("EFTA"), including the requirements of Regulation E promulgated by the U.S. Federal Reserve Board in accordance with EFTA, if applicable, and the provisions of the Texas Uniform Commercial Code Section 4A, if applicable. Furthermore, the Customer shall perform its obligations in accordance with all other applicable laws and regulations, including but not limited to the foregoing with respect to obtaining and documenting authorization from the Receiver of any Entry. Customer understands, acknowledges and agrees that ACH Entries to a Receiver's account where the individual name does not match the account information will be posted based on the account information provided in the ACH transaction, not based on the name, individual identification or other information provided in the ACH Entry. It is the sole responsibility of the Customer to verify that the individual signing the ACH authorization is in fact entitled to use the specified account. The Customer may obtain and store the authorization by electronic methods as long as: (A) the electronic record accurately reflects the information in the document; (B) the electronic authorization is similarly authenticated (e.g. through the use of a digital signature, PIN, password, shared secret, etc.); and (C) the electronic record is capable of being accurately reproduced for future reference, whether by transmission, printing or other reproduction;
 2. Retention of Authorization. Retain each such authorization agreement for so long as the same remains in effect and for a period of two (2) years after the termination or revocation of such authorization agreement;
 3. Notice. Notwithstanding anything to the contrary contained in the NACHA Rules, provide positive notice to each Receiver that a pre-authorized Entry has been initiated or a correcting Entry has been made; and
 4. Proof of Authorization. Upon request from the Bank or any RDFI, provide the Bank or such RDFI with a copy of such Receiver Entry written authorization agreement, or documentation of such authorization, in accordance with the NACHA Rules.
- xi. Security Procedures. The following procedures shall be followed in delivering entries to the Bank by the Bank's Online Banking Services: (i) on the date that the entry is transmitted, the Customer (or an agent of the Customer) will have initially logged into the Bank's Online Banking Services using their log-in credentials; (ii) Bank will deploy its out-of-band Security Procedures; and (iii) the entry data will be deemed delivered to the Bank when all steps as described in this section and any additional security verifications have been complied with and the transmission is completed.

xii. Exposure Limit; File and Daily Limit (“Limits”).

1. Exposure Limit. The total dollar amount of all Entries delivered to the Bank in any one file of Entries, plus all other Entries that remain unsettled in the ACH network, shall not exceed the customer’s “Exposure Limit”. The Exposure Limit is determined by Bank in its sole and absolute discretion as part of the ACH Services approval and underwriting process described above. The Bank shall have the right to reduce the Customer’s Exposure Limit at any time immediately upon delivery of notice to the Customer.
2. File and Daily Limits for Online Banking Customers. For Customers sending ACH Entries through the Bank’s Online Banking Services, Customer’s Authorized Treasury Signer and Daily Limits Manager can establish file and daily limits within the ACH module of the Online Banking Services. When the Customer’s Authorized Treasury Signer and Daily Limits Manager instruct the Bank to change such file and daily limits, temporary changes are effective immediately. Permanent changes are available upon receipt of the executed Request, ACH files sent to the Bank are screened against these limits. Should Customer wish to temporarily increase their daily limit in excess of the Exposure Limit, the Authorized Treasury Signer or Daily Limits Manager would contact the Bank, either by telephone or email, and the Bank may grant such temporary increase at its sole discretion. Such temporary increase would end by close of business of that same business day (or longer based upon Customer’s request and Bank’s agreement in its sole discretion). Should Customer wish to permanently increase their Exposure Limit, the Authorized Treasury Signer would contact the Bank by telephone and sign any additional documentation. The Bank may increase the Exposure Limit at its sole discretion and may require either Pre-funding, or a Reserve Account.

xiii. Processing, Transmittal and Settlement by the Bank.

1. Processing. Except as otherwise provided in these ACH Services provisions, the Bank shall (i) process Entries received from the Customer conforming to the requirements of the NACHA Rules; (ii) transmit such Entries as ODFI to the ACH Operator; and (iii) settle such Entries as provided in the NACHA Rules.
2. Transmitting Next Day ACH Entries. The Bank will transmit ACH Entries by the deadline of the ACH Operator one (1) Business Day prior to the Effective Entry Date shown in such Entries, provided that in each case such Entries are delivered to the Bank by the applicable Cutoff Time and Customer has collected funds available.
3. Transmitting Same Day Credit Entries. The Bank will transmit applicable Same Day credit Entries by the deadline of the ACH Operator provided that in each case such Entries are delivered to the Bank by the deadline as set forth for the Service on the Bank’s website and Customer has collected funds available. Additional fees may apply for Same Day Entries.
4. Transmitting Same Day Debit Entries. The Bank will transmit applicable Same Day debit Entries by the deadline of the ACH Operator provided that in each case such Entries are delivered to the Bank by the deadline as set forth for the Service on the Bank’s website. Applicable fees may apply for Same Day Entries.
5. Cutoffs. If Entries are delivered late (i.e., after the applicable Cutoff Time as set forth for the Service on the Bank’s website), or if the Effective Entry Date specified for the Entries is not a Business Day, then the Bank may reject such Entries or the Bank may, in its sole discretion, use its reasonable efforts to transmit such Entries to the ACH Operator by the next reasonably available deposit deadline of the ACH Operator following the applicable deadline herein. In no event will the Bank be liable for any loss resulting from any failure of a Receiver’s account to be debited/credited for an Entry on its Effective Entry Date which results

from late delivery of the Entry to the Bank, or which results from the Effective Entry Date specified for such Entry not being a Business Day.

- xiv. **On-Us Entries.** All Entries received for debit/credit to an account maintained with the Bank (“On-Us Entries”) will be treated in accordance with this section and as otherwise provided for in the Agreement.
- xv. **Rejection of Entries.** The Bank may reject any Entry (or group of Entries) which does not comply with, and/or is not delivered in accordance with, the requirements of this Agreement, or which contains an Effective Entry Date more than fifteen (15) Business Days after the Business Day such Entry(s) is received by the Bank. The Bank shall also have the right to reject any Entry (including On-Us Entries) for any reason for which an Entry may be returned under the NACHA Rules. The Bank shall have the right to reject any Entry if the Customer has failed to comply with any of its account balance obligations under these ACH Services provisions. The Bank will notify the Customer of any such rejection by any method of notification authorized under the Agreement, no later than the Business Day such Entry would otherwise have been transmitted by the Bank to the ACH Operator, as provided in these ACH Services provisions. The Bank shall have no liability to the Customer by reason of the rejection of any such Entry or the fact that such notice is not given at an earlier time than that provided for herein.
- xvi. **Cancellation, Amendment or Correction of Entries.** The Customer shall have no right to cancel or amend any Entry after its receipt by the Bank. However, the Bank will use reasonable efforts to act on a request for cancellation or amendment of an Entry received from the Customer prior to the Bank's transmission of the Entry to the ACH Operator or, in the case of an On-Us Entry, prior to the Bank's debit/credit of the Entry to a Receiver's account, but the Bank shall have no liability if such cancellation or amendment is not effected. To request a cancellation or amendment of an Entry, the Customer shall transmit to the Bank's Treasury Management Department a copy of a written request for cancellation or amendment of an Entry, signed by an Authorized Treasury Signer, System Admin, or Transactional User of the Customer. If the Customer discovers that an Entry initiated by or on its behalf was in error, the Customer may notify the Bank of such error, however, such notification must be provided to the Bank within twenty-four (24) hours after discovery of the error and must be provided by such means of notification as is authorized under the Agreement. The Customer shall send or deliver to the Receiver written notice of such correction and the reason therefore prior to requesting the correction. The Customer shall indemnify the Bank from and against any Claims, demands, loss, liability or expense, including attorney's fees and costs, resulting directly or indirectly from compliance by the Bank with any request for cancellation, amendment or correction of an Entry, whether or not the cancellation, amendment or correction is affected.
- xvii. **Returned Entries.**
 - 1. **Notification to Customer.** The Customer or the Customer's designated Agent will receive notice of the Bank's receipt of a returned Entry (or group of Entries) from the ACH Operator in accordance with the notice procedures authorized under the Agreement no later than one (1) Business Day after the Business Day of such receipt. The Bank will debit/credit the Customer's Account (as identified by number in the applicable ACH schedule) for the returned Entry(s) and provide confirmation thereof to the Customer.
 - 2. **Resubmission.** The Customer shall assume the sole responsibility for remaking and resubmitting said Entry(s) in accordance with the requirements of the Agreement or otherwise handling the payments due the Receiver(s), unless the return was due to an error in the processing of such Entry(s) by the Bank and sufficient data is available to the Bank to permit it to remake and resubmit such Entry(s), in which event the Bank will remake and resubmit such Entry(s). The Bank assumes no other responsibility with respect to such returned Entries except for an Entry retransmitted by the Customer in accordance with the

requirements of the Agreement and the NACHA Rules, the Bank shall have no obligation to retransmit a returned Entry to the ACH Operator if the Bank complied with the requirements of the Agreement with respect to the original Entry.

3. Limit on Resubmission. Except for RCK Entries, an ACH Entry returned for insufficient or uncollected funds may be reinitiated no more than two (2) times following the return of the original Entry. For RCK Entries, an Entry returned for insufficient or uncollected funds may be reinitiated as long as the item has been presented no more than one time in its physical form and no more than one time as an RCK Entry.
- xviii. Returned ACH Entry Warning Notices. As part of the Bank's ACH Services underwriting process as generally set forth above, the Bank routinely monitors and submits reports to NACHA regarding Customers' historic ACH Entry return levels and dollar amounts. Under the NACHA Rules, if an individual Customer's ACH Entry return levels exceed certain parameters, then the Bank, as the ODFI, is instructed to take certain actions to mitigate a Customer's unacceptable levels or dollar amounts of ACH Entry returns. If Bank does not comply with such requirements in its role as an ODFI, Bank is subject to censure, fines and penalties imposed by NACHA. Customer understands and agrees that in order to protect itself from risks, and to inform its Customers of problems with returned ACH Entries, the Bank will inform Customer of Customer's excessive ACH Entry return levels or dollar amounts, as determined by the Bank in its sole discretion, and Customer agrees to take all steps requested by Bank immediately to decrease the levels and/or dollar amounts of Customer's ACH returns. If Customer fails to comply with the required actions as outlined by the Bank then such failure to comply shall be deemed to be a material violation of this Agreement, and Bank may, in its sole and absolute discretion, immediately terminate ACH Services to Customer.
- xix. Reversals. The Customer may initiate a reversing Entry for erroneous or duplicate transactions as permitted by the NACHA Rules. The Customer warrants that it has initiated the Entry within five (5) Business Days of the original Entry and within 24 hours of the discovery of the error. The Customer also warrants that the account holder of a reversing Entry has been notified of the reversal and the reason for the reversal no later than the settlement day of the reversal. The Customer indemnifies all parties of the transaction(s) from and against any claim, demand, loss, liability, or expense.
- xx. Debits/Credits to the Customer's Account.
1. Credit Entries. The Customer authorizes the Bank to debit the Customer's account for ACH credit Entries processed for the Customer either on Settlement Date or on the date the ACH credit Entry file is transmitted to the Bank if the Entry is prefunded.
 2. Debit Entries. The Bank shall credit the Customer's Account for the amounts of debit Entries processed for the Customer hereunder on the settlement date for such Entries; it being expressly understood, however, that each credit to the Customer's Account on account of a debit Entry is provisional until the Bank receives final settlement for such Entry, and the Bank may charge back to the Customer's Account the amount of any debit Entry credited to the Customer's Account for which the Bank does not, for any reason, receive final settlement.
 3. Amendments to Entries. The Customer authorizes the Bank to credit the Customer's Account for any amount received by the Bank by reason of the return or cancellation of any credit Entry transmitted by the Bank for which the Bank has previously received payment (such credit to the Customer's Account to be made on the date the Bank receives such amount), and to debit the Customer's Account for the amount of any returned debit Entry (such debit to the Customer's Account to be made upon receipt by the Bank of the returned Entry), and to debit or credit (as applicable) the Customer's Account for any amendments made to Entries or

for corrected Entries resubmitted. Customer agrees that upon termination of ACH origination activities by either Bank or Customer, the Bank may require Customer to maintain an open Account with sufficient funds to accommodate any ACH Entries returned, or any other costs, associated with any ACH transactions occurring prior to the termination of ACH origination activities. This Account shall remain available for a minimum period of sixty (60) days, or longer if Bank believes, in its sole discretion, that such time extension is necessary to accommodate additional ACH Entry returns or associated costs.

xxi. **Customer Representations; Indemnity.** The Customer represents to the Bank and agrees that:

1. **Receiver Authorizations for Credit Entries.** Each person shown as the Receiver on a credit Entry received by the Bank from the Customer has, by an authorization agreement in accordance with the NACHA Rules, authorized the initiation of such Entry and the crediting of the Receiver's account in the amount and on the Effective Entry Date shown on such Entry, and has authorized the initiation, if necessary, of debit Entries and adjustments for any credit Entries made in error to the Receiver's account;
2. **Receiver Authorizations for Debit Entries.** Each debit Entry received by the Bank from the Customer is for a sum due and owing to the Customer by the Receiver of such debit Entry, or is for a sum specified by such Receiver to be paid to the Customer, or is a correction of a previously submitted erroneous credit Entry, and such Receiver has duly authorized such Entry by an authorization agreement in accordance with the NACHA Rules. Without limiting the foregoing, re-initiation of any debit Entry previously returned for stop payment has been authorized by the Receiver;
3. **Effective Authorizations.** Each such authorization with respect to an Entry is operative at the time of transmittal or debiting/crediting by the Bank as provided herein; and at the time each Entry is processed by the Bank, the Customer has no knowledge of revocation by such Receiver of such authorization, and the Customer has no knowledge of any revocation by such RDFI of its agreement to accept such Entry, or any knowledge that such Receiver's authorization for such Entry has been terminated, in whole or in part, by operation of law or otherwise;
4. **Types of Entries.** Entries transmitted to the Bank by the Customer are limited to those types of Entries identified to the Bank by the Customer;
5. **ACH NACHA Rules.** The Customer shall be bound by and comply with the NACHA Rules as in effect from time to time, including, without limitation, the provision thereof making payment of an Entry by the RDFI to the Receiver provisional until receipt by the RDFI of final settlement for such Entry; and the Customer specifically acknowledges that it has received notice of this NACHA Rule and of the fact that, if such settlement is not received, the RDFI shall be entitled to a refund from the Receiver of the amount credited and the Customer shall not be deemed to have paid the Receiver the amount of the Entry; and
6. **Legal Obligations.** The Customer shall perform its activities under the Agreement in accordance with all applicable laws and regulations, including without limitation the regulations of OFAC of the U.S. Department of the Treasury. IN ADDITION TO THE INDEMNIFICATION OF BANK BY CUSTOMER AS SET FORTH ELSEWHERE IN THIS AGREEMENT, IN THE EVENT THAT CUSTOMER, OR A THIRD-PARTY AGENT ACTING ON BEHALF OF AND WITH AUTHORITY FROM THE CUSTOMER, IS THE ORIGINATOR OF ACH ENTRIES AND FAILS TO PERFORM ITS OBLIGATIONS AS AN ORIGINATOR UNDER THE NACHA RULES, CUSTOMER HEREBY INDEMNIFIES BANK FROM ANY AND ALL CLAIMS, DEMANDS, LOSSES, LIABILITY OR EXPENSE, INCLUDING ATTORNEYS' FEES, FINES, PENALTIES AND ANY OTHER COSTS THAT RESULT DIRECTLY OR INDIRECTLY FROM THE FAILURE OF CUSTOMER OR ITS THIRD-PARTY AGENT TO PERFORM ITS OBLIGATIONS UNDER THE NACHA RULES.

- xxii. **Express Limitations on Bank's Liability.** Customer understands and expressly assumes all risks related to Bank immediately suspending or terminating Customer's ACH Services under this Agreement, including, but not limited to, Bank immediately suspending or terminating Customer's ACH Services due to Customer's non-compliance with Bank's requirements as set forth in any "Excessive ACH Returns Warning Notice." CUSTOMER UNDERSTANDS AND EXPRESSLY ACKNOWLEDGES AND AGREES THAT, IN ADDITION TO THE LIMITATIONS ON LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BANK SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE OR ANTICIPATED PROFITS OR FOR ANY INDIRECT LOSS THAT THE CUSTOMER MAY INCUR OR SUFFER IN CONNECTION WITH BANK TERMINATING CUSTOMER'S ACH SERVICES IN ACCORDANCE WITH THIS AGREEMENT.
- xxiii. **Notifications of Change.** The Customer will receive all notifications of change received by the Bank relating to Entries transmitted by the Customer. The Bank or a third party on behalf of the Bank will send a copy of such notification of change to the Customer no later than one (1) Business Day after the Bank's receipt thereof. Customer will make such change relating to the Entries no later than six (6) Business Days after Customer's receipt thereof or prior to initiating the next Entry.
- xxiv. **Pre-notification.** Notwithstanding anything to the contrary in the NACHA Rules, the Customer may provide to the Bank, three (3) Business Days prior to initiation of any new Entry, a pre-notification record which shall include Receiver's name, identification number, account number, RDFI's routing transit number, and zero-dollar amount. If the Customer's pre-notification record is rejected by an RDFI and the Customer is so notified, the Customer must correct the reason for rejection, resubmit another pre-notification record, and wait the prescribed four (4) Business Days before submitting any further Entries for the Receiver(s) in question.
- xxv. **Data Retention.** The Customer shall retain data on file adequate to permit the remaking of Entries for one (1) year following the date of the ACH Entry transmittal by the Bank as provided herein, and shall provide such data to the Bank upon Bank's request.
- xxvi. **Blocking ACH External Debits.** As requested by Customer, ACH external debits (items not originated by or at Bank) can be completely blocked, blocked by ACH Company ID or matched against a stated maximum dollar limit as provided by Customer. Those debits in excess of this maximum dollar limit will be rejected. All transactions originating by or at Bank (including direct deposit settlement transactions) are considered internal items and will not be matched against Customer's maximum and are processed, regardless of the amount.
- xxvii. **Third-Party ACH Service Provider or Third-Party Sender.** Customer shall immediately notify Bank in writing if Customer is, or at any time becomes, a Third-Party ACH Service Provider of ACH Entries on behalf of Customer's customers or any third party. To use the ACH Service as a Third-Party ACH Service Provider, Customer must enter into a Separate Exhibit for the Third-Party ACH Service Provider Service with Bank and receive the Bank's approval. Customer shall not act as a third-party ACH service provider through the Bank without Bank approval.
- xxviii. **Direct Send File Processing.** Customer or Bank may elect to send documentation to each other via Secure File Transfer Protocol (SFTP). To use Direct Send File Processing, Customer must enroll in Direct Send File Transfer on the Request Form. Bank will maintain and support SFTP on behalf of the Customer to send and receive files via SFTP. Customer will ensure that files will be accompanied by valid authentication and

verification in accordance with this Agreement. The total dollar amount of the transaction will be debited from or credited to the Customer's Account on the date agreed between Customer and Bank. The total dollar amount of Credit/Debit Entries transmitted by Customer to Bank on any one day shall not exceed the Daily ACH Company Limit established for Customer in the Request Form. Bank may change such amount and set other exposure limits from time to time in its discretion with notice to Customer. Bank recommends that Customer use the Security Procedure of Email verification for Direct Send ACH. Should the Customer decline this Security Procedures, Customer acknowledges and accepts the heightened risk of loss to Customer's Accounts and assumes all risk of loss from fraud, forgery, hacking, or other method that might have been prevented had the Customer used the recommended security procedure of Email verification.

- xxix. **Accuracy of Entries.** Customer is responsible for providing all information required by Bank. Customer bears sole and exclusive responsibility to verify that the information set forth in Entries submitted to Bank is authentic, accurate and conforms to the NACHA Operating Rules. The Service is only designed to respond to information provided by Customer. Accordingly, any inaccuracy in any information provided by Customer may result in unintended processing by Bank. Bank bears no responsibility for detecting or reporting any error in data supplied by Customer and shall not be liable to Customer for any information provided by Customer with respect to an Entry, which is inaccurate, incomplete or otherwise incorrect.
- xxx. **Audit of Originator and Third-Party Senders.** The Bank as the ODFI shall have the right to audit the Originator for compliance with this Agreement and NACHA Operating Rules. Upon 48 hours' notice by Bank, Customer shall make all books, records and operations related to the ACH Service available for audit or inspection by Bank, Bank's independent auditors, NACHA or comparable state ACH association, and/or any regulatory authorities having supervisory and/or regulatory oversight or authority over Bank or any part of the ACH Service. Should the Customer ever operate as a Third-Party Sender, the Bank as the ODFI shall also have the right to audit for compliance with this Agreement and NACHA Operating Rules by Third-Party Senders, any nested Third-Party Sender and their respective Originators. Customer agrees that Bank may, upon one (1) Business Day notice, have its personnel or auditors audit any of Customer's records, as well as the records of any nested Third-Party Sender and their respective Originators pertaining to the matters set forth in this Agreement on a subsequent Business Day.
- xxxi. **WEB and TEL Origination Services**
1. **The Service.** The Bank provides TEL and WEB originations upon the completion by the Customer/Oriinator of the TEL and WEB Agreement. The TEL and WEB Agreement, along with this Agreement, will govern obligations relating to TEL and WEB originations including obligations regarding Specific SEC Codes. Originator agrees to remain current with all regulatory requirements related to these originations. Requirements regarding the Customer/Oriinator, authorization by the Receiver, transaction detection for Account validation, audits by the Originator, data retention of authorization, fraudulent transaction detection, as well as additional requirements for TEL Entries and WEB Entries are contained in the TEL and WEB Agreement.
 2. With regard to WEB and TEL Entries, Customer is required to retain either the original or a microfilm or microfilm-equivalent copy of each authorization of a Receiver for not less than two (2) years after the termination or revocation of the authorization. Upon request by Bank, Customer agrees to provide such originals or copies of authorizations within five (5) Business Days after such request to Bank for Bank's own use or for Bank to provide to the RDFI which has requested such originals or copies from Bank. Customer shall retain data on file adequate to permit remaking of Entries for fifteen (15) Business Days following the date of their transmittal by Bank as provided herein and shall provide such data to Bank upon its request.

2. Online Banking.

- i. The Service. The Bank agrees to provide various services and transaction functions to the Customer on selected Account(s) through Online Banking. Online Banking includes accessing any Service electronically through a computer or mobile device. If a customer wishes to have online banking services but not Treasury Management Services, the customer will sign a separate online banking form with the Bank.

3. Positive Pay.

- i. The Service. The Bank agrees to provide various Positive Pay Services to the Customer for the purposes of increasing the chance of identifying fraudulent or unauthorized checks and/or electronic transfers such as ACH entries drawn on selected Account(s), as identified to the Bank. If you decline to implement or, if implemented, decline to utilize or follow the procedures required for Positive Pay, to the extent that the services we offered may have prevented any loss, you will assume the risk of that loss, including loss from checks and ACH Entries presented against your Account that may be forged or altered.
- ii. Procedures for Positive Pay.
 1. Issued Check File For Applicable Accounts. Whereby the Customer has requested the Bank verify checks against an Issued Check File, the Customer agrees to deliver or transmit information agreed to by the Bank and the Customer, such as the payee, the serial number, amount, date issued and status of each check by Account number (such data cumulatively, the "Issued Check File") to the Bank in the format agreed to by the Bank and the Customer. Customer shall submit the Issued Check File to the Bank no later than the time set forth on the Bank's website each Business Day. With the exception of checks presented for immediate payment in person ("Teller Checks"), Issued Check File data received by the time set forth on the Bank's website each Business Day will be used to verify any check items posting to the applicable Account that Business Day. Any Issued Check File data received by the Bank during banking hours of a Business Day will be made available to the Bank's tellers within thirty (30) minutes of the Bank's receipt. Teller Checks will be cashed only if verified against the most recent Issued Check File made available to Bank tellers and, if cashed, will be posted to the applicable Account on the Business Day they are received. If the online Issued Check File is unavailable, Bank's tellers will follow normal check cashing procedures. The Customer acknowledges that any stop payment issued on a check will supersede any data transmitted hereunder.
- iii. Payment or Dishonor of Over-the-Counter Items. Bank shall compare each Over-the-Counter Item (such as Teller Checks) by serial number and amount against each Issued Check File received by Bank. On each Business Day, Bank will pay and charge each Over-the-Counter Item to the Authorized Account after validation. In the event the serial number or amount do not match a check in any Issued Check File, Bank will verify the violation received when negotiating the Over-the-Counter Item and:
 1. Return the check to the presenter of the item and that person will be referred back to the maker of the check for assistance, or
 2. If the check appears to be altered or fraud is suspected, retain the check and contact will be made with an Authorized Treasury Signer, System Admin, or Transactional User for assistance.
- iv. Payment of Presented Items and Reporting of Exception Items. Bank shall compare each Presented Item by serial number and amount against each Issued Check File received by Bank. On each Business Day, Bank:

1. shall pay and charge to the Authorized Account each Presented Item that matches by serial number and amount a check shown in any Issued Check File;
 2. shall provide to Customer an Exception Item List via Online Banking that indicates whether Bank has received any Exception Items and, if so, specifies the complete serial number and amount of any such Exception Item; and
 3. shall use its best efforts to submit Exception Item Notification to Customer by the time set forth on the Bank's website on a Business Day via e-mail.
- v. Payment and Dishonor of Exception Items. Bank will pay or return Exception Items in accordance with the default option selected by Customer for each Authorized Account.
- vi. Return Default. Where Customer has selected the return default option to apply to an Authorized Account, Bank shall return to the depository bank any Exception Item drawn on that Account, unless Customer instructs Bank to pay such check in a timely Pay Request. The Pay Request shall identify each Exception Item that Customer desires to be paid by the serial number and amount specified in the Exception Item List and shall instruct Bank to pay such Exception Item. The Pay Request shall be sent to Bank by Customer no later than the time set forth on the Bank's website on a Business Day via Online Banking. Bank shall pay and charge to the Authorized Account any Exception Item that Customer directs Bank to pay as provided above.
- vii. Pay Default. Where Customer has selected the pay default option to apply to an Authorized Account; Bank may pay and charge to the Authorized Account any Exception Item provided that Customer has not objected to such payment in a timely Return Request. A Return Request shall identify each Exception Item that Customer desires not to pay by the serial number and amount specified in the Exception Item List and shall instruct Bank to return the Exception Item. The Return Request shall be sent to Bank by Customer no later than the time set forth on the Bank's website on a Business Day. Each Pay or Return Request must be sent via Online Banking. Bank shall return to the depository bank any Exception Item that Customer instructs Bank to return as provided above.
- viii. Communications. Customer or Bank, at its discretion, may each submit to the other party a revision of any communication provided for under this Agreement. The revised communication must:
1. Be sent in its entirety via Online Banking and not in the form of a partial amendment to the communication originally sent,
 2. Identify the original communication, and
 3. Be sent immediately upon discovery of previously sent information. A properly submitted revised communication serves to revoke the original communication. Bank shall use only Issued Check Files that comply with Issued Check File requirements as set forth above and have not been revoked in the preparation of Exception Item Lists under this Agreement. Customer shall use only Exception Item Lists that comply with Payment of Presented Items and Reporting of Exception Items and have not been revoked in the preparation of Pay Requests and Return Requests. Bank shall not be obligated to comply with any Pay Request or Return Requests received in a method not permitted in this Agreement but may instead treat such a Pay Request or Return Requests as though it had not been received. Bank is not responsible for detecting any Customer error contained in any Issued Check File or Pay Request or Return Request sent by Customer to Bank. Any communication purporting to have been sent by Customer will be deemed

to have been sent by and authorized by Customer, and Bank is authorized by Customer to act in reliance thereon, even though the communication was unauthorized.

- ix. Transmittal. Issued Check Files delivered to the Bank shall be prepared and submitted in compliance with the formatting as provided. Transmissions received by the Bank after the time set forth on the Bank's website will not be posted to the Issued Check File until the next Business Day.
- x. Exception Reporting. At or before the time set forth on the Bank's website of each Business Day, the Bank will make available to the Customer an exception report (the "Exception Report") for the prior Business Day for each Account for which the Customer has requested the Positive Pay Service. The Exception Report will list (i) all check and Substitute Check items posted to the applicable Account but not on the Issued Check File; (ii) all check and Substitute Check items posted to the applicable Account that are on the Issued Check File but for an amount different than that stated on the Issued Check File; and (iii) all ACH exceptions as selected by the Customer.
- xi. Payment Authorization for Exception Items. In the event the Customer wants to authorize payment of any Exception Items, the Customer must decision its Exception Items on or before the time set forth on the Bank's website of the Business Day that the Customer received such Exceptions. Such decisions must be made via the Bank's Positive Pay portal. Any Exception Items not authorized for payment by the Customer as provided for herein will be returned.
- xii. Security Procedures. The Customer and the Bank shall comply with the Bank's Security Procedures with regard to Positive Pay Services.
- xiii. Updating Issued Check File(s). For each Account for which the Customer requests Services hereunder, the Bank will only pay Items presented for payment against such Account in accordance with the terms of the Agreement. It is the responsibility of the Customer to routinely and regularly update the Issued Check File. The Bank is not liable to the Customer or any third party for the payment or rejection of items consistent with the terms of the Agreement, or for the erroneous payment or rejection of an item due to an encoding error, posting error, or incorrect information provided by the Customer to the Bank in the Issued Check File. Should the Customer fail to routinely update Issued Check File(s), the Bank may terminate this Service immediately upon written notice to the Customer.
- xiv. Direct Send File Processing. Customer or Bank may elect to send the Issued Check File and other documentation to each other via Secure File Transfer Protocol (SFTP). To use Direct Send File Processing, Customer must enroll in Direct Send File Transfer on of the Request Form. Bank will maintain and support SFTP on behalf of the Customer to send and receive files via SFTP. Customer will ensure that files will be accompanied by valid authentication and verification in accordance with this Agreement. The total dollar amount of the transaction will be debited from or credited to the Customer's Account on the effective date. The total dollar amount of Credit/Debit Entries transmitted by Customer to Bank on any one day shall not exceed the Daily ACH Company Limit established for Customer in the Request Form. Bank may change such amount and set other exposure limits from time to time in its discretion with notice to Customer. Bank recommends that Customer use the Security Procedure of Email verification for Direct Send ACH. Should the Customer decline this Security Procedures, Customer acknowledges and accepts the heightened risk of loss to Customer's Accounts and assumes all risk of loss from fraud, forgery, hacking, or other method that might have been prevented had the Customer used the recommended security procedure of Email verification.

4. Remote Deposit Now.

- i. The Service. The Bank agrees to provide Remote Deposit Now Services (also referred to as Remote Deposit Capture Services) to Customer for the purpose of electronically depositing from Customer's premises Original Checks (U.S. Issued Only) received in the ordinary course of business for improved collections and increased availability of funds in selected Accounts identified to the Bank. Included in the Remote Deposit Now Service fees paid by Customer, and upon mutual agreement between Bank and Customer, Bank will make available the Processing Software to permit Customer to perform Remote Deposit Now activities.
- ii. Definitions. The meanings of the defined terms are set forth in the Terms and Conditions. If any capitalized term is used in Regulation CC (Vol. 12 of the U.S. Code of Federal Regulations, part 229) promulgated by the Board of Governors of the Federal Reserve Board (the "FRB"), as it may be amended, substituted for, or recodified from time to time ("Reg. CC"), then such term generally shall have the meaning assigned to it in Reg. CC. To the extent that any of the defined terms use a term not defined herein but otherwise defined in Reg. CC, then such definition also incorporates the meaning assigned to the applicable term as set forth in Reg. CC. Other non-grammatical capitalized terms used in the Agreement, if defined herein or in the Agreement, are given the meaning assigned to such terms the first time the term is used. All other non-grammatical capitalized terms used that are not otherwise defined herein shall have the meaning given to such term in Article 3 or Article 4 of the Uniform Commercial Code effective in Texas as amended from time to time ("UCC").
- iii. Procedures.
 1. Certain procedures, including certain Security Procedures designed to verify the origination (but not errors in transmission or content) of instructions, orders and other communications sent by the Bank and the Customer, might be used in connection with Remote Deposit Now ("Remote Deposit Now Procedures" or "Procedures"). The Customer agrees that any such mutually agreed-upon Security Procedures shall be deemed commercially reasonable.
 2. The Bank shall not be obligated to act on a communication not transmitted in accordance with the Security Procedures and may refuse to act on any communication where the Bank reasonably doubts its authorization, contents, origination or compliance with the Security Procedures. The Bank shall have no duty to discover, and shall not be liable for, errors or omissions by the Customer. If the Bank complies with the Security Procedures in respect of a communication, the Bank shall be entitled to act on that communication and shall not be obligated to verify the content of such communication, establish the identity of the person giving it, or await confirmation thereof, and the Bank shall not be liable for acting on, and the Customer shall be bound by, any communication sent in the name of the Customer, whether or not authorized.
 3. The Bank reserves the right to issue new Security Procedures and/or to cancel or change any Security Procedures from time to time. Whenever the Security Procedures include the assigning to the Customer of any confidential password, logon identification, identification code, or similar security device, the Customer shall not disclose such security device except to employees or agents authorized to act for the Customer in connection with Remote Deposit Now.
 4. The Customer shall implement such safeguards as are reasonably necessary to ensure the confidentiality and integrity of such security devices and shall immediately notify the Bank if the confidentiality or integrity of any such security device is breached or threatened. The Customer shall be solely responsible for the safekeeping of such security devices and assumes all risk of accidental disclosure or inadvertent use of such security devices by any party whatsoever, whether such disclosure or use is on account of the

Customer's negligence or deliberate acts or otherwise. The Bank shall not be liable for any loss or damage resulting from fraudulent, unauthorized or otherwise improper use of any security devices.

5. At all times the images captured and transmitted by Customer through Remote Deposit Now shall be sufficient for Bank or any subsequent Reconverting Bank, to print and distribute a Substitute Check in compliance with the Standards.

iv. Bank Responsibilities.

1. Bank will make available the Processing Software to Customer.
2. Bank will make available the Processing Equipment to Customer that will reasonably accommodate the Customer's anticipated requirements.
3. Bank will provide Documentation as well as installation and training support reasonably required for Customer's implementation of Remote Deposit Now Services.
4. Bank will accept for deposit and collection to the Customer's designated Account(s) the electronic images of Original Checks that are transmitted to Bank in compliance with the Standards. Electronic images shall be deemed received by Bank based upon the successful receipt of the transmission of such images that are complete, usable, and adhere to the Standards. If electronic images are not complete, are not usable, or do not adhere to the Standards, the images may not be processed by Bank, in which event Customer's deposit will be adjusted and notification provided.
5. Bank will process the Customer's electronic images that are Sufficient Image Copies after it has received Customer's transmission of electronic images. Bank will use commercially reasonable efforts to present the Sufficient Image Copies for collection under the Check 21 framework. Unless Bank notifies Customer otherwise, Bank will provide same day ledger credit to Customer's Account for all Sufficient Image Copies transmitted by Customer and received by Bank in accordance with the requirements of this Service and within the timelines established by Bank. However, Bank shall not be responsible for providing ledger credit on the same day a file is begun to be transmitted to Bank by Customer unless the file containing the electronic deposit is fully received by Bank prior to the depository cutoff time. The Bank's applicable depository cutoff time for the receipt of a file is the time set forth on the Bank's website on any Business Day for same day credit.
6. If a Drawee Financial Institution returns an image representing an item to Bank unpaid, Bank will charge Customer's respective Account for such returned item and may either (i) return the item to Customer, or (ii) re-present it to the Drawee Financial Institution before returning it to the Customer. Items may be returned as Image Exchange Items, rather than Substitute Checks. If a Drawee Financial Institution or other third party makes a claim against Bank or seeks recredit with respect to any electronic item, Bank may provisionally freeze or hold aside a like amount in the Customer's Account pending investigation and resolution of the claim.

v. Customer Responsibilities.

1. Customer will only use Remote Deposit Now to Truncate Original Checks it has received in the ordinary course of business, to transmit images of such Original Checks to Bank for credit to its Account maintained at Bank. Customer may not perform Remote Deposit Now Services for any third party, and any attempt to

do so shall automatically terminate this Remote Deposit Now Service, except for any provisions regarding this Remote Deposit Now Service that are expressly to survive such termination.

2. Customer will only perform Remote Deposit Now on the Processing Equipment unless specifically approved otherwise by Bank in writing in accordance with the provisions of this Agreement. Such approval shall be in the sole discretion of Bank.
3. Customer will only use the Processing Software provided by Bank with the Processing Equipment or such other processing equipment and software as specifically approved in writing by Bank in accordance with the provisions of this Agreement to perform Remote Deposit Now.
4. Customer shall store and process all Original Checks in a manner reasonably likely to not demagnetize the MICR Line, including using care not to store or process checks near sources of measurable electro-magnetic radiation.
5. Files that contain electronic images for deposit that purport to come from a Transactional User of the Customer will be deemed by Bank to have been lawfully transmitted by the Customer with full authorization. Accordingly, Bank recommends that Customer limit Transactional Users to its trusted or bonded employees that routinely handle cash and deposit checks for Customer, plus a limited number of supervisory personnel.
6. Customer will transmit to Bank only a Sufficient Image Copy of Original Checks for electronic deposit. No image transmitted by Customer to Bank using Remote Deposit Now represents an Original Check that has already been collected.
7. Customer shall retain each Original Check that is truncated through any Remote Deposit Now activity for a reasonable period of time, but in no event fewer than sixty (60) Days from the date of deposit or such longer time as Bank may request from time to time with respect to any specific Original Check. Customer understands that in all cases it is solely responsible for safeguarding all items it retains as required or permitted by this Service from destruction, alteration or theft in accordance with the provisions of this Agreement.
8. The Original Checks securely stored by Customer shall be maintained in deposit date order sequence for a period of sixty (60) Days and shall be made available to Bank promptly upon the request of Bank. In the absence of retaining the relevant Original Check, Customer shall be solely responsible for the cost of any claim brought by the Drawer of the check that for resolution would reasonably require access to relevant Original Check.
9. Customer agrees that it will be able to retrieve and produce for Bank any Sufficient Image Copy (or, at the Customer's option, the Original Check) in question within seventy-two (72) hours of a written (including e-mail) request by Bank. In the absence of retaining the relevant Sufficient Image Copy, Customer shall be solely responsible for the cost of any claim brought by the Drawer of the check that for resolution would reasonably require access to the relevant Sufficient Image Copy and shall indemnify Bank in accordance with the terms of both Section 25 of this Agreement and the "Customer Indemnity" Section (k) (set forth below) of this Remote Deposit Now Services Section.
10. Prior to transmittal to Bank of any electronic file that contains an image of any Original Check, Customer shall conduct an analysis of such images (and such analysis may be through the use of the Processing Software) that will evaluate the image quality, image placement and image usability of each image

transmitted, to insure that such image complies with the requirements of the Remote Deposit Now Procedures and the Standards. In the event such analysis reveals that the image quality, image placement or image usability is below that required by the Procedures and Standards, then Customer shall reprocess such Original Check until a Sufficient Image Copy is produced in compliance with the Procedures and Standards or Customer may manually submit the Item for deposit at a financial center of Bank. Customer shall also manually prepare a total of the amount of the expected Electronic Deposit and shall compare that amount to the amount the Processing Software indicates is the total for the batch of images associated with that Electronic Deposit and systematically correct any discrepancies.

11. Customer understands that Bank is relying on the truth and veracity of all electronic records transferred by Customer to Bank, and warrants that such records accurately reflect original documents that are, or at the time of the creation of the electronic records, were in the possession of Customer. Accordingly, Customer agrees that Bank may, upon one (1) Business Day notice, have its personnel or auditors and examiners appointed by Bank or a banking regulatory authority, inspect Customer's premises, the Processing Equipment, the Processing Software, and any of Customer's records pertaining to the matters set forth in this Agreement or this Remote Deposit Now Services Section.
12. Bank shall make all commercially reasonable efforts to avoid significant disruption of Customer's business operations in conducting such audit or inspection, and shall comply with Customer's reasonable workplace rules that have been communicated to the audit or inspection personnel in writing. Customer understands that Bank is a federally insured financial institution that is subject to examination by the Federal Deposit Insurance Corporation ("FDIC"), the Texas Department of Banking ("TDB") or other banking agencies, and to the extent that any such examiner requests access to any audit or inspection report of Bank, or access to the records, Processing Equipment, Processing Software or other systems, software or documents that are the subject of this Agreement, Customer shall fully cooperate with such examiners.
13. Customer understands that in all cases it is solely responsible for safeguarding all items it retains, including Original Checks and any Substitute Check images, electronic or otherwise ("Substitute Check Image"), as required or permitted by this Service from damage, destruction, alteration or theft. Customer agrees it will restrict physical access to each Original Check to those employees as would ordinarily have access to Customer's own cleared checks, or other personnel designated to specifically have access to such items pursuant to Customer's system of internal control. Customer further agrees that notwithstanding anything to the contrary in this Agreement, that Customer owns the Substitute Check Images and information it transmits to Bank, and Customer is solely responsible for safeguarding both the Original Checks and any Substitute Check information and/or images from loss, theft or other unauthorized acquisition by unauthorized persons. If and when Customer makes the decision to destroy any Original Check(s) or Substitute Check Image(s), Customer shall ensure that such destruction is conducted via a destruction method, such as cross-cut shredding or other destruction method that renders the PII and other information on the Original Check inaccessible or unreadable. In the event that Customer suffers a security breach or other incident whereby any Original Checks, Processing Equipment or other equipment, or other forms of data storage containing electronic or other images or information regarding Substitute Checks, are lost, stolen or otherwise obtained by an unauthorized person, Customer shall notify Bank immediately and shall take all necessary steps to comply with Customer's responsibility to respond to data security breach incidents as otherwise set forth in this Agreement.
14. These Original Checks will be marked "ELECTRONICALLY PRESENTED" or similar language by the Scanner and will remain with Customer for a period according to the Rules before being destroyed. The original source document must be destroyed after 60 calendar days of the settlement date of each entry unless Bank requests the original source document within that time frame.

vi. Processing Equipment.

1. To enable Customer to perform Remote Deposit Now, Customer must use the Processing Equipment provided from the Bank, or such other Customer-owned processing equipment provided that Customer has obtained Bank's prior written approval. Customer shall not load or attempt to load any software on the Processing Equipment that is not provided by Bank without permission of Bank, given in its sole discretion. The Processing Equipment shall be used solely for the performance of Remote Deposit Now, and solely for the benefit of Customer and no third party.

vii. Processing Software.

1. Customer shall receive the use of a limited, non-exclusive, non-transferable license to use the Processing Software solely for the term of this Service, and solely for the purposes set forth herein.
2. Customer may only use the Processing Software on Processing Equipment purchased or leased from the Bank, or processing equipment specifically approved in writing by Bank and at the location designated by Customer located in the United States (or such other location as approved by Bank) and reasonably approved by Bank in writing or in an electronic communication.
3. Customer understands that it shall only receive an object code version of the Processing Software, and not a source code version and Customer further agrees that in no event shall it reverse engineer or decompile the object code of the Processing Software, or otherwise attempt to discover the source code.
4. Customer shall not remove, alter or destroy any form of copyright notice, proprietary marking or confidential legend placed upon or contained within the Documentation, the Processing Software or any screen that the Processing Software causes to be displayed. All such notices, markings and legends must be included or reproduced on or in any copies made.
5. Customer recognizes that Bank has acquired most or all of the Processing Software under license from a third party and all Processing Equipment was manufactured by a third party without any specifications or customization by Bank. Customer acknowledges that Bank is unable to warrant the performance of the Processing Equipment and Processing Software, but Bank shall use commercially reasonable efforts to enforce warranties from any third-party licensor to the extent that Customer's use of the Processing Equipment and Processing Software is impeded because of defects. Customer understands and acknowledges that the Processing Software is not warranted to be error free, and Customer shall promptly bring to Bank's attention any errors in the Processing Software it discovers.
6. In the event that Customer uses its own processing equipment and processing software approved by Bank in accordance with Section (I) below, Bank has no duties regarding making or enforcing warranties regarding such equipment or software and Customer must rely upon warranties from the third party who has either manufactured or licensed such processing equipment or software.

viii. License.

1. Subject to the terms and conditions of this Agreement and these Remote Deposit Now Services specific provisions, Bank hereby grants Customer a non-exclusive, non-transferable, limited license to: (i) access and/or use the Processing Software for Customer's own business operations but only to the extent that such software resides on the Processing Equipment; and (ii) to use the Documentation in support of Customer's authorized use of the Processing Software. Customer agrees to abide by the Agreement and these provisions with respect to all Processing Software and Documentation.

ix. Provisions Applicable to Customer Related Entity Use.

1. If a Customer elects to receive the Remote Deposit Now Services, such Services also include the ability and license for Customer and its Related Entities to use the Processing Equipment and Processing Software to perform Remote Deposit Now Services to transmit an Electronic Deposit to Bank, including a file of Sufficient Image Copies of checks that total to the amount of the Electronic Deposit. Customer must list such Related Entities on Bank's appropriate authorization form. If a Customer's Related Entity maintains its normal check processing activity in a location remote from the Processing Equipment and Processing Software licensed by Bank to Customer, then such Related Entity shall also complete any forms required by Bank, and shall so license additional Processing Equipment and Processing Software, at the same fees, unless other duly authorized compensation arrangements have been made in writing between Customer and Bank. Each Related Entity, by using the Processing Equipment and Processing Software either licensed indirectly through Customer or licensed directly to the Related Entity, hereby agrees to abide by each and every term of this Agreement, including governing law, for each and every Electronic Deposit transmitted by the Related Entity.

x. Representations and Warranties.

1. It is the intention of the parties to this Agreement that the warranties deemed given by a depositor of a check to a bank under the UCC as applicable from time to time in the State of Texas shall also apply to any image or electronic representation of an Original Check transferred by Customer to Bank as if such image or electronic representation were a paper check within the meaning of the UCC. Accordingly, except to the extent that any warranties deemed given under the UCC are expressly superseded by CTA or Check 21, Customer understands that Customer shall be deemed to have given Bank all of the warranties that Customer would have given under the UCC for the deposit of an Original Check by transferring to Bank any electronic file that contains or purports to contain a Sufficient Image Copy of an Original Check. The above warranties are deemed given to Bank and any person, company or bank to which Bank transfers, presents or returns any of the images included in such electronic file as a Sufficient Image Copy or that purports to be a Sufficient Image Copy created by Bank or any subsequent bank receiving a copy of such image. Customer represents that it shall permit no entity to use the Processing Equipment and Processing Software, whether licensed to Customer directly, or licensed to one of its Related Entities, other than a Related Entity listed on the Bank's appropriate authorization form. For the purpose of avoiding doubt, and not as a limitation of the generality of the foregoing statement, Customer acknowledges that the indemnification obligations of Customer set forth herein apply equally to the activities of each Related Entity of Customer, so that Bank may call upon Customer and its assets to satisfy such indemnification obligations, even if the conduct that gave rise to the indemnity obligation was conducted by a Related Entity of Customer.

xi. CUSTOMER INDEMNITY.

1. **IF CUSTOMER ELECTS TO USE THE BANK'S REMOTE DEPOSIT NOW SERVICE THEN, IN ADDITION TO THE INDEMNIFICATION OF BANK BY CUSTOMER AS SET FORTH**

ELSEWHERE IN THIS AGREEMENT, CUSTOMER ASSUMES LIABILITY FOR, AND HEREBY AGREES TO INDEMNIFY, PROTECT AND HOLD HARMLESS BANK AND ITS AGENTS, OFFICERS, DIRECTORS, EMPLOYEES, SUCCESSORS AND ASSIGNS ("BANK INDEMNITEES"), FROM AND AGAINST ANY AND ALL LIABILITIES, OBLIGATIONS, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, OF ANY KIND OR NATURE ("DAMAGES") ARISING OUT OF THE USE OF, CONDITION (INCLUDING LATENT AND DEFECTS AND WHETHER OR NOT DISCOVERABLE BY

CUSTOMER OR BANK), OPERATION, OWNERSHIP, SELECTION, DELIVERY, INSTALLATION OR LICENSING OF ANY ITEM OF PROCESSING EQUIPMENT. NOTWITHSTANDING THE FACT THAT TITLE TO THE PROCESSING EQUIPMENT LICENSED BY BANK TO CUSTOMER SHALL REMAIN WITH BANK AT ALL TIMES, AND THAT THE PROCESSING EQUIPMENT SHALL AT ALL TIMES BE AND REMAIN THE PERSONAL PROPERTY OF BANK, CUSTOMER HEREBY EXPRESSLY AGREES TO INDEMNIFY AND REIMBURSE BANK FOR THE COST OF ANY PROCESSING EQUIPMENT THAT IS DAMAGED, LOST OR STOLEN WHILE SUCH PROCESSING EQUIPMENT IS IN THE POSSESSION AND CONTROL OF CUSTOMER (INCLUDING ANY OF CUSTOMER'S EMPLOYEES, AGENTS OR SUBCONTRACTORS), EXCEPT THAT SUCH INDEMNIFICATION AND REIMBURSEMENT COSTS SHALL NOT EXTEND TO ANY DAMAGE, LOSS OR THEFT DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF BANK. Bank shall, in its sole and absolute discretion, determine whether to seek indemnification and reimbursement from Customer for any Processing Equipment that is damaged, lost or stolen while in Customer's possession and control.

xii. **Limitation on Bank Liability for Remote Deposit Now Services.**

1. Bank shall not have any liability for any breach of any representation, warranty or covenant of this Agreement to the extent caused by:

(i) The unavailability of the external connection services and other Internet network functions; (ii) any modifications, alterations of or additions to the Processing Software or Processing Equipment performed by anyone other than Bank or Bank's designated service providers; (iii) the use of the Processing Software or the Processing Equipment by Customer in a manner not as set forth in this Agreement or any procedures or Documentation, in a manner for which it was not designed, or in combination with systems, products or components not supplied or approved in writing by Bank; of (iv) Customer's use of software, equipment or other systems not supplied by Bank.

2. **CUSTOMER UNDERSTANDS AND EXPRESSLY ACKNOWLEDGES AND AGREES THAT, IN ADDITION TO THE LIMITATIONS ON LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BANK SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE OR ANTICIPATED PROFITS OR FOR ANY INDIRECT LOSS THAT THE CUSTOMER MAY INCUR OR SUFFER IN CONNECTION WITH BANK TERMINATING CUSTOMER'S REMOTE DEPOSIT NOW SERVICES IN ACCORDANCE WITH THIS AGREEMENT.**

5. Wire Services.

- i. The Service. The Bank agrees to provide for origination of funds transfers by wire ("Wire Services" and each transfer a "Wire Transfer") through the Bank's Online Banking as accessed through Customer's Computer.

Should a Customer wish to perform a Wire Transfer manually and not through Online Banking, the Bank shall provide documentation for the Customer to fill out and establish a procedure for the process. The Bank will act upon the Customer's instructions to debit one or more specified Accounts of the Customer and will transfer funds from such Account(s) for credit to the Customer and/or other persons or companies or specified accounts in accordance with the terms hereof.

ii. Definitions. See the Definitions Section.

iii. Wire Template Maintenance; Customer's Liability for Errors to Beneficiary Information.

1. Either manually or through Online Banking, the Customer can establish Wire Templates for non-repetitive or repetitive Wire Transfers. **THE CUSTOMER UNDERSTANDS AND AGREES THAT THE CUSTOMER AND NOT THE BANK WILL CONTROL THE BENEFICIARY INFORMATION FOR ALL WIRE SERVICES, INCLUDING ESTABLISHING ANY REPETITIVE WIRE TEMPLATES, AND THAT IF ANY WIRE SERVICES INSTRUCTION BY THE CUSTOMER DESCRIBES THE INTENDED RECIPIENT OF FUNDS INCONSISTENTLY BY NAME AND ACCOUNT NUMBER THAT PAYMENT BY THE RECEIVING BANK (WHICH MAY BE THE BANK) MAY BE MADE ON THE BASIS OF ACCOUNT NUMBER ALONE EVEN IF THAT ACCOUNT IS NOT OWNED BY THE PERSON OR ENTITY NAMED IN THE WIRE SERVICES INSTRUCTION. THE BANK WILL NOT BE LIABLE FOR ANY ERRORS OR LOSSES RESULTING FROM ANY ERRORS IN OR CHANGES TO THE BENEFICIARY INFORMATION PROVIDED BY THE CUSTOMER. THE CUSTOMER HEREBY AGREES AND ACKNOWLEDGES THAT BANK IS NOT RESPONSIBLE FOR DETECTING ANY CUSTOMER ERROR CONTAINED IN ANY INDIVIDUAL WIRE TRANSFER. IN THE EVENT THAT A WIRE TRANSFER IS UNAUTHORIZED BUT EFFECTIVE PURSUANT TO THE SECURITY PROCEDURES AND OTHER PROCEDURES AGREED TO HEREIN, THE BANK IS ENTITLED TO ENFORCE OR RETAIN PAYMENT FOR THE WIRE TRANSFER FROM THE CUSTOMER UNLESS THE CUSTOMER CAN PROVE THAT THE WIRE TRANSFER WAS NOT CAUSED, DIRECTLY OR INDIRECTLY, BY A PERSON EITHER (I) ENTRUSTED AT ANY TIME WITH DUTIES TO ACT ON THE CUSTOMER'S BEHALF WITH RESPECT TO SUCH WIRE TRANSFER OR THE SECURITY PROCEDURES OR OTHER PROCEDURES HEREIN, OR (II) WHO OBTAINED ACCESS TO THE CUSTOMER'S TRANSMITTING FACILITIES OR WHO OBTAINED, FROM A SOURCE CONTROLLED BY THE CUSTOMER AND WITHOUT AUTHORITY OF THE BANK, INFORMATION FACILITATING A BREACH OF THE PROCEDURES, REGARDLESS OF HOW THE INFORMATION WAS OBTAINED OR WHETHER THE CUSTOMER WAS AT FAULT.**

iv. Wire Transfer Procedures.

1. The Customer agrees to make all Wire Transfer transaction requests according to the Security Procedures that are set forth below. Notwithstanding the foregoing: (1) in the event that any third-party wire transfer system imposes procedures upon the Bank, the Bank may immediately implement such procedures, followed by notice to the Customer; (2) the Bank is not required to act upon any transaction request that does not comply with the Bank's Security Procedures; (3) the Bank is not required to act upon any transaction request which exceeds the Customer's available balance on account with the Bank or which the Bank is unable to authenticate to its satisfaction; and (4) the Bank may revise its Security Procedures upon notice to the Customer and in such case, such revised Security Procedures shall be binding upon the Customer. Should Customer wish to temporarily increase a System Admin or Transactional User's daily limit, the Authorized Treasury Signer or Daily Limits Manager would contact the Bank, either by telephone or email, and the Bank may grant such temporary increase at its sole discretion. Such temporary increase would end by close of business of that same business day (or longer based upon Customer's request and Bank's agreement in its sole discretion). Should Customer wish to permanently increase a System Admin or Transactional User's Limit, the Authorized Treasury Signer would contact the Bank by telephone and sign any additional documentation. The Bank may increase the Limit at its sole discretion.

v. Security Procedures.

1. The Bank will only accept a funds transfer request that is made using the appropriate Security Procedures. The Bank always recommends that the Customer incorporate dual control authorities when initiating outgoing wires transfers. If the Customer chooses to allow a single Authorized Treasury Signer, System Admin, or Transactional User to draft and approve an outgoing wire transfer request ("Wire Transfer Request"), the Customer assumes all risk of any loss that could have been avoided had the Customer used the Recommended Security Procedures. The Security Procedures to initiate Online Wire Transfers are as follows: (i) the Customer will use the appropriate Username and password and multifactor authentication and (ii) wire transfers require out-of-band authentication via text or automated voice call to the number(s) specified on the Request Form. The Customer understands and accepts responsibility for maintaining a high level of security in reference to such Usernames and passwords. Pursuant to the Security Procedures, the Bank is directed to complete all funds transfer instructions received from the Customer using the Bank's Online Banking. The Bank shall have no liability for performing all funds transfer instructions submitted through the service as long as the Bank complies with the instructions received. Each Online Banking wire user will have a Username, unique password, and multifactor authentication, to access the Online Banking Wire Transfer system. Each Online Banking wire user may change his or her own password. The Customer acknowledges and accepts sole responsibility for the security of each Username issued to the Customer's Online Banking wire users and access to the service and agrees to hold the Bank harmless for complying with all instructions received from Online Banking wire users in connection with the service. The Customer understands that the Bank may not call the Customer to verify the authenticity or accuracy of any Wire Transfer instruction and that the Bank will have no liability for performing each Wire Transfer instruction without verifying the instruction with the Customer.

vi. Wire Transfer Requests.

1. Requests for transfers may be initiated online by an Authorized Treasury Signer, System Admin, or Transactional User of the Customer providing to the Bank the following information (i) Username and password; (ii) multifactor authentication; (iii) the amount to be transferred; (iv) the bank to which funds are to be transferred, identified by name and transit routing number; and (v) the name of the receiving party and/or account number to which funds are to be transferred. Prior to initiating a Wire Transfer Request, the Bank may, but shall not be obligated to, confirm by telephone with an individual identified on the Request Form. Transfer requests are defined to include any movement of funds from an account of the Customer maintained at the Bank to an account of the Customer at another bank, as well as any movement of funds from the Customer's account maintained at the Bank to any company, individual or representative of any other company. The Customer understands that if and when the Bank attempts to confirm transfers, a delay may occur pending an independent confirmation. Unless Customer has signed a limited callback agreement, there may be a callback for every wire, even online. Each Authorized Treasury Signer, System Admin, or Transactional User will have access to the Bank's Online Banking with the ability, as authorized, to draft and approve an outgoing Wire Transfer Request through a Username. It shall be the sole responsibility of the Customer to safeguard each Username. The effectiveness of the Security Procedures depends on the Customer safeguarding its Usernames and limiting access to the service to Authorized Treasury Signers, System Admins, or Transactional Users. Any act or omission of the Customer that permits any other party besides Authorized Treasury Signers, System Admins, or Transactional Users to learn any Usernames and enables the outside party to use this information to use the Bank's Online Banking destroys the security of the Usernames and the results thereof are the responsibility of the Customer. In the event that Customer has reason to believe that any Usernames have been compromised, the Customer shall immediately advise the Bank by telephone. Upon such notification, the Bank will issue new Usernames to the Customer's Authorized Treasury Signers, System Admins, or Transactional Users. Until the new Usernames have been

issued, the Authorized Treasury Signers, System Admins, or Transactional Users' use of the Bank's Online Banking will be abated. In order to maintain a high level of security, each Username may be changed periodically by the Bank. Before this occurs, the Bank will notify the Customer of the impending change and supply applicable Authorized Treasury Signers, System Admins, or Transactional Users with new Usernames.

vii. Submission of Transfers.

1. In order for Domestic Online Wire Transfers to be sent same day, a Wire Transfer Request must be submitted through Online Banking by the Cutoff time set by the Bank for this Service. Cutoff times can be found at the Bank's website. Wire Transfers shall be deemed delivered to the Bank when the applicable Security Procedures have been complied with and the submission to the Bank is completed in accordance with the Agreement. While Bank may, at its sole discretion accept Wire Transfer Requests after this Cutoff Time, such acceptance does not change this requirement.

viii. Acceptance and Execution of Transfer Requests.

1. Bank Acceptance of Wire Services Requests. A Wire Services Request from the Customer shall be considered accepted by the Bank when the Bank executes it.
2. Deadlines. The Customer acknowledges that the Bank maintains deadlines for accepting Wire Services Requests. Such deadlines are subject to change from time to time at the sole discretion of the Bank. If a Wire Services Request from the Customer is received after the deadline, it may be executed the next Business Day.
3. Bank Acceptance of Instructions. No instructions or other restrictions limiting the Bank's acceptance of a Wire Services Request from the Customer shall be effective unless accepted and agreed to in writing by the Bank. However, the Bank at its option may elect to act consistently with such instructions or other restrictions which it believes in good faith were made by an Authorized Treasury Signer, System Admin, or Transactional User of the Customer.
4. Instructions. The Bank shall make debits according to the instructions received from the Customer and credits according to the instructions received electronically for each request.
5. Transmission. In executing any Wire Services Request, the Bank may utilize such means of transmission as it may reasonably select. The Bank may initiate Wire Services Requests in any order convenient to it.
6. International Wires. In order for International Wires to be sent same day, a Wire Transfer Request must be submitted as follows: International Wires in U.S. Dollars must be submitted through Online Banking by the time set forth for this Service at the Bank's website. International Wires sent in foreign currency must be submitted directly to the wire department by the time set forth for this Service at the Bank's website.
7. Rejections by Bank. The Bank may, in good faith, reject, except when prohibited by law, at its sole discretion, any transfer request it receives from the Customer (including any Authorized Treasury Signer, System Admin, or Transactional User) for any reason. The Bank shall notify the Customer of the Bank's rejection of the transfer request by telephone, electronic message, or U.S. Mail. The Bank will comply with regulations issued by OFAC. If any transfer request is to an entity listed on OFAC's list of Specially Designated Nationals and Blocked Persons, by law the Bank shall not complete the transfer. The Bank shall have no liability to the Customer as a result of the Bank's rejection of any transfer request if it complies with the terms of this Agreement.

8. **Rejection of Bank's Transfer Request.** If the Bank receives notice that a Wire Transfer transmitted by the Bank has been rejected, the Bank shall notify the Customer of such rejection including the reason given for rejection by telephone, electronic message, or U.S. mail. The Bank will have no further obligation to transmit the rejected Wire Transfer if it complied with this Agreement with respect to the original transfer request.
 9. **Revocation of Transfers.** The Customer has no right to reverse, adjust, or revoke a Wire Transfer Request after the Bank has executed the Wire Transfer. If the Customer requests the reversal, adjustment or revocation of a Wire Transfer Request, the Bank may (but shall not be obligated to) attempt to recover the funds from the transferee using whatever steps the Bank may deem appropriate. **THE CUSTOMER EXPRESSLY AGREES TO INDEMNIFY THE BANK AGAINST ANY COSTS, EXPENSES, DAMAGES AND LIABILITIES, INCLUDING ATTORNEY'S FEES, WHICH THE BANK MAY INCUR IN ATTEMPTING TO EFFECT SUCH RECOVERY OF FUNDS. THE BANK MAKES NO REPRESENTATION OR WARRANTY AS TO ITS ABILITY TO REVOKE OR CANCEL A WIRE TRANSFER ONCE MADE.**
 10. **Confirmation.** The Bank may send the Customer an e-mail confirming each executed Wire Transfer Request.
- ix. **Repetitive Wire Drawdowns.**
1. The Bank will honor a reverse transfer (sometimes referred to as a drawdown) subject to the terms of this Agreement and further subject to and conditioned upon the Customer's execution of a reverse wire transfer agreement from the Bank ("Repetitive Wire Drawdown Agreement"). Upon execution of the Repetitive Wire Drawdown Agreement, the Customer authorizes the credit party identified in such form (the "Credit Party") to initiate transfers from the Customer's designated account(s) to Credit Party's account (each a "Drawdown Wire"), each as identified in the Repetitive Wire Drawdown Agreement. The Customer agrees that the Bank's treatment of, or action related to, a Drawdown Wire shall be treated as if the Customer requested the transfer pursuant to the terms of this Agreement.
 2. The Customer understands that this authorization applies to all Drawdown Wires initiated by the Credit Party to the Customer's designated accounts. The Customer understands and agrees that the Bank will not honor Drawdown Wires initiated by Credit Party from accounts other than the Customer's designated accounts. If the Customer desires the Bank to accept Drawdown Wires from accounts other than the Customer's designated accounts, the Customer and the Bank must execute a new Repetitive Wire Drawdown Agreement to cover said accounts.
 3. The Customer understands and agrees that the Bank will not confirm with the Customer that the Credit Party is authorized to make such Drawdown Wires prior to accepting a Drawdown Wire by the Credit Party. The Customer understands that the Bank will not verify the authenticity or accuracy of any Drawdown Wire initiated by the Credit Party with the Customer and/or the Credit Party and that the Bank will have no liability for accepting each Drawdown Wire initiated by the Credit Party without verifying the Drawdown Wire with the Customer and/or the Credit Party.
 4. The Customer accepts full responsibility for and agrees to be bound by any and all actions of the Credit Party with regard to the transfer of funds from the Customer's designated accounts pursuant to the Drawdown Wires initiated by the Credit Party. The Bank may decline any Drawdown Wire request to the same extent it may decline any transfer hereunder.

5. In the event the Customer does not have sufficient funds in Customer's designated accounts at the time the Credit Party initiates any Drawdown Wire, the Drawdown Wire shall be denied. Further, if the Drawdown Wire and associated Bank fees results in the Customer having an overdrawn balance in Customer's designated accounts, the Bank in its sole discretion may deny the Drawdown Wire.
 6. Notwithstanding any provision herein to the contrary, the Bank may honor any Drawdown Wire request in conformance with the instructions outlined in the Repetitive Wire Drawdown Agreement. The Customer and/or Credit Party has no right to cancel, reverse, adjust, or revoke a Drawdown Wire request after received by the Bank; however, the Bank may (but shall not be obligated to), act on the request if the Bank receives the request prior to the time the Bank executes such Drawdown Wire, provided the Bank has sufficient time, in its sole discretion, to effect such cancellation or change.
 7. The Repetitive Wire Drawdown Agreement shall remain in effect unless and until revoked in writing by an Authorized Treasury Signer, System Admin, or Transactional User and both the Bank and Credit Party have each received such written notice and have had a reasonable period of time to act on such notice.
- x. Limitation of Bank's Liability.
1. **THE BANK WILL NOT BE LIABLE TO THE CUSTOMER FOR ANY EXPENSE, CLAIM, LOSS, DAMAGE, OR COST ("DAMAGES") ARISING OUT OF OR RELATING TO THE BANK'S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS SECTION OTHER THAN THOSE DAMAGES THAT RESULT SOLELY AND DIRECTLY FROM THE BANK'S ACTS OR OMISSIONS CONSTITUTING GROSS NEGLIGENCE, BAD FAITH OR INTENTIONAL MISCONDUCT AS DETERMINED IN A COURT OF COMPETENT JURISDICTION IN A FINAL NON-APPEALABLE ORDER. IN NO EVENT WILL THE BANK BE LIABLE FOR ANY SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS.**
 2. The Bank will be excused from any failure to act or delay in acting, and no such failure or delay shall constitute a breach of this Section or otherwise give rise to any liability of the Bank, if (i) such failure or delay is caused by circumstances beyond the Bank's reasonable control, including but not limited to computer malfunction, legal constraint, emergency conditions, action or inaction of governmental, civil or military authority, fire, strike, lockout or other labor dispute, war, riot, theft, acts of terrorism, flood, earthquake or other natural disaster, breakdown of public or private or common carrier communications or transmission facilities, equipment failure, or negligence or default of the Customer or Credit Party or (ii) such failure or delay resulted from the Bank's reasonable belief that the action would have violated any of the Bank's guidelines or policies, or rule or regulation of any governmental authority. The Bank will have no fiduciary duties under this Section to any other party, whether as trustee, agent, bailee, or otherwise.
 3. The Bank will have no duty to inquire into or determine the existence or enforceability of the Customer's agreement with Credit Party. The Bank shall not be deemed to have any knowledge (imputed or otherwise) of any of the terms or conditions of the agreement between the Customer and Credit Party, or any breach thereof.
 4. The Bank may rely on notices and communications it believes in good faith to be genuine and given by the appropriate party, without any independent investigation and the Bank shall have no duty to inquire into the authority of the person in giving such notice or instruction. The Bank may accept, acknowledge

or act upon any notice, instructions or other directions hereunder that contain minor mistakes or other irregularities. The Bank may reject, except when prohibited by law, at its sole discretion, any Drawdown Wire from Credit Party for any reason.

5. Notwithstanding any of the other provisions in this Section, in the event of the commencement of a case pursuant to Title 11, United States Code, filed by or against the Customer, or in the event of the commencement of any similar case under then applicable federal or state law providing for the relief of

debtors or the protection of creditors by or against the Customer, the Bank may act as the Bank deems reasonably necessary to comply with all applicable provisions of governing statutes and shall not be in violation of this Agreement as a result.

xi. Indemnity.

1. **THE CUSTOMER AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD THE BANK, AND ALL OF ITS OFFICERS, DIRECTORS, SHAREHOLDERS AND EMPLOYEES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, SUITS OR OTHER LITIGATION (INCLUDING COSTS THEREOF AND ATTORNEYS' FEES) OF EVERY KIND OR CHARACTER ARISING OUT OF OR RELATING TO THE BANK'S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT OR ANY LOSS RESULTING THEREFROM, INCLUDING ANY LOSSES CAUSED IN WHOLE OR PART BY ANY NEGLIGENT ACT AND/OR OMISSION BY THE BANK OR ITS EMPLOYEES, OTHER THAN THOSE ULTIMATELY DETERMINED TO BE FOUNDED ON GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE BANK. THE DUTY TO DEFEND HEREUNDER IS INDEPENDENT AND SEPARATE FROM THE DUTY TO INDEMNIFY AND THE DUTY TO DEFEND EXISTS REGARDLESS OF ANY ULTIMATE LIABILITY OF THE CUSTOMER AND/OR CREDIT PARTY. THE DUTY TO INDEMNIFY CONTAINED HEREIN EXISTS INDEPENDENT OF CUSTOMER'S INSURANCE.**
2. **WITHOUT LIMITING THE FOREGOING, THE CUSTOMER ACKNOWLEDGES AND AGREES THAT THE BANK SHALL BE ENTITLED TO CONCLUSIVELY PRESUME THAT ANY PERSON PURPORTING TO BE CREDIT PARTY OR AN AUTHORIZED REPRESENTATIVE OF CREDIT PARTY WHO INITIATES A DRAWDOWN WIRE FROM THE CUSTOMER'S DESIGNATED ACCOUNTS SHALL BE DEEMED TO HAVE BEEN DULY AUTHORIZED FOR ALL PURPOSES. THE CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT THE BANK SHALL INCUR NO LIABILITY TO THE CUSTOMER OR CREDIT PARTY FOR ACTING ON INSTRUCTIONS OR VERIFICATIONS GIVEN BY CREDIT PARTY OR A PERSON PURPORTING TO BE AN AUTHORIZED REPRESENTATIVE OF CREDIT PARTY AND THE CUSTOMER SHALL INDEMNIFY THE BANK FROM ANY LIABILITY ENSUING FROM SO ACTING, REGARDLESS OF ANY CONTRIBUTING FAULT OR NEGLIGENCE OF THE BANK EXCEPT IN CASES ULTIMATELY DETERMINED TO BE FOUNDED ON GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE BANK.**

- xii. Release and Waiver of Claims. **THE CUSTOMER HEREBY RELEASES, ACQUITS AND FOREVER WAIVES, DISCLAIMS AND DISCHARGES THE BANK FROM ANY AND ALL LIABILITIES, CLAIMS, DEMANDS AND/OR CAUSES OF ACTION ARISING OUT OF OR**

RELATING TO THE BANK'S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT OTHER THAN THOSE ULTIMATELY DETERMINED TO BE FOUNDED ON GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE BANK.

- xiii. Direct Send File Processing. Customer or Bank may elect to send documentation to each other via Secure File Transfer Protocol (SFTP). To use Direct Send File Processing, Customer must enroll in Direct Send File Transfer on Schedules A and B of the Request Form. Bank will maintain and support SFTP on behalf of the Customer to send and receive files via SFTP. Customer will ensure that files will be accompanied by valid authentication and verification in accordance with this Agreement. The total dollar amount of the transaction will be debited from or credited to the Customer's Account on the date agreed between Customer and Bank. Bank recommends that Customer use the Security Procedure of Email verification for Direct Send Wires. Should the Customer decline this Security Procedures, Customer acknowledges and accepts the heightened risk of loss to Customer's Accounts and assumes all risk of loss from fraud, forgery, hacking, or other method that might have been prevented had the Customer used the recommended security procedure of Email verification.

6. Lockbox and Integrated Receivables.

- i. Description of Service. The Bank agrees to provide for Lockbox and Integrated Receivables Service by one of two ways: Lockbox Lite or Lockbox with a Third-Party Provider.
 - ii. Lockbox Lite. For certain qualifying customers, the Bank may provide for Lockbox and Integrated Receivables directly with Bank staff ("Lockbox Lite"). If the Customer chooses the Lockbox Lite solutions for lockbox services, Customer directs those persons or entities making payments to Customer ("Lockbox Lite Payments") to mail the Lockbox Lite Payment and any documentation to a Post Office Box from which Customer has authorized the Bank to remove the contents. It is the responsibility of the Customer to notify payors that Lockbox Lite Payments shall be mailed to the lockbox assigned by the Bank for Customer. Bank shall perform certain specified functions that include processing Lockbox Lite Payments and depositing the payments to Customer's Account. Customer shall provide Bank instructions in additional forms, as directed by Bank, regarding Customer's preferences and agree to additional terms at that time.
1. Business Days. The Bank will access Customer's Post Office Box only on the Bank's Business Days. Customer agrees that all Lockbox Lite Payments received by the Bank from the Post Office Box prior to 11:00 a.m. (Central) on a Business Day will be processed on same date as received. All Lockbox Lite Payments received by the Bank after 11:00 a.m. (Central) or on a non- Business Day, may be held and processed on next Business Day basis.
 2. Lockbox Lite Payments Deposited. Bank will process Lockbox Lite Payments in accordance with the standard remittance processing specifications included in this Agreement and as set forth in this section:
 - (i) Lockbox Lite Payments Generally. Customer acknowledges and agrees that removal of the items from the Post Office Box shall constitute delivery of the items by Customer to Bank. Bank shall process the payments pursuant to Customer's instructions. Payments and any documentation sent to the lockbox must meet the formats and specifications agreed upon by Customer and Bank. Except as otherwise specifically provided in this Agreement, Bank will not reconcile the checks, cash, or other items in the envelopes to any documentation in the envelope. Bank shall use reasonable efforts to process all items removed from the Post Office Box by 11:00 a.m. (Central) on the banking day the items are removed therefrom; however, Customer agrees that in addition

to the "Force Majeure" clause of this Agreement, Bank shall have no liability to Customer for failure to process all items received by 11:00 a.m. (Central) on any given day if the volume received by Bank for all of Bank's lockbox customers exceeds Bank's ability to process all of the items on the day of receipt. In addition to the other liability provisions in this Agreement, Bank shall have no liability to Customer for any delay, nonperformance, erroneous information, or mishandling of the payments absent gross negligence or willful misconduct.

(ii) Discrepancies in Amount.

- i. **Bank Shall Not Examine Items.** Customer acknowledges and agrees that Bank will not examine items received by Bank and processed in conjunction with the Service rendered by Bank. Therefore, legends and other instructions placed on items such as, but not limited to, "not valid over \$500," "void after 90 days," "full accord and satisfaction," shall not be discovered by Bank, shall not be binding on Bank and shall not be enforceable against Bank. Likewise, Bank shall not discover alterations, postdated checks, stale dated checks, or discrepancies between the amount of the check or item as written in numbers and words, or other irregularities on the face of the check or item. Customer further acknowledges and agrees that Bank shall not be liable to Customer for any loss that Customer may suffer as the result of Bank's processing items containing such legends, instructions, or irregularities. Customer will be responsible for notifying their payers to send directly to Customer any payments which should not be processed through the lockbox given the limitations stated above.
- ii. **Non-matching Amounts.** If the numerical and written amounts stated on any Lockbox Lite Payment are not the same, the numerical or written amount that corresponds to an amount stated on the Lockbox Lite Payment Coupon enclosed with the Lockbox Lite Payment, if applicable, will be the amount deposited. If the amounts stated on the Lockbox Lite Payment do not correspond to the amount stated on the Lockbox Lite Payment Coupon, or if no amount is stated on the Lockbox Lite Payment Coupon, the Lockbox Lite Payment will be treated as if it was presented without a Lockbox Lite Payment Coupon.

(iii) **Endorsement of Checks.** The Uniform Commercial Code provides that a bank becomes a holder of unendorsed items when the Customer who is a holder of the item delivers the item to a depository bank for collection. In accordance with that section, while Customer authorizes Bank to indorse items in its name and on its behalf, Bank may, in its sole discretion, elect not to place Customer's indorsement on items deposited by Bank to Customer's account.

(iv) **Missing Date.** The Bank is not responsible for reviewing the date(s) on any Lockbox Lite Payment and may process the Lockbox Lite Payment in accordance with this Agreement without liability to Customer.

3. **Payee Review.** The Bank shall verify the payee on any Payment(s) against the acceptable payee list provided in the Lockbox Lite Customer Questionnaire.

4. **Foreign Checks.** Checks drawn on a foreign bank or in a currency other than the United States dollars may, in Bank's sole discretion, be rejected or deposited in Customer's Account.

5. Lockbox Lite Payments Not Deposited.

- (i) **Indeterminable Amount.** If the Bank cannot determine a Lockbox Lite Payment amount, the Bank shall return such Lockbox Lite Payment to Customer by U.S. mail or other common carrier.
 - iii. **Customer Agreement to Report Errors.** Customer agrees to report to the Bank any errors or other problems involving the Lockbox Services by calling Treasury Management Support at the Bank, within 24 hours of identifying the error or other problem.
 - iv. **Bank's Reasonable Efforts to Correct if Notified within 24 hours of Error on Statement.** The Bank will make reasonable efforts to correct any errors that Customer reports to the Bank and will make any necessary information available to Customer in order for Customer to complete the processing of the Lockbox Lite Payment. In the event Customer fails to report any error to the Bank within 24 hours after such error is reflected in Customer's statements available on the Susser Bank Lockbox Lite website, the Bank shall have no liability to Customer if the Bank is unable to correct the error due to Customer's delay.
 - v. **Return Items.** If any of the items are returned to Bank unpaid after Bank has forwarded the item for payment, and if the item can be re-presented, Bank will not forward the item for payment a second time, unless otherwise directed by Customer or account officer at the Bank (or if under a particular threshold such as \$250 at the discretion of the Bank). If the item is not paid after being forwarded for payment the second time, the item shall be sent to Customer and the unpaid amount shall be charged back to Customer's account. Customer may request that Bank re-present returned items to the drawee or process returned items according to Customer's special instructions ("Special Instructions"). These Special Instructions may be given to Bank verbally or in writing (including e-mail). Bank shall not be bound by such Special Instructions until such time as Bank has agreed in writing to accept the Special Instructions. Notwithstanding the fact that Bank has agreed to accept the Special Instructions, Bank may, in its sole discretion, disregard the Special Instructions and charge the returned item back to the Customer Account to which the items were deposited. In the event that Customer has requested that returned items be re-presented, in no event will Bank re-present an item in excess of the limit established or permitted for the number of times that an item may be re-presented by the NACHA Rules. Customer may change or amend the Special Instructions by providing Bank a written request to change or amend the Special Instructions. Changes or amendments to the Special Instructions shall not become effective until acknowledged and accepted in writing by Bank. Customer hereby agrees to pay Bank its fees for processing returned items and following Special Instructions.
1. **Third-Party Servicer.** For those Customers with greater lockbox needs, the Bank will coordinate with a third-party servicer, that, together with the Bank, will provide these services ("Third-Party Provider"). Customer shall fill out the necessary documentation to establish a Third-Party Provider. If the Customer chooses these lockbox services, Customer directs those persons or entities making payments and other remittances ("Remittances") to Customer to mail the payment and certain documentation to a Post Office Box from which Customer has authorized the Third-Party Provider to remove the contents. It is the responsibility of the Customer to notify remitters that Remittances shall be mailed to the Lockbox assigned by the Third-Party Provider. If the Customer chooses electronic bill presentment through ACH, debit and credit card payments, Customer shall notify persons or entities making Remittances of the option of electronic bill presentment. Third-Party Provider shall perform certain specified functions that include processing remittance payments and depositing the payments to

Customer's Account. Customer shall provide Third-Party Provider instructions in additional forms, as directed by Third-Party Provider, regarding Customer's preferences and agree to additional terms at that time.

(i) Third-Party Provider's Duties and Responsibilities.

- a. **Processing Items.** If Customer is using the lockbox services, Third-Party Provider shall remove the contents of the Post Office Box at intervals determined by Third-Party Provider in its sole discretion. Customer acknowledges and agrees that removal of the items from the Post Office Box shall constitute delivery of the items by Customer to Third-Party Provider for collection. Third-Party Provider shall process the Remittances pursuant to Customer's instructions. Remittances and any documentation sent to the lockbox must meet the formats and specifications agreed upon by Customer and Third-Party Provider. If Customer is using the electronic bill presentment, Third-Party Provider will process the items electronically. Bank, if Customer requests, may send information regarding the deposits via secure e-mail to the Customer. Third-Party Provider, if Customer requests, may give access to Customer through Third-Party Provider's Internet to information regarding the deposits. Except as otherwise specifically provided in this Agreement, Third-Party Provider will not reconcile the checks, cash, or other items in the envelopes to the invoice, statements or other documents contained in the envelope. Third-Party Provider shall use reasonable efforts to process all items removed from the Post Office Box on the banking day the items are removed therefrom; however, Customer agrees that in addition to the "Force Majeure" clause of this Agreement, Third-Party Provider shall have no liability to Customer for failure to process all items on any given day if the volume received by Third-Party Provider for all of Third-Party Provider's lockbox customers exceeds Third-Party Provider's ability to process all of the items on the day of receipt. In addition to the other liability provisions in this Agreement, Third-Party Provider shall have no liability to Customer for any delay, nonperformance, erroneous information, or mishandling of the Remittances absent gross negligence or willful misconduct.
- b. **Third-Party Provider Shall Not Examine Items.** Customer acknowledges and agrees that Third-Party Provider will not examine items received by Third-Party Provider and processed in conjunction with the Service rendered by Third-Party Provider. Therefore, legends and other instructions placed on items such as, but not limited to, "not valid over \$500," "void after 90 days," "full accord and satisfaction," shall not be discovered by Third-Party Provider, shall not be binding on Third-Party Provider and shall not be enforceable against Third-Party Provider. Likewise, Third-Party Provider shall not discover alterations, postdated checks, stale dated checks, or discrepancies between the amount of the check or item as written in numbers and words, or other irregularities on the face of the check or item. Customer further acknowledges and agrees that Third-Party Provider shall not be liable to Customer for any loss that Customer may suffer as the result of Third-Party Provider's processing items containing such legends, instructions, or irregularities. Customer will be responsible for notifying their payers to send directly to Customer any payments which should not be processed through the lockbox given the limitations stated above.
- c. **Endorsement of Checks.** The Uniform Commercial Code provides that a bank becomes a holder of unendorsed items when the Customer who is a holder of the item delivers the item to a depository bank for collection. In accordance with that section, while Customer authorizes Third-Party Provider to indorse items in its name and on its behalf, Third-Party Provider may, in its sole discretion, elect not to place Customer's indorsement on items deposited by Third-Party Provider to Customer's account.

2. **Return Items.** If any of the items are returned to Bank unpaid after Bank has forwarded the item for payment, and if the item can be re-presented, Bank will not forward the item for payment a second time, unless otherwise directed by Customer or account officer at the Bank (or if under a particular threshold such as \$250 at the discretion of the Bank). If the item is not paid after being forwarded for payment the second time, the item shall be sent to Customer and the unpaid amount shall be charged back to Customer's account. Customer may request that Bank re-present returned items to the drawee or process returned items according to Customer's special instructions ("Special Instructions"). These Special Instructions may be given to Bank verbally or in writing (including e-mail). Bank shall not be bound by such Special Instructions until such time as Bank has agreed in writing to accept the Special Instructions. Notwithstanding the fact that Bank has agreed to accept the Special Instructions, Bank may, in its sole discretion, disregard the Special Instructions and charge the returned item back to the Customer Account to which the items were deposited. In the event that Customer has requested that returned items be re-presented, in no event will Bank re-present an item in excess of the limit established or permitted for the number of times that an item may be re-presented by the NACHA Rules. Customer may change or amend the Special Instructions by providing Bank a written request to change or amend the Special Instructions. Changes or amendments to the Special Instructions shall not become effective until acknowledged and accepted in writing by Bank. Customer hereby agrees to pay Bank its fees for processing returned items and following Special Instructions.
- vi. **Record Retention.** Bank and Third-Party Provider will create and retain an image of all remittances processed in connection with Services as agreed to between the Parties. Bank and Third-Party Provider will retain the image for a longer period, if any, required by law.
- vii. **Authorization to Process Deposits.** Customer hereby authorizes Bank or the Third-Party Provider as its attorney-in-fact to process the deposits including the ability to open the envelopes addressed to Customer, process the contents, indorse the items on behalf of Customer, and perform any other functions, all as specified by Customer. Notwithstanding the foregoing and as provided elsewhere in this Agreement, Bank and Third-Party Provider may process without indorsing items in Customer's name.
- viii. **Indemnification.** Customer agrees to, and does hereby, indemnify and hold the Bank and Third-Party Provider harmless from and against any and all expenses, costs, (including attorneys' fees) claims, causes of action, and liabilities resulting from claims by third parties which directly or indirectly arise from the handling of, and credit given for, remittance items handled under this Agreement, it being understood and agreed that Bank and Third-Party Provider acts herein as agent for Customer.
- 7. Vault Services.**
- i. **Description of Service.** If Customer has requested, and Bank, in its sole discretion, has agreed to provide certain commercial cash services to Customer (the "Vault Services"), Customer agrees to comply with the written requirements that may be provided to Customer by Bank and amended or updated from time to time, and as they are delivered or communicated to Customer (the "Guides") as well as the following guidelines for Delivery of Coin and Currency. Unless Customer otherwise designates on such forms as Bank may require, Customer authorizes Loomis Armored US, Inc. ("Loomis" or "Carrier") to deliver coin and currency in amounts communicated through the use of Bank's approved armored provider(s), system ("Loomis Portal") or other communication between Bank and Customer. Specific descriptions, procedures and instructions on the use of Loomis Portal and coin and currency ordering options may be more fully described in the Loomis Portal. Bank shall, and is hereby authorized to, treat any and all orders for the delivery of coin or currency received through Loomis Portal or alternative means as genuine and duly authorized. Customer

understands that Bank has no duty or obligation to obtain verification as to the authenticity of the communication transmitted to Bank by the Loomis Portal, or the authority of the transmitter to send such communication. Bank and Customer agree that delivery of coin and currency to the Carrier shall, for all purposes, be considered delivery to Customer. Bank shall in no way be liable for any loss that may occur after delivery has been made to the Carrier. Customer agrees to notify Bank of any change with its relationship with Loomis, as Customer's Carrier, on such forms as Bank may require in its sole discretion and as amended from time to time.

- ii. Deposits. Customer authorizes Bank to accept and verify Customer's deposits.
- iii. Administrative Matters. Customer agrees that Bank shall debit the account(s) designated by Customer for all cash and currency delivered pursuant to these Terms and Conditions. Customer agrees that Bank shall have no obligation to make any delivery of coin or currency if Customer shall have insufficient funds in Customer's Account to cover any such order of coin or currency. Bank shall not be responsible for any loss to Customer which shall result from the failure of Customer to follow the procedures set forth in these Terms and Conditions.
- iv. SafePoint® Service. If Customer has requested, and Bank has agreed to permit Customer to utilize the SafePoint® transportation and cash management services (the "SafePoint® Services") offered by Loomis, Customer agrees to execute the Loomis SafePoint® Agreement (the "SafePoint® Agreement") directly with Loomis and comply with the stated terms and conditions of the SafePoint® Agreement. Customer agrees that Loomis will bear all liability for the SafePoint® Services. Customer further agrees that Loomis is responsible and liable for the deposit amount that is reported by Loomis on any given day and transmitted to Bank for processing. Loomis' liability extends to all events including theft, robbery, fraud, equipment failure or malfunction, damage, or destruction for any reason including without limitation acts of God, and liability shall include the period of time that cash is in the Loomis Equipment (as defined in the SafePoint® Agreement) as well as in transit. Bank will credit Customer's account for deposit as reported electronically by Loomis and will adjust the account balance via credit or debit should there be a deposit discrepancy. At Bank's discretion, credit to the Customer's account may be provided in the form of immediate or delayed posting as of the close of business of any processing day. Customer acknowledges that Loomis is responsible for determining any overages during physical funds verification and for reporting and depositing any overages to Customer's account in a timely manner. In the event of a discrepancy between the amount of money reported by Loomis to Bank and the actual amount after verification by Loomis, the verified amount will prevail. Loomis will bill the associated service fees for services to Customer as per the SafePoint® Agreement on a monthly basis. Customer agrees to pay fees for the SafePoint® Services directly to Loomis. If, for any reason, Customer terminates the SafePoint® Agreement with Loomis or Customer terminates its relationship with Bank, Customer agrees that it will immediately inform the mutual parties in writing of such termination in addition to any specific termination requirements as stated in the SafePoint® Agreement.
- v. Fees. Bank fees for vault services including SafePoint® will be billed through customer's account analysis.

8. Sweep Services (Line of Credit, ZBA, TBA).

- i. Description of Service. The Bank agrees to provide Sweep Services as outlined below.
 - 1. The Daily Sweep Service.
 - (i) You may use the Daily Sweep Service to order preauthorized daily transfers to and from certain designated (each a "Parent Account") to and from other designated accounts (each a "Child Account" sometimes known as the "Zero Balance Account" or "ZBA Account") as designated on the Request. Should you designate more than one Child Account, you should indicate on the

Request Form the preferred order of payment in the event of insufficient collected funds in the Parent Account.

- (ii) You may use the Daily Sweep Service to order preauthorized daily transfers to and from designated a Demand Deposit Account and your line of credit or revolving line of credit with Bank (the “Line of Credit”) as designated on the Line of Credit Sweep Services Agreement.
- (iii) All such transfers will be automated preauthorized transfers and will continue until terminated or charged in accordance with the terms of this Agreement. Designating minimal increments is not required. If you desire to transfer in minimal increments, please contact your Treasury Management officer.

2. Transfers for Zero Balance Accounts (ZBA), Target Balance Accounts (TBA) and Lines of Credit.

- (i) **Excessive Funds Transfers.** When the balance of available funds in a Sweep Account exceeds the balance you have targeted for that account (the “Target Balance” sometimes referred to as a “Peg Balance”), Bank is hereby authorized and directed to withdraw the amount of the excess (as further defined below, the “Excess Funds”) on behalf of Customer, and transfer the Excess Funds to the Parent Account or the Line of Credit to reduce your outstanding principal balance in accordance with the your directions on the Request. Bank agrees to transfer the Excess Funds from each Child Account within one (1) Business Day following the day such Excess Funds become collected and available in the Sweep Account. “Excess Funds” means only those funds of Customer in the Child Account in excess of the Target Balance that are collected and available for withdrawal by Customer as a matter of right under Bank’s published funds availability schedule. Funds posted to the Child Account but not yet available are not included in Excess Funds. In the event that Bank, in its sole and absolute discretion, treats funds of Customer that are not yet available for withdrawal as a matter of right as “Excess Funds” on any one or more occasions, Bank may decline to treat funds that are not yet available for withdrawal as a matter of right as “Excess Funds” at any other time or times without notice to Customer. Any departure by Bank from the foregoing requirement regarding Excess Funds shall not constitute a waiver by Bank or an obligation of Bank to depart from this requirement at any other time.
 - (ii) **Deficit Funds Transfers.** Customer further authorizes and directs Bank to make transfers from the Parent Account or the Line of Credit to a Child Account, as appropriate to fund disbursements and maintain the Target Balance in the Child Account or as otherwise provided in the Request Form or Line of Credit Sweep Services Agreement.
- ii. **Statements.** All transactions related to Line of Credit Sweep Services will appear on Customer's Line of Credit and deposit statements. All transactions related to other Daily Sweep Services will appear on Customer’s deposit statements.
 - iii. **Credit Approval.** The Line of Credit Sweep Service is subject to credit approval and the terms and conditions of the Line of Credit loan documents. Certain Lines of Credit are not eligible for Daily Sweep Service.

9. Line of Credit Advance Services.

- i. Description of Service. The Bank agrees to provide Line of Credit Advance Services upon the Customer's execution of a Line of Credit Online Banking Advance Agreement.
 - 1. The Bank will provide Customer the ability to advance on its Line of Credit online. Customer understands that each transfer from the Line of Credit will constitute an advance under the Line of Credit and Customer promises to repay the advance in accordance with the terms of the Line of Credit loan documents ("*Loan Documents*"). Line of Credit Online Banking Advance Services are subject to the terms and conditions of the Loan Documents and credit approval. The Bank shall not be obligated to, but may, make a transfer that would result in an account being overdrawn or over the credit limit.
 - 2. Customer understands that any person it authorizes to access the Line of Credit through this service may obtain an advance on the Line of Credit. Customer agrees that such an advance shall be deemed fully authorized by Customer, whether or not that person is a party obligated to pay under the Loan Documents.
 - 3. The Bank reserves the right to terminate or modify the terms of the Agreement for any reason without prior notice.
 - 4. Customer acknowledges that Bank has no responsibility to contact Customer when any advance occurs. Customer understands that it is responsible for having sufficient funds available on the Line of Credit on the advance date for Bank to make any advance. Customer further acknowledges that the Bank will not be liable for any charges, including, but not limited to, any charges of additional interest. All transactions related to Line of Credit Sweep Services will appear on Customer's Line of Credit and deposit statements.

10. Information Reporting Services.

- i. Description of Service. The Bank agrees to provide Information Reporting Services. The Bank provides multiple channels for sending or receiving data, files, and reports regarding Customer's Account activity between Bank and Customer. Depending on the information Customer selects for the services, Bank may use any commercially reasonable method of sending or receiving information, including but not limited to PLAID, YODLEE (may be limited), or the Secure File Transfer Protocol (SFTP) method to send or receive information.
- ii. QuickBooks Software. Before you may use the Direct Connect Service (as defined in your QuickBooks software), you must have separately purchased and installed Intuit QuickBooks® or Quicken® software. The software must be a version that is compatible with our Direct Connect Service. You acknowledge and agree that we have no responsibility for, we make no representations or warranties of any kind with respect to, and we have no liability for QuickBooks or Quicken software or any software materials provided in connection with such software. QuickBooks and Quicken are registered trademarks of Intuit, Inc. (hereinafter referred to as "QuickBooks"). The Direct Connect Service allows you to access certain accounts through QuickBooks. You may access the Accounts we have included in your setup of the Direct Connect Service through the QuickBooks software. Through your QuickBooks software application, you may view balance and transaction information for those Accounts included in your Direct Connect Service setup and download financial information from those Accounts. You are solely responsible for granting permissions to those you wish to be authorized to use your QuickBooks software application to access those Accounts included in your Direct Connect Service setup.

- iii. **Technical or Service Requirements.** The information provided under this Information Reporting Service must be in a format approved by Bank and shall contain such information as required by Bank. Customer agrees to provide Bank with sample data, file format requests, and other information reasonably required by Bank in order for Bank to perform the Information Reporting Services. Customer will participate in the testing of the Information Reporting Services before the services are put into production. Customer acknowledges that Bank's timely provision of the Information Reporting Services files is dependent upon receipt of information from Customer and third parties, on the availability of the Internet and third-party telecommunication services, and on other third-party service providers.
- iv. **Transmission Means.** The approved transmission methods, set-up, and procedures will be provided by Bank. Customer and Bank may share or transmit data using SFTP or other commercially reasonable method of sharing or transmitting data.
- v. **Ordinary Care.** In performing the Information Reporting Services, Bank shall exercise ordinary care, subject to the limitations set forth in this paragraph or elsewhere in this Agreement. Customer agrees that Bank shall be deemed to have exercised ordinary care in the performance of the duties required of Bank if Bank substantially follows the procedures and practices set forth herein. Customer understands that internetworking communications utilizing public access facilities may not be accurate, secure, or available and that such communications may be subject to interception, loss, distortion, disruption, or unavailability. Bank shall not be responsible or liable for any function or malfunction of equipment, software, or services, including, but not limited to, any damages or losses relating to the transmission or non transmission of Information.
- vi. **Changes in Information Reporting Services.** Bank may withdraw or modify the Information Reporting Services as provided in the Agreement.
- vii. **Miscellaneous.** Customer agrees that Information Reporting Services will be used only for valid commercial purposes in the ordinary course of Customer's business and not for personal, family, or household purposes or for any person or entity other than Customer.

11. Direct Payables Service.

- i. **Susser Bank Direct Payables Service ("Direct Payables Service")** provides Customers with access to a transaction-based service that enables them to direct Bank to transmit payment requests drawn on Customers' designated Account(s) by file delivery.
- ii. **Services Available Through Direct Payables.** Customer will only be able to use the Direct Payables Service to access and use the payment types available through the Direct Payables Service ("DP Payment Types") that Customer has selected. By selecting a DP Payment Type or by using the Direct Payables Service with a DP Payment Type, Customer acknowledges that it has reviewed the Agreement and agrees to its terms. DP Payment Types available for use with the Direct Payables Service include: (i) ACH Services and (ii) Wire Transfer Service.
- iii. **Access.** Customer may access the Direct Payables Service via SFTP.
- iv. **Authorization to Store, Process, Transmit and Make Available.** Customer authorizes Bank to act as its

agent for the Payment Type(s) Customer initiates using the Direct Payables Service. Bank is authorized to store, process, transmit and make available through Bank's systems, third party financial institutions and Third-Party Providers, information regarding accounts and transactions designated by Customer in connection with the Direct Payables Service.

- v. **Acknowledgments and Confirmations.** By default, Bank will provide Customer with one (1) or more acknowledgements and confirmations for payments made by Customer using this Direct Payables Service.
- vi. **Payment Instructions.** For all payment instructions transmitted to Bank using the Direct Payables Service, files must contain all mandatory fields. Failure to include any mandatory field, or the submission of an invalid mandatory field, will result in the payment request being rejected and a notice of such rejection will be sent to Customer via the Direct Payables Service as agreed upon by Customer and Bank. Bank will provide a confirmation to Customer via the Direct Payables Service indicating the payment has been successfully processed or forwarded for processing. It is the Customer's responsibility to contact Bank at the phone number provided in the Agreement if Customer does not receive a confirmation or rejection of a payment that it requested.
- vii. **Next Business Day.** Customer understands and agrees that certain information and transactions that are not received before the Cutoff Time will not be processed by Bank until the next Business Day and therefore such information and transactions will not be reported by the Direct Payables Service until the next Business Day.
- viii. **Use Limitations.** Customer represents and warrants to Bank that Customer: (a) will access and use the Direct Payables Service solely to conduct Customer's business; and (b) will limit access to the Direct Payables Service to those Customer users who require access to perform their jobs. Customer is responsible for providing instructions to Bank, other financial institutions and any Third- Party Provider who will input account information into the Direct Payables Service or process orders or instructions. Any orders, instructions or other communications received by Bank via the Direct Payables Service, using the Security Procedures applicable to the Direct Payables Service, will be deemed by Bank as received from Customer.
- ix. **Limitation of Liability.** Notwithstanding anything in the Agreement to the contrary, in addition to the limitations of liability set forth in this Agreement, the following limitations apply. Customer agrees that Bank and Third-Party Providers will not be liable for any loss or damage arising, directly or indirectly, in whole or in part, from any:
 - 1. Inaccurate or incomplete data in the input of an order, instruction, or other communication by Customer, or Customer's failure to format any such order, instruction or communication as required by Bank;
 - 2. Failure by Customer to obtain a confirmation or rejection of an order or instruction;
 - 3. Cancellation or attempted cancellation by Customer of an order or instruction;
 - 4. Errors or omissions resulting from Customer's erroneous payment instruction;
 - 5. Inaccurate or incomplete information received from Customer, another financial institution, or a Third-Party Provider;
 - 6. Temporary interruptions in Bank's or any other entity's information systems;

7. Inability to access the Direct Payables Service, or a Service accessible through the Direct Payables Service, through the use of the internet or other communications delivery systems; or
8. Unauthorized use of the Direct Payables Service, or a Service accessible through the Direct Payables Service, by Customer or its officers, employees, agents, or third parties.