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## Treasury Management Services Agreement

### AUTHORIZATION AND AGREEMENT FOR TREASURY MANAGEMENT SERVICES

The Undersigned hereby request and authorize this Treasury Management Services Agreement ("Agreement"), dated \_\_\_\_\_, between Union Bank and Trust Company ("Bank") and \_\_\_\_\_ ("Customer"). The Bank and the Customer agree that the Treasury Management Services described here will be subject to the Terms and Conditions set forth in the Agreement. By using the Treasury Management Services, the Customer agrees to be bound to all laws, rules, and regulations applicable to the Customer's deposit account(s) and any other contract the Customer may have with the Bank as may be established or amended from time to time.

After the Undersigned signs below on behalf of the Customer, the Customer may from time to time request the Bank to provide any of the Services described in the Treasury Management Services Agreement. The customer may begin to use any Services once Bank has approved such use and has received all required and properly executed forms and schedules and the Customer has successfully completed any testing and training requirements. This Agreement supersedes other agreements between Customer and Bank, as described under the General Terms and Conditions, with regard to the provision of Services.

The undersigned represents and warrants that he/she has full power and authority to execute this Agreement on behalf of all of the companies (or company) listed in this agreement.

The parties hereto have entered into this Agreement as of the date first written above.

Customer Name: \_\_\_\_\_

Tax ID Number: \_\_\_\_\_

Authorized Signer (please print)\*: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**\*Authorized Signers.** The officer(s), partner(s), owner(s), or otherwise authorized person(s) (the "Authorized Signers") are authorized to execute and to act on behalf of Customer in all actions taken under the Agreement and amendments thereto from time to time and to enter into any and all transactions contemplated in the Agreement, including without limitation, selecting Services for the benefit of Customer, appointing agents to act on behalf of Customer in the delivery of Services, signing additional documentation that may be necessary to implement the Services and giving the Customer's instructions with regard to any Service, including without limitation, book transfers, ACH transfers and any other electronic or paper transfers from or to any account Customer may maintain at Bank. Bank may, at its discretion, require the Customer to execute additional documentation to implement or amend certain Services. In such cases, documentation necessary to implement or amend such Services shall be signed by at least one of the Authorized Signers. Customer further acknowledges and agrees that Bank may implement or amend Services based on the verbal, written, facsimile voice mail, email or other electronically communicated instructions that in good faith it believes to have been received by an Authorized Signer.

## INTRODUCTION

Thank you for choosing Union Bank & Trust Company as your financial partner for Treasury Management Services. Union Bank & Trust Company offers a full array of products and services to help you meet all of your business needs. If you have any questions about our Services, please contact your business representative.

Customers who utilize Treasury Management Services, as further described below, ("Services") covered in this and other Bank agreements, agree to be bound by these terms and conditions, as amended from time to time, and follow the procedures in the applicable materials.

Each Agreement is to be read together with each applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer. Before use of any product or Service described in one of the following Agreements, the Customer will complete, execute, and deliver to Union Bank & Trust Company each appropriate addendum, schedule, appendix, authorization or other document required for use of such product or Service. By using any of the below-described Services, Customer is agreeing to the terms and conditions for that Service whether the Customer utilizes the Service immediately or at some time in the future.



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Lincoln, NE 68501  
(402) 323-1777  
[www.ubt.com](http://www.ubt.com)

Treasury Management Services  
(402) 323-1557  
1-800-297-2837

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### I. GENERAL TERMS AND CONDITIONS

- A. Entire Agreement. This Agreement (including each applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer) together with the agreement relating to the Customer's deposit account with Bank "Account Agreement", is the complete and exclusive statement of the agreement between the Bank and Customer with respect to the subject matter hereof and supersedes any prior agreement(s). In the event of any inconsistency between the terms of this Agreement and the Account Agreement, the terms of this Agreement shall govern. Each section below shall be read as a separate agreement between the parties. In the event a section is silent, the provisions of these general Terms and Conditions shall govern. If there is an inconsistency between one of the below-drafted sections, and this section, the language of the below-drafted section shall govern.
- B. Terms and Conditions. This Agreement contains the Terms and Conditions for several different services. Only the Terms and Conditions of the Services for which the Customer authorized or utilizes shall apply to the Customer, with the exception of these General Terms and Conditions, which shall apply to all Services. If a Customer utilizes any of the below-described services, it is agreeing to the terms and conditions of that Service as described below.
- C. Compliance with Laws and Regulations. In the event performance of the Services provided herein in accordance with the terms of this Agreement would result in a violation of any present or future statute, regulation or government policy to which the Bank is subject, and which governs or affects the transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation or policy, and Bank shall incur no liability to Customer as a result of such violation or amendment. No course of dealing between the Bank and the Customer will constitute a modification of this Agreement, the *ACH Rules*, as defined below, or the security procedures or constitute an agreement between the Bank and Customer regardless of whatever practices and procedures Bank and Customer may use. For purposes of this Agreement, unless otherwise stated, the terms "Customer" "shall refer to a business client of Union Bank & Trust Company (whether a corporation, limited liability company, limited or general partnership, sole proprietorship, or other legal entity) who maintains a deposit account ("Account") for business purposes and also uses or executes any authorization of these Services included in this Agreement. "Bank" shall refer to Union Bank & Trust Company.
- D. Liability; Limitations on Liability; Indemnity.
1. In the performance of the Services, the Bank shall be entitled to rely solely on the information, instructions, representations, and warranties provided by Customer or Customer's agents, and shall not be responsible for investigating or confirming the accuracy or completeness thereof. Customer agrees to promptly review all bank and card statements and promptly notify the Bank of any problems or concerns.
  2. The Bank shall be responsible only for performing the Services expressly provided for in this Agreement, and shall be liable only for its gross negligence or willful misconduct in performing those Services.

3. Bank is not liable for: Any modifications or changes to any Software utilized as part of this Agreement, made by Customer or any third party within the control or on behalf of Customer, any misuse of the Software by Customer or any third party within the control or on behalf of Customer, or the failure by Customer to comply with applicable state and federal laws and regulations; any claims relating to the improper use or reproduction of any information retained or viewed by the Customer, its agents, or employees, any claims relating to the Customer's failure to safeguard or prevent the unauthorized use or reproduction of any of data or information collected, stored, transmitted or otherwise used as a part of this Agreement.
  4. Bank shall neither be held responsible for nor incur any liability for any computer errors or malfunctions that are related in any way to the Customer's computer systems or programs, or for any costs associated with updating, modifying or terminating the Services.
  5. Bank is not responsible for any unauthorized actions initiated or caused by Customer or its employees or agents, or for any incorrect information provided to Bank and entered by Customer or its employees or agents. The Bank shall not be responsible for the Customer acts or omissions (including without limitation the amount, accuracy, timeliness of transmittal or due authorization of any entry received from the Customer) or those of any other person or entity. Customer agrees to indemnify the Bank against any loss, liability or expense (including attorneys' fees and expenses) resulting from any claim of any person that the Bank is responsible for any act of omission by the Customer or any other person described in this Section.
  6. Bank shall neither be held responsible for nor incur any liability for any damages, costs or other consequences caused by or related to Bank actions that are based on information or instructions that Customer provides to Bank.
  7. Bank shall neither be held responsible for nor incur any liability for any damages, costs or other consequence caused by the failure of third persons or vendors to perform satisfactorily, other than persons to whom Bank has delegated the performance of specific obligations provided in this Agreement or for any refusal of a Payor Financial Institution (as defined below) to pay an Electronic Item (as defined below) or Substitute Check (as defined below) for any reason (other than the breach of contract, negligence or willful misconduct of Bank), including without limitation that the Check, Electronic Item or Substitute Check was allegedly unauthorized, was a counterfeit, had been altered, or had a forged signature.
  8. The Bank shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission or communication facilities, equipment failure, war, emergency conditions, Federal Reserve Bank risk control or any other rules, or regulations, or equivalent of any U.S. governmental regulatory authority.
  9. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, BANK'S AGGREGATE LIABILITY TO CUSTOMER FOR CLAIMS RELATING TO THIS AGREEMENT, WHETHER FOR BREACH, NEGLIGENCE, INFRINGEMENT, IN TORT OR OTHERWISE, AND ARISING DURING ANY TWELVE-MONTH PERIOD SHALL BE LIMITED TO AN AMOUNT EQUAL TO THE TOTAL FEES PAID BY CUSTOMER TO BANK FOR SUCH TWELVE-MONTH PERIOD.
  10. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, OR ANY LOST PROFITS OR LOSS OF ANY OPPORTUNITY OR GOOD WILL, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- E. Acknowledgment of Limitation of Liability. Bank and Customer acknowledge and agree that the limitations of liability in this Agreement are a bargained for allocation of risk and liability, and agree to respect such allocation of risk and liability. Each party acknowledges and agrees that the other party would not enter into this agreement, without the limitations of liability set forth in this section. The Customer agrees to hold the Bank harmless from any loss or damage resulting from Customer's breach of this Agreement, or Customer's negligence, or any loss or damage arising from the unauthorized, fraudulent, or dishonest acts by Customer's current and/or former authorized users, agents, contractors, or employees.
- F. Customer Requests. Bank shall not be obligated to honor any Customer request if the amount requested exceeds the collected balance in the Customer's account. Bank has the sole discretion to reject or not process any transaction if Customer does not have funds available in the account (s) specified in any transaction request.
- G. Fees. Customer will pay Bank the set-up and service fees as set forth in Bank's Treasury Management Schedule of Fees. Notice of changes to these fees or requirements will be provided as is required by law, or if there is no specific requirement of law, Bank will take reasonable steps calculated to provide notice to Customer. Customer shall be responsible for and pay all sales and other taxes applicable to this Agreement

and imposed by any governmental authority, including without limitation any sales, use, and other taxes associated with the Services. Bank may charge to the Account all fees and taxes imposed on Bank that are the responsibility of Customer.

H. Term and Termination.

1. The term of this Agreement shall commence upon execution hereof and shall continue thereafter until terminated as follows:
    - a. By either party upon 30 days written notice to the other party, for any reason;
    - b. By Bank upon 30 days written notice to Customer for Customer's failure to
      - i. Pay Bank any amount due to Bank under this Agreement, or
      - ii. Install and use any changes or updates to the Software as required herein, if such breach is not cured within such 3-day period;
      - iii. By Bank immediately if Bank discovers any misconduct on the part of Customer or if Bank deems continued use of a particular Service to be contrary to prudent banking practices.
    - c. By Bank for failure of the Customer to adhere to the NACHA rules in a manner that permits the ODFI to comply with the rules.
  2. Any termination will not affect obligations arising prior to termination, such as the obligation to process any Checks and Electronic Items, including returned Checks or Electronic Items that were in the process of being transmitted or collected prior to the termination date.
  3. Upon termination of this Agreement, Customer will return or destroy all copies of the software and documentation related to the Services in Customer's possession or under its control, and will, upon request, certify in writing that Customer has returned or destroyed all such copies.
  4. Customer will keep all Accounts at Bank open until the later of (i) 60 days after the date of termination, or (ii) final payment with respect to all processing fees, and will keep in such Accounts an amount sufficient to cover any remaining outstanding checks. If any such outstanding checks or returned items exceed the amount in an Account, Customer will pay such excess to Bank upon demand.
  5. If applicable, Customer will continue to retain Checks and forward Checks to Bank as provided in the Desktop Teller Service Terms and Conditions of this Agreement.
  6. In regard to all products and Services utilized during the course of the Agreement, Customer agrees not to develop a product substantially similar to the Program during the term hereof or within three years after termination of this Agreement.
  7. This Termination provision shall apply not only to the termination of the Agreement as a whole, but also shall apply if Customer desires to terminate any of the below-described individual Services and the terms and conditions of that service agreement are silent as to termination.
- I. Governing Law – Unless otherwise noted, the meaning of terms used in this agreement and in information incorporated herein shall be defined by the applicable provisions of the Nebraska Uniform Commercial Code. The laws of the State of Nebraska shall govern this Agreement and all transactions hereunder. Customer acknowledges that it has reviewed this Agreement, understands the Terms and Conditions set forth herein, and agrees to be bound hereby.
- J. Attorney's Fees. If any action is brought by either party against the other regarding the subject matter of this Agreement, including any court action or arbitration proceeding, the prevailing party shall be entitled to recover, in addition to any relief granted, reasonable attorney's fees, costs of court, expert witness fees and other expenses of action.
- K. Amendments. Bank may amend the provisions of this Agreement that govern the procedures and functions of any Service or product hereunder, and any such amendment will become effective:
  1. Upon Customer's receipt,
  2. Upon such later date as may be specified in such notification, or
  3. At such earlier date as Bank may reasonably require if such amendment is necessary or advisable in connection with statutory or regulatory changes or to protect the integrity, security or operability of the Service or product.
- L. Additional Documentation. All applicable addendums, schedules, appendices, authorizations or other document delivered or made available by the Bank to the Customer ("Additional Documentation") shall be deemed to be a part of this Agreement as if fully set forth herein. Additional Documentation may be amended or modified from time to time, in writing, from the Bank to Customer and, upon such amendment or modification, the amended or modified Additional Documentation or Agreement shall be deemed a part of this agreement; provided, however, that amended changes set forth in any applicable fee schedule shall apply only to transactions thirty (30) days after notice by Bank.

- M. Severability. In the event any provision of this Agreement shall be determined to be invalid, illegal or unenforceable to any extent, the remainder of this Agreement shall not be impaired in any manner and shall continue to be valid and enforceable to the fullest extent permitted by law.
- N. License. Subject to the Terms and Conditions of this Agreement, Bank hereby grants Customer a non-exclusive, non-transferable license to:
1. Use required Software for the Service provided by the Bank, in accordance with the documentation and solely on authorized equipment;
  2. Copy and use the documentation solely to support Customer's authorized use of the Software;
  3. Copy any Software actually delivered to Customer solely for archival or backup purposes. Customer agrees to abide by the provisions of each applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer with respect to the Software and documentation.
- O. Confidential Information. Bank acknowledges it may obtain or have access to non-public personal information regarding Customer or its customers, and agrees to:
1. Maintain the confidentiality, integrity and security of such information;
  2. Use such information only for the purposes set forth in this Agreement and the Account Agreement, including without limitation for the performance of its obligations and exercise of our rights hereunder;
  3. Disclose such information only to our employees, agents, or others only as necessary to perform our obligations and exercise our rights hereunder, or as otherwise permitted by law;
  4. Maintain physical, technical, procedural and administrative controls and safeguards reasonably designed (taking into account the nature and circumstances of Bank's business) to ensure the security, integrity and confidentiality of such information, and to protect against any anticipated threats or hazards to the security or integrity of, or unauthorized access to, such information.
- P. **DISCLAIMER. BANK'S REPRESENTATIONS, WARRANTIES, OBLIGATIONS AND LIABILITIES, AND CUSTOMER'S RIGHTS AND REMEDIES, SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE. ANY SOFTWARE PROVIDED BY BANK AND ITS LICENSORS IS PROVIDED "AS IS". CUSTOMER HEREBY WAIVES AND RELEASES BANK AND ITS LICENSORS AND THEIR RESPECTIVE OWNERS, OFFICERS, AND EMPLOYEES FROM, ALL OTHER REPRESENTATIONS, WARRANTIES OF ANY NATURE, OBLIGATIONS, AND LIABILITIES, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO THE SOFTWARE, DOCUMENTATION, AUTHORIZED EQUIPMENT AND ANY AND ALL MATTERS ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION:**
1. ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, PURPOSE OR APPLICATION, OR OTHER IMPLIED CONTRACTUAL WARRANTY;
  2. ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE;
  3. ANY WARRANTIES OF TIMELINESS OR NON-INFRINGEMENT; AND
  4. ANY OTHER WARRANTY WITH RESPECT TO QUALITY, ACCURACY OR FREEDOM FROM ERROR. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NEITHER BANK NOR OUR LICENSORS WARRANT THAT OPERATION OF THE SOFTWARE OR THE AUTHORIZED EQUIPMENT WILL BE ERROR-FREE OR UNINTERRUPTED.
- Q. Assignment. Neither party may assign its rights, license or delegate its duties under this Agreement without the other party's prior written consent, which will not be unreasonably withheld or delayed.
- R. Construction and Interpretation. Section headings used herein are for the convenience of reference only, and shall not affect the meaning or interpretation of this Agreement. This Agreement shall be deemed to have been drafted by both parties, and in the event of dispute, no party shall be entitled to claim that any provision hereof should be construed against the other party by reason of the fact that it was drafted by any particular party. The failure of either party to enforce any rights granted under this Agreement or to take action against the other party in the event of any breach shall not be considered a waiver of that right or breach unless the waiver has been reduced to writing and signed by the waiving party. If a party effectively waives a right or breach, that waiver will not constitute a waiver of any other right or breach or of a subsequent breach of the same obligation. If any provision of this Agreement is held invalid, illegal or unenforceable in any particular jurisdiction or circumstance, the remaining provisions of this Agreement shall remain valid and enforceable in such jurisdiction or circumstance, and such provision shall remain valid and enforceable in any other jurisdiction or circumstance.
- S. Security Interest. Customer grants Bank a security interest in all of the Customer's Accounts, as security for the performance of Customer obligations hereunder.

- T. Third Party Beneficiaries. This Agreement is for the sole and exclusive benefit of Bank and Customer and is not intended to benefit any third party, except Bank's licensors. Customer and Bank acknowledge and agree that any party that licenses the Software to Bank, directly or indirectly through one or more sublicenses, is a third-party beneficiary to this Agreement with respect to those provisions dealing with use and protection of intellectual property.
- U. Relationship Between Parties. This Agreement will not be construed as creating an agency, partnership, joint venture, or any other form of association, for tax purposes or otherwise, between the parties, and the parties will at all times be and remain independent contractors. Except as expressly agreed by the parties in writing, neither party will have any right or authority, express or implied, to assume or create any obligation of any kind, or to make any representation or warranty, on behalf of the other party or to bind the other party in any respect whatsoever.
- V. Notices, Instructions, Etc.
1. Notices: All notices permitted or required under this Agreement will be in writing and will be deemed given upon actual delivery. Any notice addressed to the Bank should be as follows:  
Union Bank & Trust Co.  
Attn: Treasury Management Services  
PO Box 82535  
Lincoln, NE 68501  
Phone Number: 402-323-1859  
Fax Number: 402-323-1646  
If to Customer: The address, facsimile number, or e-mail set forth in Bank's current account records. If Customer has a change in address, it must inform the Bank of the updated information within a reasonable time.
  2. The Bank shall be entitled to rely on any written notice or other electronic communication believed by it in good faith to be genuine and to have been signed by an Authorized Representative of Customer, and any such communication shall be deemed to have been signed by such person. The names and signatures of Authorized Representatives are set forth in the appropriate addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer to be completed prior to utilizing the Service. The Customer may add or delete any Authorized Representative by written notice or electronic instructions to the Bank. Such notice shall be effective after Bank has had reasonable opportunity to act upon the request.
- W. Waiver. The failure of either party to insist upon the performance of any terms or conditions of this Agreement or to exercise any right or privilege conferred in this Agreement or to enforce penalties resulting from breach of any of the terms or conditions of this Agreement, shall not be construed as waiving any such terms, conditions, rights or privileges, but the same shall continue and remain in full force and effect as if no such forbearance or failure had occurred.
- X. Entire Agreement. This Agreement supplements the terms of the Account Agreement. This Agreement, each applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer to this Agreement (as may be amended from time to time), and the Account Agreement constitute the entire agreement between Customer and Bank with respect to the subject matter hereof, supersede any prior agreements between Bank and Customer with respect to the subject matter hereof, and shall be binding upon Bank, Customer and their respective successors and permissible assigns. In the event of any inconsistency between this Agreement and the Documentation or any Account Agreement, this Agreement will govern.
- Y. Force Majeure. Except for the obligation to make payments, nonperformance by either party will be excused to the extent performance is prevented or delayed due to causes beyond such party's reasonable control and without its negligent or willful misconduct, including without limitation acts of God, natural disasters, terrorist acts, war or other hostilities, labor disputes, civil disturbances, governmental acts, orders or regulations, third party nonperformance or failures or fluctuations in electrical power, heat, light, air conditioning or telecommunications equipment.

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## II. ACH ORIGATION SERVICES TERMS AND CONDITIONS

This Section sets forth the Terms and Conditions of the Bank's ACH Origination Service. It only applies if the Customer has requested and been approved utilize this Service.

### RECITALS

- A. Customer wishes to initiate credit and debit Entries pursuant to the terms of this Agreement and the *ACH Rules* (the *Rules*), and Bank is willing to act as an Originating Depository Financial Institution (ODFI) with respect to such Entries.

- B. Unless otherwise defined herein, capitalized terms shall have the meanings provided in the *Rules*. The term "Entries" shall have the meaning provided in the *Rules* and shall also mean the data received from the Customer hereunder from which the Bank prepares Entries.
- C. Some entries presented to the Bank are not submitted through the ACH or NACHA. With respect to these entries, the Bank desires to obtain from the Customer undertaking identical to those required to be obtained under the Rules as to entries submitted through the ACH and under the Rules of NACHA.

#### **AGREEMENT**

1. ACH Rules. The Customer has access to a copy of the *Rules*, acknowledges receipt of a copy, or may purchase a copy if they so desire. The Customer agrees to comply with and be bound by the *Rules*. In the event the Customer violates any of the applicable *Rules* and NACHA imposes a fine on the Bank because of the Customer's violation, the Bank may charge the fine to the Customer. The Bank agrees to inform the Customer of revisions to the *Rules* of which the Bank has knowledge.
2. U.S. Law. It shall be the responsibility of the Customer to ensure the origination of ACH transactions complies with U.S. law.
3. Applicable law. As stated above, this Agreement shall be governed by the laws of the State of Nebraska. Customer consents to venue in Lancaster County, Nebraska.
4. Security Procedures.
  - a. The Customer and the Bank shall comply with the security procedure requirements to be provided to Customer with respect to Entries transmitted by the Customer to the Bank. The Customer acknowledges the purpose of such security procedures is to verify authenticity and not to detect an error in the transmission or content of an Entry. No security procedures have been agreed upon between the Bank and the Customer for the detection of any such error. The Customer agrees the Bank's security procedures are commercially reasonable.
  - b. The Customer is strictly responsible for establishing and maintaining commercially reasonable security measures to safeguard against unauthorized transmissions, network infections, and breaches of Protected Information (i.e. non-public data). The Customer warrants that such measures will include, but not be limited to, security technology (e.g. secure web-servers) that provides a commercially reasonable level of encryption technology for the entry and transmission of Entries over the Internet, and network security to safeguard account information and access from unauthorized parties. The applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer will later be sent to Customer that outlines additional requirements. Additionally, the Customer warrants that no individual will be allowed to initiate transfers in the absence of proper supervision and safeguards, and agrees to take reasonable steps to maintain the confidentiality of security procedures and any passwords, codes, security devices and related instructions provided by the Bank in connection with the security procedures detailed in each applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer to be sent to Customer. If the Customer suspects that any information or instructions are accessed by unauthorized persons, the Customer will notify the Bank immediately. The occurrence of unauthorized access will not affect any transfers made in good faith by Bank prior to receipt of notification and within a reasonable period to prevent unauthorized transfers.
5. Processing, Transmittal and Settlement by Bank.
  - a. Except as provided in Section 4, the Bank shall (i) process Entries received from the Customer to conform with the file specifications set forth in the *Rules*, (ii) transmit such Entries as an Originating Depository Financial Institution to the Federal Reserve (the "ACH Operator"), and (iii) settle for such Entries as provided in the *Rules*.
  - b. The Bank shall transmit such Entries to the ACH Operator by the deadline, according to procedures sent to Customer, two Business Days prior to the Effective Entry Date shown in such Entries, provided (i) such Entries are received by the Bank's related cut-off time set forth in procedures to be sent to Customer on a Business Day, (ii) the Effective Entry Date is at least two days after such Business Day, and (iii) the ACH Operator is open for business on such Business Day, excluding Federal Holidays. For purposes of this Agreement, Entries shall be deemed received by the Bank, in the case of hand-delivered files, when received by the Bank at the location set forth in each applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer to be sent to Customer, and in the case of electronic file transmission, when the transmission is completed as provided in procedures to be sent to Customer.



- c. If any of the requirements of clause (i), (ii), or (iii) of Section 5(b) are not met, the Bank shall use reasonable efforts to transmit such Entries to the ACH Operator by the next deposit deadline on which the ACH Operator is open for business.
6. On-Us Entries. Except as provided in Section 7, in the case of an Entry received for credit or debit to an account maintained with the Bank (an "On-Us Entry"), the Bank shall credit or debit the Receiver's account in the amount of such Entry on the Effective Entry Date contained in such Entry, provided the requirements set for the in Section 5(b) are met. If either of those requirements is not met, the Bank shall use reasonable efforts to credit or debit the Receiver's account on the next Business Day following such Effective Entry Date.
  7. Rejection of Entries. The Bank shall reject any Entry which does not comply with the requirements of Section 32 or Section 4. The Bank shall have the right to reject an On-Us Entry for any reason for which an Entry may be returned under the *Rules*. The Bank shall have the right to reject any Entry if the Customer has failed to comply with its account balance obligations under Section 13. The Bank shall notify the Customer of such rejection no later than the Business Day such Entry would otherwise have been transmitted by the Bank to the ACH Operator, or in the case of an On-Us Entry, its Effective Entry Date. 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. In the event that any Entries are rejected by the ACH Operator for any reason, it shall be the responsibility of the Customer to remake such Entries. Should the file be rejected due to an error caused by the Bank, the Bank shall be responsible for remaking the file. In such case, the Customer will supply sufficient information, as required in Section 25, to allow the Bank to recreate the entries up to five (5) Business Days after midnight of the settlement date.
  8. Cancellation or Amendment by Customer. The Customer shall have no right to the cancellation or amendment of any Entry after its receipt by the Bank. However, the Bank shall use reasonable efforts to act on a request by the Customer for cancellation of an Entry prior to transmitting it to the ACH Operator, or in the case of an On-Us Entry, prior to crediting or debiting a Receiver's account. The Customer shall reimburse the Bank for any expenses, losses, or damages the Bank may incur in effecting or attempting to effect the cancellation or amendment of an Entry.
  9. Notice of Returned Entries. The Bank shall notify the Customer of the receipt of a returned Entry from the ACH Operator no later than one Business Day after the Business Day of such receipt.
  10. Notifications of Change. The Bank shall notify Customer of all Notifications of Change received by the Bank related to Entries transmitted by the Customer no later than two (2) Business Days after receipt thereof. The Customer shall ensure that changes requested by Notifications of Change are made within six (6) Business Days of the Customer's receipt of the information or prior to initiating another Entry to the Receiver's account, whichever is later.
  11. Initiation of Entries. The Customer will send notification that it intends to initiate an entry or entries to a particular account within the time limits prescribed for such notice. After the Customer has received notice that any such notification has been rejected by a receiving bank, or that a receiving financial institution will not receive entries without having first received a copy of the authorization signed by its customer, the Customer will not initiate any entry to such customer, except the Customer may initiate entries after providing the receiving financial institution with such authorization within the time limits provided by the *Rules*.
  12. Reinitiation of Entries. The Customer may not reinitiate Entries except as prescribed by the *Rules*.
  13. Payment by Customer for Entries; Payment by ODFI for Entries.
    - a. The Customer shall pay the Bank the amount of each credit Entry (including On-Us Entries) transmitted by the Bank pursuant to this Agreement at such time on the Settlement Date with respect to such credit Entry as the Bank, at its discretion, may determine.
    - b. The Customer shall pay the Bank the amount of each debit Entry returned by a Receiving Depository Bank pursuant to this Agreement.
    - c. The Bank shall pay the Customer the amount of each debit Entry (including On-Us Entries) transmitted by the Bank pursuant to this Agreement at such time on the Settlement Date with respect to such debit Entry as the Bank, at its discretion, may determine.
    - d. The Bank shall promptly pay the Customer the amount of each credit Entry returned by a Receiving Depository Bank pursuant to this Agreement.
  14. Funds Availability. The Customer will receive immediately available funds for any debit entry initiated by it in accordance with each applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer. Funds will be credited to the Clearing and Collection Account or Settlement Account on the settlement date applicable to such entries.
  15. The Account. The Bank may, without prior notice or demand, obtain payment of any amount due and payable to it under the Agreement by debiting the Account(s) identified by Customer per agreed upon procedures sent to Customer, and shall credit the Account for any amount received by the Bank by reason of the return of an

Entry transmitted by the Bank for which the Bank has previously received payment from the Customer. Such credit shall be made as of the day of such receipt by the Bank. The Customer shall at all times maintain a balance of available funds in the account sufficient to cover its payment obligations under this Agreement. In the event there are not sufficient available funds in the Account to cover the Customer's obligations under this Agreement, the Customer agrees that the Bank may debit any account maintained by the Customer with the Bank or any affiliate of the Bank or that the Bank may set off against any amount it owes to the Customer, in order to obtain payment of the Customer's obligations under this Agreement. Financial Information Upon request of the Bank, the Customer agrees to promptly provide to the Bank information pertaining to the Customer's financial condition.

16. Account Reconciliation and Periodic Statement. The periodic statement issued by the Bank for the Customer's Account will reflect Entries credited and debited to the Customer's Account. The Customer agrees to notify the Bank promptly of any discrepancy between the Customer's records and the information shown on any such periodic statement. If the Customer fails to notify the Bank within 30 days of receipt of a periodic statement, the Customer agrees that the Bank shall not be liable for any other losses resulting from the Customer's failure to give such notice, including any loss of interest or any interest equivalent with respect to an Entry shown on such periodic statement. If the Customer fails to notify the Bank within 60 days of receipt of a periodic statement, the Customer shall be precluded from asserting such discrepancy against the Bank.
17. Customer Representations and Agreements; Indemnity. The Customer agrees that (a) each person shown as the Receiver on an Entry received by the Bank from the Customer has authorized the initiation of such Entry and the crediting of its account in the amount and on the Effective Entry Date shown on such Entry, (b) such authorization is operative at the time of transmittal or crediting by the Bank as provided herein, (c) Entries transmitted to the Bank by the Customer are limited to those types of Entries set forth in Section 32, (d) the Customer will comply with all security procedures described in each applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer, and will not bypass, override or disable any security mechanisms required by each applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer, (e) the Customer will notify Bank of any security incidents or breaches at the Customer's location, (f) the Customer insures updates for operating systems and third party applications are completed in a timely fashion, (g) the Customer shall perform its obligations under this Agreement in accordance with all applicable laws and regulations, and (h) the Customer shall be bound by and comply with the *Rules* as in effect from time to time, including without limitation the provision thereof making payment of an Entry by the Receiving Depository Bank to the Receiver provisional until receipt by the Receiving Depository Bank of final settlement for such Entry; and specifically acknowledges that if such settlement is not received, the Receiving Depository Bank 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 Customer shall indemnify the Bank against any loss liability or expense (including attorneys' fees and expenses) resulting from any breach of any of the foregoing agreements.
18. Bank Responsibilities; Liability; Limitations on Liability; Indemnity.
  - a. The Bank shall be responsible only for performing the Services expressly provided for in this Agreement, and shall be liable only for its negligence in performing those Services. The Bank shall not be responsible for the Customer's acts or omissions (including without limitation the amount, accuracy, timeliness of transmittal or due authorization of any Entry received from the Customer) or those of any other person, including without limitation any Federal Reserve Bank or transmission or communications facility, any Receiver or RDFI (including without limitation the return of an Entry by such Receiver or RDFI's), and no such person shall be deemed the Bank's agent. Customer agrees to indemnify the Bank against any loss, liability or expense (including attorneys' fees and expenses) resulting from any claim of any person that the Bank is responsible for, any act of omission by the Customer or any other person described in this Section.
  - b. The Bank shall only be liable for the Customer's actual damages due to claims arising solely from the Bank's obligations to the Customer with respect to Entries transmitted pursuant to this Agreement. In no event shall the Bank be liable for any consequential, special, punitive or indirect loss or damage that the Customer may incur or suffer in connection with this Agreement, including losses or damage from subsequent wrongful dishonor resulting from the Bank's acts or omissions pursuant to this Agreement.
  - c. The Bank shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission, or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond the Bank's control. In addition, the Bank shall be excused from failing to transmit or delay in transmitting an Entry if such transmittal would result in Bank's having exceeded any limitation upon its intra-day net funds position established pursuant to

Federal Reserve guidelines or if the Bank reasonably believes it would violate any provision of any risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority.

- d. The Bank's liability for loss of interest resulting from its error or delay shall be calculated by using a rate equal to the average Federal Funds Rate at the Federal Reserve Bank of New York for the period involved. At the Bank's option, payment of such interest may be made by crediting the Account.
19. Compliance with Security Procedures. If an Entry (or a request for cancellation or amendment of an Entry) received by the Bank purports to have been transmitted or authorized by the Customer, it will be deemed effective as the Customer's Entry (or request) and the Customer shall be obligated to pay the Bank the amount of such Entry (or request) even though the Entry (or request) was not authorized by the Customer, provided the Bank acted in compliance with the security procedures sent to Customer. If signature comparison is to be used as part of that security procedure, the Bank shall be deemed to have complied with that part of such procedure if it compares the signature accompanying a file of Entries (or request) with the signature of an Authorized Representative of the Customer and, on the basis of such comparison, believes the signature to be that of such Authorized Representative.
  20. Passwords and System Security.
    - a. ACH includes the ability for Customer to establish passwords and various security levels over ACH, including verification and authorizations levels. The Customer agrees that the password and security levels, if used as provided in the instructions and online help, are consistent with commercially acceptable practices and meet all standards for its security. The Bank strongly advises the Customer to use all verification, passwords, and security level authorizations provided. The Customer is fully liable for all activities and consequential damages arising from any authorized or unauthorized use of such passwords. Customer agrees to monitor its Accounts and notify the Bank immediately of the possibility that unauthorized transaction(s) have occurred. Until written notice or electronic instructions to the contrary is received and duly processed, the Bank shall be entitled to rely on agreed upon procedures for all Services under this agreement. Customer acknowledges and agrees that Customer will be responsible for all transactions initiated by any person utilizing an appropriate access password or other security procedure.
    - b. Customer acknowledges that Service interruptions in the banking, telecommunications and computer industries are frequently caused by circumstances beyond the provider's control and are difficult to assess as to the cause or resulting damages. The Bank's goal will be to respond to Service requests within one Business Day notification. The Customer agrees and acknowledges that the Bank is not responsible for any interruptions of utility or telecommunications Services, whether occurring at an individual employee's residence or place of business or at the Bank's place of business. Customer also agree that the Bank will not be liable for any actual or direct loss arising out of mistakes, omissions, interruption, delays, errors, or defects in transmissions of data or other uses of ACH. Customer also agrees that it will not use the Service to request any unauthorized or unlawful transaction and that all affected accounts will have a sufficient available balance for any proposed transaction. The Bank shall not be liable for any act or omission of any other entity furnishing equipment, products or Services to Customer, nor shall the Bank be liable for damages or losses due to the fault or negligence of Customer or its agents, affiliates, subscribers or customers. In no event will the Bank be liable to Customer for any damages, including any lost profits, lost savings or other incidental or consequential damages arising out of any use or inability to use ACH.
  21. Inconsistency of Name and Account Number. The Customer acknowledges and agrees that, if an Entry describes the Receiver inconsistently by name and account number, payment of the Entry transmitted to the Receiving Depository Bank might be made by the Receiving Depository Financial Institution (or by the Bank in the case of an On-Us Entry) on the basis of the account number even if it identifies a person different from the named Receiver, and that the Customer's obligation to pay the amount of the Entry to the Bank is not excused in such circumstances.
  22. Payment for Service. The Customer shall pay the Bank the charges for the Services provided for set forth in each applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer. The Bank shall provide the Customer written notification of changes in fees and Services 30 calendar days prior to such changes going into effect. Such charges do not include, and the Customer shall be responsible for payment of, any sales, use, excise, value-added, utility or other similar taxes relating to the Services provided for herein, and any fees or charges provided for in this Agreement between the Bank and the Customer with respect to the Account.
  23. Amendments. From time to time the Bank may amend any of the Terms and Conditions contained in this Agreement, including without limitation, any cut-off time, any Business Day, and any part of the procedures,

- limits, and authorized users to be sent to Customer. Such amendments shall become effective upon receipt of notice by the Customer or such later date as may be stated in the Bank's notice to the Customer.
24. Notices, Instructions, Etc.
    - a. Except as otherwise expressly provided herein, the Bank shall not be required to act upon any notice or instruction received from the Customer or any other person, or to provide any notice or advice to the Customer or any other person with respect to any matter.
    - b. The Bank shall be entitled to rely on any written notice or other electronic communication believed by it in good faith to be genuine and to have been signed by an Authorized Representative, and any such communication shall be deemed to have been signed by such person. The names and signatures of Authorized Representatives will be agreed upon after the execution of this Agreement. The Customer may add or delete any Authorized Representative by written notice or electronic instructions to the Bank signed by an Authorized Representative other than that being added or deleted.
  25. Data Retention. The Customer shall retain data on file adequate to permit remarking of Entries for 5 days following the date of their transmittal by the Bank as provided here, and shall provide such data to the Bank upon its request.
  26. Third Parties. The Customer shall assume full liability for any action made by any Third-Party Processor used by the Customer at its discretion to initiate Entries on its behalf. The Customer will notify the Bank of the use of any Third Party.
  27. Reversing Entries. The Reversing Entry must be available to the Receiving Depository Financial Institution ("RDFI") by midnight of the fifth Business Day following the settlement date of the erroneous entry. The Customer shall notify the Receiver that a reversing Entry has been transmitted to the Receiver's account no later than the Settlement Date of the reversing Entry. This notification may be made by the Customer's method of choice (fax, telephone, etc.).
  28. Regulation GG Prohibition on Funding of Unlawful Internet Gambling. This Agreement is subject to Regulation GG - prohibits restricted transactions from being processed through the account or through the relationship established by this agreement.
  29. Audit. The Bank has the right to audit periodically the Entries initiated, and any associated documentation, by the Customer to ensure compliance with the *Rules*, U.S. law, and Bank policies.
  30. Termination. The Customer may terminate this Agreement after written notice 10 days prior to termination. Such termination shall be effective on the second Business Day following the day of the Bank's receipt of written notice of such termination or such later date as is specified in that notice. This agreement may be terminated by the bank for failure of the Customer to adhere to the NACHA rules in a manner that permits the ODFI to comply with the rules. The Bank reserves the right to terminate this Agreement immediately upon providing written notice of such termination to the Customer. Any termination of this Agreement shall not affect any of the Bank's rights or the Customer's obligations with respect to Entries transmitted prior to such termination, or the payment obligations of the Customer with respect to Services performed by the Bank prior to termination.
  31. Cooperation in Loss Recovery Efforts. In the event of any damages for which the Bank or the Customer may be liable to each other or to a third party pursuant to the Services provided under this Agreement, the Bank and the Customer will undertake reasonable efforts to cooperate with each other, as permitted by applicable law, in performing loss recovery efforts and in connection with any actions that the relevant party may be obligated to defend or elects to pursue against a third party. The Customer represents and warrants that the Originator has agreed to undertake reasonable efforts to cooperate with each other, as permitted by applicable law, in performing loss recovery efforts with any actions that the Bank may be obligated to defend or elects to pursue against a third party.
  32. Additional Documentation. All applicable addendums, schedules, appendices, authorizations or other documents delivered or made available by the Bank to the Customer shall be deemed to be a part of this agreement as if fully set forth herein. All applicable addendums, schedules, appendices, authorizations or other documents delivered or made available by the Bank to the Customer may be amended or modified at any time and from time to time, in writing, from the Bank to Customer and, upon such amendment or modification, the amended or modified addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer shall be deemed a part of this agreement; provided, however, that amended changes set forth on procedures to be sent to Customer shall apply only to transactions thirty (30) days after notice by Bank.
  33. Waiver. The Bank may waive enforcement of any provisions of this Agreement. Any such waiver shall not affect the Bank's rights with respect to any other transaction or modification of the terms of this Agreement.
  34. Binding Agreement; Benefit. This Agreement shall be binding upon and to the benefit of the parties hereto and their respective legal representatives, successors, and assigns. This Agreement is not for the benefit of any other person, and no other person shall have any right against the Bank or the Customer hereunder.

35. Severability. In the event that any provision of this Agreement shall be determined to be invalid, illegal or unenforceable to any extent, the remainder of this Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.
36. Origination Agreement for Consumer Payments PPD
- a. Transmittal of Entries by Customer. The Customer shall transmit PPD debit Entries to the Bank in compliance with the formatting and other requirements set forth in each applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer.
  - b. Exposure Limits. The total dollar amount of Entries transmitted, frequency of origination and payment application (debits or credits) originated by the Customer to the Bank shall comply with limits set forth in an Authorization to be sent out after execution of this Agreement.
  - c. Authorization. The Customer will obtain authorization for PPD Entries in accordance with the *Rules* and U.S. law. The Customer will retain a record of the authorization for a period of two (2) years from the termination or revocation of the authorization.
  - d. Prenotifications. The Customer may send prenotifications six (6) Business Days prior to initiating the first Entry to a particular account. After the Customer has received notice that any such Entry has been rejected by the Receiving Depository Bank, the Customer will not initiate any Entry to such customer.
  - e. Notice of Change in Amount. The Customer will provide written notification to the Receiver ten (10) calendar days in advance if the amount of the Entry varies from the previous one, unless the authorization indicates variable amounts.
  - f. Notice of Change in Scheduled Debiting Date. The Customer will provide written notification to the Receiver seven (7) calendar days in advance of the new debit date if the date of the debit changes.
  - g. Reporting Requirement. Bank will provide reporting information to the National Association for Customer regarding PPD Entries whose return rate for unauthorized Entries exceeds .05% as required by the *Rules*.
37. Origination Agreement for Direct Deposit Entries ( PPD)
- a. Transmittal of Entries by Customer. The Customer shall transmit PPD credit Entries to the Bank in compliance with the formatting and other requirements set forth in the procedures to be sent to Customer.
  - b. Exposure Limits. The total dollar amount of Entries transmitted, frequency of origination and payment application (debits or credits) originated by the Customer to the Bank shall comply with limits set forth in each applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer.
  - c. Authorization. The Customer will obtain authorization for PPD Entries in accordance with the *Rules* and U.S. law. The Customer will retain a record of the authorization for a period of two (2) years from the termination or revocation of the authorization.
  - d. Prenotifications. The Customer may send prenotifications three (3) Business Days prior to initiating the first Entry to a particular account. After the Customer has received notice that any such Entry has been rejected by the Receiving Depository Bank, the Customer will not initiate any Entry to such customer.
38. Origination Agreement for Corporate Payment Applications
- a. Transmittal of Entries by Customer. Customer shall transmit CTX, CCD+, and/or CCD credit/debit Entries to Bank in compliance with the formatting and other requirements set forth in the Schedule to be sent to Customer.
  - b. Exposure Limits. The total dollar amount of Entries transmitted, frequency of origination and payment application (debits or credits) originated by the Customer to the Bank shall comply with limits set forth in each applicable addendum, schedule, appendix, authorization or other document delivered or made available by the Bank to the Customer .
  - c. Uniform Commercial Code Article 4A (UCC-4A) Disclosure. In regard to the origination of "wholesale credit" Entries, (defined as incoming corporate ACH credit transfers containing Standard Entry Class Codes "CCD" and "CTX"), Bank shall provide disclosure as required by Uniform Commercial Code Article 4A to the Customer.
  - d. Reporting Requirement. Bank will provide reporting information to the National Association for Customer regarding CTX, CCD+, and/or CCD debit Entries whose return rate for unauthorized Entries exceeds .05% as required by the *Rules*.

**39. Origination of Same Day ACH Entries**

- a. This section provides Company and the Bank requirements and responsibilities related to the origination of Same Day ACH Entries. The terms and conditions of the Agreement remain in effect except as noted.
- b. Company wishes to initiate Same Day ACH credit Entries pursuant to the terms of this Agreement and the NACHA Operating Rules and Guidelines.
- c. Company will initiate Entries with an Effective Entry Date of the current date, and submit those Entries to the Bank per the processing schedule deadlines below for Same Day Settlement. Same Day Entry Fees and additional fees (see pricing schedule below) will apply to said Entries. Any ACH Entries received by the Bank containing stale-dated or incorrect/invalid Effective Entry Dates will be processed as Same Day ACH Entries.
- d. The Company agrees to the security procedures outlined in this agreement
- e. Same Day Processing Schedule:

**Credit File Transactions**

Type	Deadline	Day of Delivery
Same Day Morning Window	__8:45__ a.m.	__X__ On the Effective Entry Date

- f. The Company agrees to fees outlined below for Same Day transactions.

Note – Items sent with an Effective Entry Date prior to the current date may be sent as a Same Day ACH Entry.

**ACH TRANSMITTAL/SECURITY PROCEDURES**

All files will be formatted in a NACHA or other pre-approved format; transmission specifications will be established by Bank.

- A. If you experience a delay in transmitting, please notify the Bank by calling (402) 323-1710 prior to 1:00pm Central Time
- B. To help insure the file will be processed the same day it needs to be received by 3:00pm Central Time

**SECURITY PROCEDURES**

- A. The Bank shall be entitled to rely on any written notice or other electronic communication believed by it in good faith to be genuine and to have been signed by the Customer's Authorized Representative, and any such communication shall be deemed to have been signed by such person.
- B. The Bank will not be responsible for verifying the authenticity of any person claiming to be an Authorized User of the Customer or the authenticity of any instruction, direction or information provided.
- C. The Bank may, but is under no obligation to, hold suspicious files, files that do not adhere to established security, exceed exposure limits, violate the terms of this Agreement or the *Rules*, or for other reasons. Such files will require the authorization by an Authorized Representative of the Customer before transmission to the ACH Operator.
- D. The Bank requires the following minimum levels of network and computer security for all Originators:
  - 1. Reliable, current and fully patched Security Suites, including, at a minimum, anti-virus, antimalware, anti-botnet, and anti-spyware.
  - 2. Hardware and software Firewalls.
  - 3. Hardware and VPN Encryption.
  - 4. Dedicated computer with static IP Address for file initiation.
  - 5. Process to patch systems timely.
  - 6. Written security policy and procedures designed to protect the Customer's network from unauthorized access (i.e. data breach) and avoid disclosing Protected Information (i.e. account numbers, social security numbers, etc.).
  - 7. Regular employee training.
- E. Account Security: The Bank requires the following account security:
  - 1. Files must be initiated and transmitted under dual-control.

The Customer shall supply evidence to the Bank of the above security within 5 Business Days of such request.

2. Out of Band Authentication (ACH Scheduler, Call Backs, Email Verification, IP Address Authentication).
3. The Customer will not process files using Administrator credentials.
4. New or altered credentials will require authorization before coming active.
5. Virtual Platform/Virtual Session Technology.

#### **ELECTRONIC FILE TRANSMISSION PROCESS REQUIREMENTS**

- A. Via Web Cash Manager and ACH Scheduler:
  1. The Company Customer will transmit files to the Union Bank and Trust. The Customer's Authorized Representative will have access to the ACH system by utilizing the pre-arranged logon procedures, Organization ID, User ID and password.
  2. The Customer's Authorized Representative will provide the Bank with verification of the totals contained in the transmission by logging into ACH Scheduler. In the event that the Customer or the Authorized Representative is unable to log the information in ACH Scheduler, the Customer's Authorized Representative will telephone the Bank's contact in Electronic Banking with the verification.
  3. The Bank will anticipate the receipt of an ACH file transmission from the Customer on each scheduled processing date identified by the Customer in ACH Scheduler and agreed to by the Bank. The Customer is responsible for ensuring that the Bank receives the transmission on each processing date indicated in ACH Scheduler. The Customer's Authorized Representative will notify the Bank if a transmission will not take place on the prearranged scheduled processing date by logging into ACH Scheduler and removing or rescheduling the file transmission.
  4. The Bank will verify the file totals agree with the Customer information given in ACH Scheduler. In the event of a discrepancy in the totals, the Bank will call the specified Customer Authorized Representative designated by an authorized signatory of the Customer. If an Authorized Representative is not available for notification, the file will not be processed until the Customer's Authorized Representative can be contacted on the next Business Day.
  5. The Customer is solely responsible for the accurate creation, modification, and deletion of the account information maintained on the Customer's personal computers and used for ACH money transfer. The Customer agrees to comply with written procedures provided by the Bank for the creation, maintenance, and initiation of ACH money transfers.
  6. The Customer is solely responsible for access by its employees of the data files maintained on the Customer's computer.
  7. The Customer is responsible for operator security procedures on the personal computers licensed for use of the program.
- B. Via Secure File Transfer Protocol (SFTP)
  1. The (SFTP) Service enables secure file transfer capabilities between networked hosts. SFTP additionally provides remote file system management functionality, allowing applications to resume interrupted file transfers, list the contents of remote directories, and delete remote files.
  2. Company agrees to run anti-malware software before transmitting data to or through any website. Company may use any commercially available, industry recognized anti-malware software of the type that detects and disinfects malware automatically, without the need for Company to execute malware scanning for each file manually. Company shall update its anti-malware software on a regular basis and in no event less often than once every month.
  3. A Site ID and Password will be delivered that will provide access to the site through the SFTP process. Company will assume responsibility for the use and confidentiality of such Site ID and Password, and such access to the data on the SFTP server through use of this Site ID and Password. Union Bank may suspend or revoke the access granted to the Site at any time at its sole discretion.
  4. Online passwords for Bank Services can be changed at any time. Passwords must meet the criteria presented on the screen at the time of creation, generally involving a minimum number of characters, a combination of letters and characters, and other parameters.
  5. Bank recommends online passwords be changed regularly.
  6. Company agrees to: (1) keep Password(s) secure and strictly confidential, providing Password(s) only to Authorized Representatives on Company's account(s); (2) instruct each person having access to Password(s) that he or she is not to disclose such Passwords to any unauthorized person; and (3) immediately notify Bank and select a new Password if Company believes a Password may have become known to an unauthorized person.

7. By using Bank Services, Company acknowledges and agrees that this Agreement sets forth security procedures for electronic banking transactions that are commercially reasonable. Company agrees to be bound by instructions that Bank implements in compliance with these procedures, unless Company has given Bank prior notice of possible unauthorized use (and Bank has had a reasonable opportunity to act on such notice).

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### III. POSITIVE PAY ACH FILTER SERVICE TERMS AND CONDITIONS

This Section sets forth the Terms and Conditions of the Bank's Positive Pay ACH Filter Service. It only applies if the Customer has requested and Bank has authorized Customer's use of this Service.

- A. Bank and Customer agree the Positive Pay ACH Filter Service described within this Agreement will be subject to the Terms and Conditions set forth in the Agreement. Customer must provide written or electronic instructions for specific items to be processed on accounts identified.
- B. Bank will handle all ACH debit items in accordance with this Positive Pay ACH Filter Service Agreement to include the NACHA Return codes as stated below:
  1. All consumer ACH applications will utilize R10 -- Customer Advises Not Authorized, Notice Not Provided, Improper Source Document; for consumer accounts; standing affidavit
  2. All corporate applications will utilize R29 -- Corporate Customer Advises Not Authorized
  3. When non-transactional accounts are used: R20 -- Non-Transaction Account
  4. When credits are received: R23 -- credit entry refused by receiver
- C.
- D. A daily report will be available to the Customer listing all exception items, if applicable. Customer must notify Bank of all Return Requests or other items requiring resolution by 11 AM Central Time each Business Day according to the provisions. IN THE EVENT THE CUSTOMER DOES NOT RESOLVE EXCEPTIONS EACH DAY IN THE MANNER PRESCRIBED IN THIS AGREEMENT, the Bank will pay or return Exceptions in accordance with the default option selected by the Customer for each authorized account included in Customer's instructions to be received later. Customer will accurately communicate to the Bank the company ID, date, service code, payee (optional) and amount (if static) of each authorized ACH debit and credit (if selected) directed to each of the authorized accounts. Company ID will be included in each ACH entry permitted through the bank's ACH Filter Service. Customer agrees to deliver this detailed ACH payment information to the bank through the Bank's systems. Customer agrees to ensure this information is received by the Bank in its entirety. Detailed ACH payment information will be sent in frequency sufficient to allow the Bank reasonable time to act on these payments.
- E. Customer will select the specific options to be sent to Customer which may be updated from time to time. Customer agrees not to authorize others to initiate ACH entries that are inconsistent with the blocking or filter services Customer requests from Bank. Customer agrees to execute such additional documents as required from time to time relating to the Service (e.g., NACHA-required affidavits or written statements for return of entries). ACH Filter detailed information to be sent to Customer shall be effective and shall continue in effect until terminated as provided in this Agreement.
- F. Either the Customer or the Bank may submit to the other party a proposed revision of any communication provided for under this Agreement. The revised communication must be sent in its entirety (not in the form of a partial amendment) and will identify the original communication. Once agreed upon by both parties, a revised communication revokes the original. The Bank at its discretion may comply with, but will not be obliged to comply with, any Pay Request or Return Request that is not received in a format, medium, place, or time as previously agreed to by the Bank. The Bank is not responsible for detecting Customer errors in Customer originated communications.
- G. Wrongful Honor. It will be a wrongful honor if the Bank pays an Exception Item listed in a timely manner unless Customer issued a Pay Request. In the event of a wrongful honor:
  1. Bank's only liability to Customer shall be for the lesser amount of the amount wrongfully paid or Customer's actual damage caused by the wrongful payment. In the event that Bank fails to block a debit entry, Bank's sole obligation shall be to promptly re-credit the amount thereof to Customer's account, whereupon Bank shall be subrogated to all of Customer's rights and remedies related to the entry or the transaction out of which it arose
  2. Bank retains the right to assert that a Customer's failure to exercise reasonable care was the cause of a wrongful honor.
  3. Bank also retains the right to assert as a defense that Customer sustained no actual damages due to its wrongful honor.
  4. In the event that Bank fails to block a credit entry, Bank's sole obligation shall be to transfer the subject funds back to the Originator of the entry, if Customer so requests.



- H. Wrongful Dishonor. Bank will have no liability to Customer for wrongful dishonor of any debit when the Bank acted in good faith, or when Bank returned an Exception Item it had reason to believe was not properly payable, or if there were insufficient funds in the account to pay the item, or if Bank believes that it is required to do so due to legal or regulatory considerations.
- I. Rightful Payment and Dishonor.
  - 1. If the bank honors an Exception Item in accordance with this Agreement, or in accordance with a Pay Request from the Customer, such honor will be rightful, and Customer waives any right it may have under UCC 4-401.
  - 2. If Bank dishonors an Exception Item in accordance with this Agreement, or in accordance with a Return Request from the Customer, such dishonor will be rightful, and Customer waives any right it may have under UCC4-402.
  - 3. Customer agrees that Bank shall be deemed to have exercised ordinary care whenever it rightfully pays or returns an Exception Item consistent with the provisions of this Agreement.
- J. Assignment of Claim. To the extent that Customer suffers a loss under this Agreement, and only if Bank is not in any loss or potential loss position, the Bank will assign to the Customer any claim that Bank would have against a depository or collecting bank to recover the loss.

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#### IV. **BUSINESS BANKING ONLINE SERVICE TERMS AND CONDITIONS**

This Section sets forth the Terms and Conditions of the Bank's Business Banking Online Service (BBO). It only applies if the Customer has requested and Bank has authorized Customer's use of the Service. If Customer uses BBO, it is agreeing to the below Terms and Conditions.

BBO is a web-based tool allowing Customer access to account information, plus the ability to initiate transfers and stop payments. In consideration of use of the BBO Service provided by Bank, the Customer agrees as follows:

- A. Customer authorizes Bank to disclose information about its account(s) to third parties in order to complete transactions using BBO and for any other purpose necessary and appropriate to implement the terms of this Agreement.
- B. All fees and transaction debits and credits shall be automatically deducted from Customer's account(s) and Bank shall provide to Customer notice of such amount(s) monthly.
- C. Additional Terms:
  - 1. Customer agrees to review information entered into BBO to ensure accuracy, review all bank statements and promptly notify the Bank of any problems or concerns. If the Bank's records regarding a transaction differ from Customer's records, the Bank's records shall control.
  - 2. Customer understands Bank has established specific cut-off times to determine Business Day on which transactions will be initiated and agrees to abide by these deadlines. These cut-off times are included in the Bank's Funds Availability Policy, Deposit, Wire, ACH or other applicable agreements. Transfers between Bank accounts received by 6:00 p.m. (CST) will post to the account on the current business day with immediate availability of funds. Scheduled transfers will post to the account on the selected business day with immediate availability of funds.
- D. Limitations for access through BBO: Sessions will be ended due to inactivity after 20 minutes. Users can log back into the system for additional sessions at any time.
- E. BBO Stop Payments.
  - 1. The Customer requesting the Bank to stop payment of items agrees to furnish Bank with the exact amount, (\*exact to the penny unless otherwise noted), check date, check number, name of payee and such other information Bank may request. Failure to furnish such information shall relieve the Bank of any liability for any payment made contrary to this request. Customer agrees to reimburse the Bank for all expenses and loss resulting from refusing payment pursuant to this order, or if by reason of such payment of other checks drawn by the Customer is returned unpaid because of insufficient funds. Any stop payment order is also subject to the provisions contained in the Customer's Account Agreement.
  - 2. It is understood by the Customer that the Bank utilizes a computer system to verify each item so a visual inspection for each item is not always completed. This information, which is entered online, must be exact or the Bank's computer system will not be able to identify the item and this stop payment order will not be effective. The Customer also agrees that if a duplicate check is issued, it will be given a current issue date and new check number.
  - 3. A completed and accepted BBO stop payment transaction is effective for twenty-four (24) months. It is considered confirmed in writing once the stop payment request is initiated through the BBO Service. A stop payment order may be renewed for an additional six-month period by notice given to the Bank

within a period during which the stop payment order is effective. Customer agrees to contact the Bank if information entered is inaccurate or changes are needed to any previously initiated stop payment order. Customer assumes responsibility to contact the Bank to release a stop payment order entered on the BBO Service.

F. Passwords and System Security.

1. Each individual who is authorized to have access to Customer accounts and information through BBO must do so according to the Customer instructions completed by Customer. The level of access for each user is determined by the Access ID number, which will be assigned by Bank. The password shall consist of at least 6 characters within a specific format subject to a maximum of 17 characters and/or provided a token distributed by bank. Customer will enter their access ID on the log on screen and submit. The system will require each user to select a new password during their initial session. Token users will enable the token and select a 4-digit PIN that will be used in conjunction with the token password, complete an e-mail address and security question/answer. Customer's 4-digit PIN will be used in conjunction with token password when logging in. To log in Customer will press their token for a unique password. Customer will then enter token password, and their personal 4-digit PIN and submit. Log on screen will display a 4-digit authentication code. Customer will press token one time to view the same authentication code. Matching authentication codes will signal to Customer that they have reached the correct site. Customer's Access Id and password or token and 4-digit PIN is to be used only by that authorized individual and should be protected from use by others. Once selected by each user, this password is to be used only by that individual and protected from use by others. Bank may require users to change their password every 90 days, which can be completed within the software. Customer must have an Internet browser that supports a minimum 128-bit encryption standard with antimalware software, firewalls and a valid e-mail address.
2. Customer agrees that Bank's security procedures are commercially reasonable. Customer further agrees that actions taken by the Bank in compliance with its security procedures, whether or not in fact such transaction was initiated by the Customer or Customer agents shall be treated as a duly authorized Customer request. Until notice to the contrary is received and duly processed, the Bank shall be entitled to rely on any the Customer's written or electronic instructions for all Services under this Agreement. Customer will be responsible for all transactions initiated by persons to whom Customer has given access to passwords or other security procedures. Customer will comply with all security procedures described in this documentation, and will not bypass, override or disable any security mechanisms required with the authorized software. The Bank shall have no responsibility for any alterations made to the Service through Customer Administration.
3. Customer will notify Bank of any security incidents or breaches at the Customer's location.
4. Customer will insure updates for operating systems and third-party applications are completed in a timely fashion.

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V. **DESKTOP TELLER MERCHANT CAPTURE SERVICE TERMS AND CONDITIONS**

This Section sets forth the Terms and Conditions of the Bank's Desktop Teller Merchant Capture Service. It only applies if the Customer has requested and Bank has authorized Customer to use this Service. If Customer uses the Service, it is agreeing to the below Terms and Conditions.

- A. Background. Bank offers the Desktop Teller Program ("Program") for the electronic clearing of Checks, which enables Customer to convert Checks to Electronic Items and to transmit those items electronically for deposit into Customer's Account at Bank. Customer desires to use the Program to electronically transmit and process checks for deposit and collection purposes.
- B. Service. Bank shall provide to Customer the Service described in this Agreement to enable Customer to use the Program to convert Checks to Electronic Items for the processing of such Checks electronically. Customer and Bank shall comply with the terms and provisions discussed below with respect to performance of the Service.
- C. License. Subject to the Terms and Conditions of this Agreement, Bank hereby grants Customer a non-exclusive, non-transferable license to: (i) use the Software for those portions of the Program selected by Customer, solely for processing Checks in connection with Customer's own business operations, in accordance with the Documentation and solely on Authorized Equipment; (ii) copy and use the Documentation solely to support Customer's authorized use of the Software; and (iii) copy any Software actually delivered to Customer solely for archival or backup purposes. Customer agrees to abide by the provisions of discussed below with respect to the Software and Documentation.
- D. Customer Obligations. Customer represents and warrants that with respect to each Check processed by Customer hereunder and the corresponding Electronic Item: (i) the Electronic Item is a digitized image of the

front and back of the Check and accurately represents all of the information on the front and back of the Check as of the time Customer converted the Check to an Electronic Item; (ii) the Electronic Item contains all necessary endorsements applied by parties that previously handled the Check in any form for forward collection or return; and (iii) all transfer and presentment warranties made under applicable law and the Deposit Agreement. [If Customer captures a digital image of a previously truncated and reconverted Substitute Check for processing, Customer shall ensure that such Substitute Check meets the requirements for legal equivalency under Regulation CC and the identifications of previous truncating and reconvert bank(s) (as such terms are defined in Regulation CC) are preserved.] Customer may be subject to restrictions such as per item dollar limits, aggregate dollar volume limits, or other limits as set by Bank.

- E. Fees. Customer will pay Bank the license and service fees as set forth in this agreement. Bank reserves the right to change fees from time to time upon 30 days prior written notice. Customer shall be responsible for and pay all sales and other taxes applicable to this Agreement and imposed by any governmental authority, including without limitation any sales, use, and other taxes associated with the Program or Authorized Equipment. Bank may charge to the Account all fees and taxes imposed on Bank that are the responsibility of Customer.

Check Clearing for the 21<sup>st</sup> Century Act. By signing below, I certify that I have read and understand the requirements of FDIC's Regulations Section 6500 Consumer Protection Part 229 – Availability of Funds and Collection of Checks (Regulation CC) Subpart D in regard to Substitute Checks.

- F. Definitions. Capitalized terms used in this Agreement shall have the meanings indicated herein (including those defined below).
1. "Account" means Customer's account at Bank into which Checks transmitted electronically will be deposited.
  2. "Authorized Equipment" means equipment that has been approved by Bank for use with the Software.
  3. "Check" means a draft that is payable on demand, drawn on or payable through or at an office of a United States Bank, whether negotiable or not, and payable or endorsed to Customer, and includes Original Checks and Substitute Checks. Such term does not include Non-cash Items or items payable in a medium other than United States money. [Note: Bank's processing of items that do not meet this definition shall not constitute a waiver by Bank or obligate it to process nonconforming items in the future. Bank may discontinue processing of nonconforming items at any time, without cause or prior notice.]
  4. Deposit Agreement with respect to any Account means Bank's standard deposit agreements and disclosures governing the Account, as they may be amended from time to time.
  5. "Documentation" means all documentation, manuals and instructions relating to the Program or the Authorized Equipment, which Bank provides to Customer from time-to-time pursuant to this Agreement, including without limitation documentation regarding installation and use of the Software.
  6. "Electronic Item" means a digitized image of a Check, an Image Exchange Item, or any other electronic version of a Check or other electronic item (such as items processable through the automated clearinghouse (ACH) system) approved by Bank for processing through the Program.
  7. "Image Exchange Item" means a digitized image of a Check cleared and settled directly with a Payor Financial Institution without conversion to a Substitute Check.
  8. "Noncash Item" means an item that would otherwise be a Check, except that: (i) a passbook, certificate or other document is attached; (ii) it is accompanied by special instructions, such as a request for special advice of payment or dishonor; (iii) it consists of more than a single thickness of paper, except a Check that qualifies for handling by automated check processing equipment; or (iv) it has not been pre-printed or post-encoded in magnetic ink with the routing number of the Payor Financial Institution.
  9. "Original Check" means the first paper Check issued with respect to a particular payment transaction.
  10. "Payor Financial Institution" means the United States Financial Institution ordered in a Check to make payment to the payee(s) named on the Check.
  11. "Program" means collectively the procedures, protocols, and software used by Bank and its licensors and contractors in connection with the electronic processing of Checks, and includes without limitation the Software and the Service.
  12. "Regulation CC" means 12 C.F.R. Part 229, as it may be amended from time to time.
  13. "Service" means the service described in below to be provided by Bank, to enable Customer to process Checks digitally and through Substitute Checks.
  14. "Software" means that portion of the software developed, licensed and/or provided by Bank and its licensors for operation of the Program, that Bank delivers or provides to Customer hereunder.
  15. "Substitute Check" means a paper reproduction of a Check that satisfies the requirements and definition of "substitute check" set forth in Regulation CC.

16. "Supported Equipment" includes check scanners and scanner drivers that are compatible with the Software. This includes all recommended scanners and many Twain-compatible check scanners. Scanners that are not specifically recommended by the Bank are not guaranteed to be compatible with the Software.
17. "United States Financial Institution" means (i) any person, located in the United States, engaged in the business of banking; (ii) a Federal Reserve Bank; (iii) a Federal Home Loan Bank; and (iv) to the extent it acts as a payor, the U.S. Treasury, the U.S. Postal Service, or a State or local government.

#### **DESKTOP TELLER SERVICE TERMS AND CONDITIONS**

A. Bank's Responsibilities.

1. Bank will deliver to Customer, or otherwise provide access to, the Software.
2. Bank will provide installation and training support as reasonably required for Customer's implementation of the Program. Any onsite installation or training support shall be on such Terms and Conditions as the parties agree, including reimbursement for Bank's reasonable travel costs.
3. Bank will provide maintenance and support for the Software as reasonably necessary to permit Customer's processing of Checks through the Program. Such maintenance and support shall include (i) corrections, work-arounds and bug fixes, (ii) such modifications, enhancements and updates as Bank elects to make generally available to its customers without additional license fees, and (iii) telephone support to Customer during Bank's regular business hours.
4. Bank will accept for deposit to the designated Account digitized images of Checks that are transmitted to Bank in compliance with this Agreement. Digitized images shall be deemed received upon successful receipt of the transmission of such images that are complete, usable, and adhere to the data specifications set forth in the Documentation. If the digitized images are not complete, are not useable, or do not adhere to such data specifications, the images may not be processed by Bank or its agents, in which event Customer's deposit will be adjusted and notification will be provided.
5. Bank will provide Customer an electronic receipt of deposit through the software that can be printed for notification of Customer's transmission of digitized images as outlined in the Documentation.
6. Customer's digitized images will be processed after Bank has received Customer's transmission of the digitized images. Bank will use commercially reasonable efforts to present Image Exchange Items and Substitute Checks for collection. Unless Bank notifies Customer otherwise, Bank will provide credit to the Account for all items transmitted by Customer and received by Bank in accordance with the requirements of this Agreement, the bank's Funds Availability Disclosure and the Documentation, and within the timelines established by Bank.
7. If a Payor Financial Institution returns an item to Bank, Bank will charge the Account for such returned item, and may either (i) return the item to Customer or (ii) re-present it to the Payor Financial Institution before returning it to Customer. Items may be returned as Image Exchange Items, rather than Substitute Checks, as agreed by the parties. If a Payor Financial Institution or other third party makes a claim against Bank or seeks a recredit with respect to any Check processed hereunder, Bank may provisionally freeze or hold aside a like amount in the Account pending investigation and resolution of the claim.
8. Bank may suspend immediately the Service or the processing of any Check or corresponding Electronic Item if Bank has reason to believe that there has been a breach in the security of the Program, fraud involving Customer's Account or such Check, or any uncertainty as to the authorization or accuracy of Electronic Items. Bank reserves the right at any time to process Electronic Items on a collection basis. Bank may return any item to the Customer at any time for any reason.

B. Customer Responsibilities.

1. Customer will maintain an Account at Bank for the receipt of deposits of digitized images of Checks, in accordance with applicable Deposit Agreement. Customer will not use personal accounts for processing.
2. If there is an interruption to the Service for any reason, Customer must notify Bank and issue deposits to Bank using traditional means (deliver deposits to a branch, an authorized depository drop box, or through the U.S. Postal Service) until the Service is restored.
3. Customer may use only Authorized Equipment in connection with the Software. Customer understands Bank does not guarantee that Customer's hardware and software will be compatible with the Program. Unless otherwise provided in an addendum to this Agreement or in a separate agreement, Customer shall be responsible for ordering, obtaining and maintaining all Authorized Equipment from Bank including applicable supplies or required parts.

4. Customer must have an internet browser that supports a minimum 128-bit encryption standard with antimalware software, firewalls and a valid email address.
  5. Customer will use the Authorized Equipment and the Software, including the entering, processing and transmittal of items, in accordance with the Documentation. Without limiting the foregoing, Customer will comply with all security procedures described in the Documentation, and will not bypass, override or disable any security mechanisms required in the Authorized Equipment or Software.
  6. Customer will ensure the Authorized Equipment is clean and operating properly, and inspect and verify the quality of images and that the digitized images of Checks are legible for all posting and clearing purposes.
  7. Customer will be responsible for training its employees in the use of the Program, and for supervising and auditing their use of the Program. Bank recommends Customer utilize dual control.
  8. Customer will ensure that no financial institution (depository, collecting or payor), drawee, drawer or endorser with respect to a Check processed by Customer will receive presentation or return of, or otherwise be charged for, the Check (including the Original Check or Substitute Check), corresponding Electronic Item, and/or other paper or electronic representation of the Check such that such person will be asked to make payment based on an item that it already has paid.
  9. Customer will issue deposits to Bank using traditional means (deliver deposits to a branch, an authorized depository drop box, or through the U.S. Postal Service) for all items that reject and are unable to be processed using the Authorized Software.
  10. Customer will retain each Check for a minimum of 14 days and will destroy each check after 60 days. Customer will promptly provide any retained Check (or, if the Check is no longer in existence, a sufficient copy of the front and back of the Check) to Bank as requested to aid in the clearing and collection process or to resolve claims by third parties with respect to any Check. Customer will abide by this Agreement in relation to security of the Checks.
  11. Customer will retain all information regarding its digitizing of Checks as created by the Software for no less than seven (7) days (ex: envelops, check stubs, correspondence, etc.). In the event of lost, mistaken, incomplete or unusable Electronic Items, or in the event of claims of fraud, alteration, counterfeit or otherwise, Customer shall cooperate fully with Bank in providing information, including access to such records.
  12. Customer agrees to comply with requests for periodic audits as deemed necessary by Bank. This may be in the form of a request to complete an updated survey or access to an on-site audit performed by Bank or an affiliated third party. Customer also agrees to provide Bank with any significant changes to users, activity, security, and policies related to the use of the Desktop Teller Program.
  13. Regulation GG Prohibition on Funding of Unlawful Internet Gambling prohibits restricted transactions from being processed through the account or through the relationship established by this agreement.
  14. Customer will utilize Bank's Enhanced Online Security when accessing Desktop teller. Once an Access ID is assigned Customer will follow enrollment process to ensure system access is restricted to only designated personnel.
  15. Customer will notify Bank of any security incidents or breaches at the Customer's location.
  16. Customer insures updates for operating systems and third-party applications are completed in a timely fashion.
  17. Customer will contact Bank for equipment replacement information.
- C. Security Procedures
1. The same day deposit cut-off time is 6:00p.m. Central Standard Time, excluding Saturdays, Sundays, and federal holidays. To ensure timely processing, please transmit deposits throughout the day.
  2. Number of days for archive access and verification of duplicate items is 45 days.

**DESKTOP TELLER  
INTELLECTUAL PROPERTY PROVISIONS**

- A. Protection and Security of Software and Documentation.
1. Customer will establish reasonable precautions and use commercially reasonable efforts, no less rigorous than those Customer uses to protect its own confidential information to protect and maintain the confidentiality and security of the Software and the Documentation. Without limiting the generality of the foregoing, Customer will use reasonable measures to protect the Software and Documentation from unauthorized copying, dissemination, disclosure or other unauthorized use.
  2. Customer will not, and will not permit any third party to, (i) copy or use the Software or Documentation except as expressly authorized by this Agreement; (ii) sublicense, rent, distribute, transfer, publish, disclose, display or otherwise make available the Software to others; (iii) use the Software or

Documentation for third-party training, commercial time-sharing or service bureau use; or (iv) alter, change, modify or otherwise create derivative works of the Software or Documentation.

3. Customer will not, and will not permit any third party to, reverse engineer, disassemble or decompile any Software, except to the extent expressly permitted by applicable law. If Customer intends or begins to take any such action based on any applicable law, Customer shall notify Bank and Bank shall have the right to immediately terminate this Agreement and/or the license to the Software upon notice to Customer.
4. Customer will maintain a complete and accurate list of all locations where Customer has loaded and maintains the Software, and make such list available to Bank upon Bank's request.

**B. Ownership of Intellectual Property.**

1. Customer acknowledges and agrees that all right, title and interest in and to the Software and the Documentation, together with modifications, enhancements and derivative works, and all intellectual property rights such as copyrights, patents, and trade secrets, pertaining to the Software and the Documentation, (i) are and shall remain owned exclusively throughout the universe by Bank and its licensors, (ii) represent or contain valuable rights of Bank and its licensors, and (iii) are protected under United States patent, copyright, trademark and trade secret laws of general applicability. This Agreement does not create in Customer any rights to, and does not constitute an assignment of any rights of Bank or its licensors in and to, any copyrights, trade secrets, patents, or other intellectual property rights of Bank or such licensors. Other than the license set forth above in this Agreement, no other license or interest in the Software or Documentation, either express or implied, is granted under this Agreement.
2. Customer will not at any time, either directly or indirectly, (i) put to issue the scope, validity or ownership of Bank or its licensors' intellectual property rights in the Software and Documentation; (ii) do any act which could reasonably be expected to impair the scope, validity or ownership of such intellectual property rights, or (iii) assert any ownership rights to the Software or Documentation. Customer acknowledges and agrees that this Agreement does not grant or convey to Customer (i) an interest in or to the Software or Documentation, but only a limited right of use, revocable in accordance with the terms hereof; or (ii) any right, title, interest or license in or to any trademark of Bank or its licensors.
3. Customer hereby assigns to Bank and/or its licensors, as directed by Bank, any rights, including any patent, copyright, mask work rights, trademarks, and trade secrets, which Customer may now have or which it may acquire at any time in the future to the Software or the intellectual property rights to the Software, and any other computer code using any of the Software.
4. Customer shall not remove or alter any copyright, trademark, or other intellectual property or proprietary right notices, legends, symbols or labels appearing on or in the Software, Documentation or any packaging, and shall include on any copy of the Software or Documentation any copyright, trademark, or other intellectual property or proprietary right notices contained on the original.
5. Customer will (i) cooperate with Bank and its licensors to protect the Software, including in connection with any lawsuits or disputes involving the Software; (ii) promptly notify Bank and provide to it relevant background and other facts upon becoming aware of any actual or potential claim made by a third party regarding infringement, misappropriation, imitation, illegal use or misuse, or reasonable likelihood thereof, by the Software; and (iii) in the event of any actual or potential infringement, misappropriation, imitation, illegal use or misuse, or reasonable likelihood thereof of the Software by others, (a) grant to Bank and its licensors the sole right to determine the course of action with respect to such infringement and to bring any proceeding with respect thereto, and to settle, and collect any settlement amount or judgment for any such proceeding, and (b) agree that such licensors shall be solely entitled to any proceeds of any such proceeding, including without limitation any settlement proceeds, insurance proceeds, arbitration award, judgment, or other consideration in any form.

**C. Termination.**

Customer acknowledges and agrees that its license to the Software and Documentation will terminate upon the earlier to occur of (i) termination of this Agreement, or (ii) termination of Bank's license to the Software and Documentation.

**D. Injunctive Relief.**

Customer acknowledges that violation of its commitments regarding the Software, as outlined in Sections 2.4 and 2.5 this Agreement, may cause irreparable injury to Bank and/or its licensors, and agrees that Bank shall be entitled to seek and obtain temporary and preliminary injunctive relief in a court of competent jurisdiction, without the necessity of proving actual damages or posting a bond, to prevent such violation.

## DESKTOP TELLER

### DISPOSAL OF CONSUMER INFORMATION AND RECORDS

- A. Proper disposal of consumer information.
1. Standard. Any person who maintains or otherwise possesses consumer information for a business purpose must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal. Reasonable measures must be taken to protect against unauthorized access of all stored checks and confidential information through the constant use of locked file cabinet, safe, lockbox, or other form of secure storage. Customer will retain each Check for a minimum of 14 days up to a maximum of 60 days. Customer will use a commercially reasonable method approved by Bank to destroy Checks after this retention period has expired.
  2. Examples. Reasonable measures to protect against unauthorized access to or use of consumer information in connection with its disposal include the following examples. These examples are illustrative only and are not exclusive or exhaustive methods for complying with this rule.
    - a. Implementing and monitoring compliance with policies and procedures that require the burning, pulverizing, or cross-cut shredding of papers containing consumer information so that the information cannot practicably be read or reconstructed.
    - b. Implementing and monitoring compliance with policies and procedures that require the destruction or erasure of electronic media containing consumer information so that the information cannot practicably be read or reconstructed.
    - c. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of material, specifically identified as consumer information, in a manner consistent with this rule. In this context, due diligence could include reviewing an independent audit of the disposal company's operations and/or its compliance with this rule, obtaining information about the disposal company from several references or other reliable sources, requiring that the disposal company be certified by a recognized trade association or similar third party, reviewing and evaluating the disposal company's information security policies or procedures, or taking other appropriate measures to determine the competency and integrity of the potential disposal company.
    - d. For persons or entities who maintain or otherwise possess consumer information through their provision of Services directly to a person subject to this part, implementing and monitoring compliance with policies and procedures that protect against unauthorized or unintentional disposal of consumer information, and disposing of such information in accordance with examples (1) and (2) above.
    - e. For persons subject to the Gramm-Leach-Bliley Act, 15 U.S.C. 6081 et seq., and the Federal Trade Commission's Standards for Safeguarding Customer Information, 16 CFR Part 314 ("Safeguards Rule"), incorporating the proper disposal of consumer information as required by this rule into the information security program required by the Safeguards Rule.
- B. Relation to other laws: Nothing in this rule shall be construed.
1. To require a person to maintain or destroy any record pertaining to a consumer that is not imposed under other law; or,
  2. To alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

### WORKSTATION HARDWARE AND SOFTWARE REQUIREMENTS

#### Disk Space:

- 11 GB to 20 GB of available disk space on the system drive recommended

#### Hardware:

- Internet Access (Minimum) with 1.5 MB connection speed

#### Operating System:

- Microsoft Windows 7 (32 bit) – All Editions
- Microsoft Windows 7 (64 bit) - Professional
- Microsoft Windows 8.X - (64 bit)

#### Software:

- Appropriate Ranger Device Driver (provided by the Bank)
- Internet Connection 1.5 MB (minimum connection speed)

**Browser:**

- Microsoft Internet Explorer 10.0
- Microsoft Internet Explorer 11.0 for Microsoft Windows 8.X
- Microsoft Internet Explorer 9.0

**Security Settings and Performance:**

Internet security, personal firewalls, antivirus software and proxy server settings may all affect the performance of Fiserv (the software provider) programs on individual workstations and application servers. For Fiserv applications to function efficiently on workstations, changes may be required to security settings to make exceptions for the IP address(es) of the application server(s).

Additionally, virus detection programs can adversely impact database server performance. For DB2, consult Customer's antivirus provider for the optimal settings in its specific environment.

Bank reserves the right to alter or amend the Work Station Hardware and Software requirements, at any time without prior notification to the Customer. Any use of the Work Station Hardware and Software after such change will constitute the Customer's agreement to the alterations or amendments of the Work Station Hardware and Software requirements

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**VI. BUSINESS CARD MANAGEMENT SERVICE TERMS AND CONDITIONS**

This Section sets forth the Terms and Conditions of the Bank's Business Card Management Service. It only applies if the Customer requested and has been approved by the Bank to utilize the Service.

- A. Customer is solely responsible for the determination and the establishment of Program Administrators of the Service and subsequent permissions of each Program Administrator. Customer will complete documentation required by Bank identifying individuals authorized as Program Administrators.
- B. Program Administrators are generally provided with ability to:
  1. Access and update all account information, including spending limits, cardholder addresses, and merchant spending rules
  2. Create new commercial card accounts online
  3. Remove and manage commercial card accounts
  4. Respond to cardholders, including immediate account modification and handling disputes for unauthorized transactions
  5. Enable cardholders to update their basic account data or address information
  6. Monitor, track, and change critical account information
  7. Establish access rights for cardholders and managers to view, print, and pay their statements online
  8. View and export account activity of all cardholders
  9. Access a periodic file of account activity in electronic format via the delivery method specified by the Bank through the Bank's web site according to the Customer's instructions
  10. Authorize the Bank to disclose information about its account(s) to third parties to complete transactions using Services including any other purpose necessary and appropriate to implement the terms of this Agreement.
  11. Allow an electronic file to be made available on the Bank's secure web site for retrieval by the Customer or Customer's agent utilizing the appropriate security methods.
- C. Customer further agrees that actions taken by the Bank in compliance with its security procedures, whether or not in fact such transaction was initiated by the Customer or Customer's agents, may be treated as a duly authorized Customer request by the Bank. Customer agrees that Bank's security procedures are commercially reasonable.
- D. Customer accepts full responsibility for maintenance and administration of cards through the Service.
- E. Customer will be responsible for all actions initiated by persons to whom Customer has given access to passwords or other security procedures. This includes all duties performed by Program Administrators indicated above.
- F. Additional Terms. Customer agrees credit limits will be maintained within the approved credit limit amount established by Bank and agreed upon by Customer.

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**VII. LOCKBOX SERVICE TERMS AND CONDITIONS**

This Section sets forth the Terms and Conditions of the Bank's Lockbox Service. It only applies if the Customer has requested and been approved by the Bank to utilize the Service.

- A. This agreement authorizes Bank to act on behalf of Customer as agent for the purpose of collecting the mail from a lock box and process these items according to Customer's instructions.
- B. General Duties of Bank:



1. The Customer authorizes and instructs the Bank to act as follows:
  2. Collect and open mail from the post office box each Business Day in accordance with a regular schedule set forth by the Bank. Deposit payments to the Customer's Account at the Bank as agreed upon with Customer
  3. Enter and/or image information from the Customer's remittance information into an electronic report or file and transmit via the Bank's secure online system to the Customer. Such file is derived from payments or payment information received by the bank on behalf of the Customer. Bank will collect information provided by the issuer of the payment but cannot verify the accuracy of information collected for the Customer and is not liable for errors by the issuer of the payment.
  4. Retain all invoices or correspondence received with payments for a period of 90 days. This information will also be stored electronically through an imaging system by the Bank for archive purposes and may be available for the Customer via the Bank's online system. The original document of all imaged materials not sent to the Customer will be destroyed in a commercially reasonable manner.
  5. Handle all irregular items received as follows:
  6. Checks bearing no name, or one or more of the names in the agreed upon procedures are acceptable. All others are not to be processed and sent to the Customer.
    - a. Postdated checks may be processed if the check will clear at or after the date of the check; otherwise, they are sent to the Customer.
    - b. Stale dated checks (i.e., checks containing a date that is six months or more prior to presentment) may be rejected by the bank for processing. If such a check is deposited, and is returned for any reason, the check will be charged back to the account and sent to the Customer. In any event, the Bank will not be held liable for any losses or other liability with regard to stale dated checks.
    - c. Undated checks will be processed as if dated with the same date as the postmark on the envelope.
    - d. When checks contain written (legal) amounts and figure (character) amounts that are not the same, the written amount will be compared to the remittance amount. If the written amount shown on the check agrees with the remittance amount, that amount will be used to process the item. If not, the item will be sent to the Customer.
    - e. Checks received without signatures may be sent to the Customer.
    - f. All mail that does not contain a check, as well as all foreign or irregular checks that cannot be processed, may be sent to the Customer or processing may be attempted.
    - g. All checks drawn on foreign banks, and drafts other than sight drafts or payable through drafts, may be handled by the bank as collection items or sent to the Customer.
  7. The Bank will not inspect checks to determine whether they bear restrictive notations, such as "Paid in Full." Bank will have no liability whatsoever for depositing or otherwise handling any check bearing a restrictive notation, regardless of whether Bank has knowledge of such restrictive notation.
  8. The Bank is relying upon the Customer to produce remittance forms that can be processed automatically by the Bank's software system. Where a remittance form will be used by the Customer, Customer agrees to review the design of the remittance forms with Bank to ensure consistent automated processing by Bank's software. Remittance form design that results in significantly higher rejection rates may result in the exception item processing fee as provided in a schedule be sent to the Customer later by mail.
- C. Health Insurance Portability and Accountability Act (HIPAA): If Customer is a covered entity, as defined by HIPAA, Customer is responsible for notifying the Bank, and a "Business Associate Agreement" will be completed and is hereby an addendum to this agreement. The following additional requirements apply for covered entities subject to HIPAA:
1. Obligations of Bank
    - a. Bank agrees not to use or disclose PHI other than as permitted or required by this Agreement or by Law.
    - b. Bank agrees to use reasonable safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.
    - c. Bank agrees to report to Customer any use or disclosure of PHI not provided for by this Agreement after Bank has actual knowledge of such use or disclosure.
    - d. Bank agrees to include in any written agreement with any agent, including a subcontractor, to whom it provides PHI, a requirement that such agent agrees to restrictions and conditions with respect to such PHI that are at least as restrictive as those that apply through this Agreement to Bank.

2. Upon reasonable notice, Bank agrees to make PHI and books and records relating to the use and disclosure of PHI available to the Secretary at Customer's expense and in a reasonable time and manner, for purposes of the Secretary determining Customer's compliance with the Privacy Rule.

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#### **VIII. POSITIVE PAY SERVICE TERMS AND CONDITIONS**

This Section sets forth the Terms and Conditions of the Bank's Positive Pay Service. It only applies if the Customer has requested and been approved by the Bank to utilize the Service.

- A. The Customer will submit a Check Issue File to the Bank in accordance with the following:
  1. Check Issue File. The Check Issue File will accurately state the check number, series number, date, payee and amount of each check drawn on each of the authorized accounts as detailed in the Positive Pay authorization for this agreement, to be sent and completed later by Customer.
  2. Customer agrees to deliver to the bank a Check Issued File in a mutually agreed upon format through the Bank's online system each day checks are created by the Customer. Customer agrees to ensure the file is received by the bank in its entirety and resolve any issues with the Check Issued file. Check Issued File will be sent in frequency and time of day to limit exceptions created by missing check issues.
- B. Presented Checks and Exceptions. The Bank will compare each presented check by those details listed in Section VIII A. 1. above against the Check Issue File received by the bank. On each Business Day the Bank:
  1. May pay and charge to the authorized account, each presented check that matches those details provided with any previously received Check Issue Report.
  2. Will provide the Customer with an Exception Check Report that indicates whether the bank has received any Exception Checks and, if so, the check number and amount of each Exception Check.
  3. The Exception Check Report will be presented through the Bank's online system each Business Day any exceptions occur by the opening of business. Customer will review and communicate pay/return decisions through this online system by the prescribed timelines. Customer will notify the bank of any check positing errors that require further resolution. Access to the Bank's online system to retrieve reports and account information will be specified by the Positive Pay Authorization Form.
- C. Customer must notify Bank of all Return Requests or other items requiring resolution by 11 AM Central Time each Business Day according to the provisions.
- D. Customer will notify Bank in prescribed manner of any checks or check issues that have been subsequently withdrawn from payment, stopped, or voided so they can be resolved within the system. Customer will assist Bank in periodically reviewing check issue information and check format to ensure an accurate reflection of outstanding Customer checks. Customer will also specify any special check endorsements including specific void or stale dates on the Positive Pay Authorization Form. Reconciled check issues will remain in the Positive Pay system for a period of 730 days.
- E. Exception Checks presented directly to the Bank for cash payment may be referred back to the Customer prior to payment.
- F. Pay or Return. IN THE EVENT THE CUSTOMER DOES NOT RESOLVE EXCEPTION CHECKS EACH DAY IN THE MANNER PRESCRIBED IN THIS AGREEMENT, the Bank will pay or return Exception Checks in accordance with the default option selected by the Customer for each authorized account included in Customer's instructions to be received later.
- G. Where the Customer has selected the return default option to apply to an authorized account, the Bank will return to the depository bank any Exception Check the Customer has not instructed the Bank to pay
- H. Where the Customer has selected the pay default option, the Bank will pay and charge to the account any Exception Checks the Customer has not instructed the Bank to return
- I. Customer may also determine other transactions to appear as Exception Checks based upon other criteria the Customer may select. These criteria will be established and communicated to the Bank in a prescribed manner. Exception Checks that appear based upon Customer's selected criteria must be reviewed and processed within the same framework as any other Exception Check under this agreement.
- J. Customer and Bank Communications. Either the Customer or the Bank may submit to the other party a proposed revision of any communication provided for under this Agreement. The revised communication must be sent in its entirety (not in the form of a partial amendment) and will identify the original communication. Once agreed upon by both parties, a revised communication revokes the original. The Bank at its discretion may comply with, but will not be obliged to comply with, any Pay Request or Return Request that is not received in a format, medium, place, or time as previously agreed to by the Bank. The Bank is not responsible for detecting Customer errors in Customer originated communications.
- K. Remedies

1. Wrongful Honor. It will be a wrongful honor if the Bank pays an exception item listed in a timely manner on an Exception Check Report unless the Customer issued a Pay Request, or the Customer selected the pay default option and did not issue a Return Request to the Bank. In the event of a wrongful honor:
  - a. The Bank's only liability to the Customer shall be for the lesser amount of the amount wrongfully paid or the Customer's actual damage caused by the wrongful payment.
  - b. The Bank retains the right to assert that a Customer's failure to exercise reasonable care was the cause of a wrongful honor.
  - c. The Bank also retains the right to assert as a defense that the Customer sustained no actual damages due to its wrongful honor.
2. Good Faith. The Bank will have no liability to the Customer for wrongful dishonor of any check when the Bank acted in good faith, or when the Bank returned an Exception Check that it had reason to believe was not properly payable, or if there were insufficient funds in the account to pay the check, or if the Bank believes that it is required to do so due to legal or regulatory considerations.
3. Rightful Payment and Dishonor.
  - a. If the bank honors an Exception Check in accordance with a pay default option, or in accordance with a Pay Request from the Customer, such honor will be rightful, and the Customer waives any right it may have under UCC 4-401.
  - b. If the Bank dishonors an Exception Check in accordance with the Customer selected return default option, or in accordance with a Return Request from the Customer, such honor will be rightful, and the Customer waives any right it may have under UCC4-402.
  - c. The Customer agrees that the Bank shall be deemed to have exercised ordinary care whenever it rightfully pays or returns an Exception Check consistent with the provisions of this agreement.
4. Assignment of Claim. To the extent that the Customer suffers a loss under this Positive Pay section of this Agreement, and only if the Bank is not in any loss or potential loss position, the Bank will assign to the Customer any claim that the Bank would have against a depository or collecting bank to recover the loss.

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#### IX. WIRE SERVICE TERMS AND CONDITIONS

This Section sets forth the Terms and Conditions of the Bank's Wire Service. It only applies if the Customer has requested and Bank has approved Customer to utilize the Service.

- A. Authorized Representatives: Authorized Representatives of Customer and transfer limits are identified in Customer's written or electronic instructions or authorization, to be sent to Customer later.
- B. Wire Transfer Requests Payment order requests, wire transfer requests, wire transfer instructions, all hereinafter referred to as "Request(s)" may be transmitted from Customer to Bank in the form of a Recurring Wire Transfer or Non-Recurring Wire Transfer:
  1. Recurring Wire Transfers via Business Banking Online: If applicable, Requests for recurring or repetitive wire transfer(s) are identified in Business Banking Online authorization.
  2. Recurring Wire Transfers via Telephone: If applicable, telephone Requests for recurring or repetitive wire transfer(s) are identified in Recurring Wire Transfer Forms which will be provided by Bank to Customer for completion, hereinafter referred to as Wire Transfer Form and included as part of this Agreement. Telephone recurring Requests shall be submitted by Customer to Bank utilizing Authorized Representative's PINs.
  5. Non-recurring Wire Transfer Requests: Requests for non-recurring wire transfers shall be submitted by Customer to Bank via telephone by Customer to Bank utilizing Authorized Representative's PINs.
- C. Information requested on Wire Transfer Form and the Non-recurring Wire Transfer Authorization Forms, both which will be provided by Bank to Customer for completion, must be completed accurately by the Customer in order to process a Request.
- D. Security: Security procedures utilized to authenticate Requests are specified in this Agreement. Any Request may be verified as an authentic Request of the Customer by Bank's use of these security procedures. Customer agrees these security procedures are commercially reasonable in the context of Customer's operations, requirements and internal procedures. Customer agrees to safeguard security procedures and restrict access to only Authorized Representatives per agreed upon written or electronic instructions. Customer expressly agrees to be bound by any Request, whether authorized or not, issued in Customer's name and accepted by Bank in compliance with the security procedures set forth herein.
- E. Source of Payment: The source of payment for each Request issued by Customer to Bank shall be from the originator account number identified in the Request as provided by Customer. Bank shall debit the originator

account for all Requests on the date the Request is executed. Unless otherwise noted, the execution date is the date Bank receives Request. If for any reason the Customer fails to provide an originator account number, Bank will debit any one or more of Customer's accounts at Bank as long as payment of the Request from an account of the Customer is not inconsistent with a restriction or use of that account. Bank may, at its discretion, charge the Customer for the Services provided for hereunder by a debit to the originator account, by invoice sent directly to the Customer, or by such other methods as Bank may deem appropriate.

- F. Bank shall not be obligated to honor any Request if the amount requested exceeds the collected balance in the originator account.
- G. PIN Number: Each Authorized Representative of Customer will be assigned a Personal Identification Number ("PIN"). The PIN identifies the Authorized Representative who must provide the PIN in order to initiate a Request, approve a Request, or attempt to cancel a Request. To change the PIN, Customer must provide a written or electronic request to Bank from an individual authorized, to the satisfaction of Bank, to act on behalf of Customer
- H. Telephone Initiation: An Authorized Representative of Customer providing Bank a telephonic Request shall call the Bank's Wire Transfer Department. The Authorized Representative shall identify themselves by first and last name as an Authorized Representative of said Customer. To authenticate a Request, Bank shall: (i) obtain the Authorized Representative's PIN; (ii) if the Authorized Representative does not have an assigned PIN, Bank will call back Authorized Representative at a predetermined phone number on Bank's system; (iii) obtain the Request data; and (iv) to confirm the Request, Bank will read back the Request data to Authorized Representative. If the Request is a Recurring Wire Transfer as established by completion of Wire Transfer Form, Bank shall obtain the Recurring Wire Transfer number and the dollar amount of the Request. If the Request is a non-recurring wire, sufficient information must be obtained from the Authorized Representative of Customer for Bank to complete the Non-recurring Wire Transfer Authorization Form.
- I. Fax Initiation: A Customer providing Bank a non-recurring Request by facsimile transmission or by any writing shall transmit or deliver to the Bank's Wire Transfer Department written or electronic instructions setting forth the Request data. To authenticate the Request, Bank shall (i) place a telephone call to an Authorized Representative at a predetermined phone number on Bank's system; (ii) ask that the person identify themselves by name as an Authorized Representative; (iii) obtain the Authorized Representative's PIN; and (iv) to confirm wire transfer instructions, Bank will read back wire instruction data to the Authorized Representative. If Bank is unable to contact the Customer's Authorized Representative after reasonable efforts, Bank may refuse to process the Request.
- J. Cancellation or Amendment: Customer understands and agrees a Request cannot be cancelled or amended after processed by Bank. Amendments or cancellations must be provided by an Authorized Representative of Customer to Bank prior to Bank's transmission of the Request.
- K. Business Banking Online Initiation: If Customer elects to utilize Bank's Business Banking Online (BBO) to initiate Requests, Customer shall sign Treasury Management Services Agreement, the terms of which, as amended from time to time, are incorporated herein by reference. Except as expressly provided herein, Customer shall utilize the procedures and protocols agreed to in the Bank's TMS Agreement to initiate Requests.
- L. Customer agrees that online Requests can be extended to any Authorized Representative through Bank's BBO administration and, therefore, a Request delivered to Bank by means of BBO will be deemed authorized by Customer.
- M. Cutoff Time: Unless Bank otherwise notifies Customer, the cutoff time on each Business Day for the receipt and processing of Requests is 3:00 p.m. CST. If Bank does not receive Request from Customer before cutoff time, Bank will consider the Request received at the opening of the next Business Day.

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**X. BILL PAYMENT SERVICE TERMS AND CONDITIONS**

This Section sets forth the Terms and Conditions of the Bank's Bill Payment Service. It only applies if the Customer has requested and Bank has authorized Customer's use of the Service.

- A. Definitions. Capitalized terms used in this Agreement shall have the meanings indicated herein (including those defined below).
  1. "Service" means the bill payment service offered by Bank through CheckFree Services Corporation.
  2. "Agreement" means these Terms and Conditions of the bill payment service.
  3. "Biller" is the person or entity to which Customer wishes a bill payment to be directed or is the person or entity from which Customer receives electronic bills, as the case may be.
  4. "Payment Instruction" is the information provided by Customer to the Service for a bill payment to be made to the Biller (such as, but not limited to, Biller name, Biller account number, and Scheduled Payment Date).

5. "Payment Account" is the checking account from which bill payments will be debited.
  6. "Billing Account" is the checking account from which all Service fees will be automatically debited.
  7. "Business Day" is every Monday through Friday, excluding Federal holidays.
  8. "Scheduled Payment Date" is the day Customer wants its Biller to receive its bill payment and is also the day its Payment Account will be debited, unless the Scheduled Payment Date falls on a non-Business Day in which case it will be considered to be the previous Business Day.
  9. "Due Date" is the date reflected on Customer's Biller statement for which the payment is due; it is not the late date or grace period.
  10. "Scheduled Payment" is a payment that has been scheduled through the Service but has not begun processing.
- B. Payment Scheduling. The earliest possible Scheduled Payment Date for each Biller (typically four (4) or fewer Business Days from the current date) will be designated within the application when Customer is scheduling the payment. The application will not permit Customer to select a Scheduled Payment Date less than the earliest possible Scheduled Payment Date designated for each Biller. When scheduling payments Customer must select a Scheduled Payment Date that is no later than the actual Due Date reflected on Customer's Biller statement unless the Due Date falls on a non-Business Day. If the actual Due Date falls on a non-Business Day, Customer must select a Scheduled Payment Date that is at least one (1) Business Day before the actual Due Date. Scheduled Payment Dates must be prior to any late date or grace period.
- C. The Service Guarantee. Due to circumstances beyond the control of the Service, particularly delays in handling and posting payments by Billers or financial institutions, some transactions may take longer to be credited to Customer's account. The Service will bear responsibility for any late payment related charges up to \$50.00 should a payment post after its Due Date as long as the payment was scheduled in accordance with the guidelines described under "Payment Scheduling" in this Agreement.
- D. Payment Authorization and Payment Remittance
1. Customer represents and warrants that it is acting with full authority for the applying entity, and that the Customer's representative is duly authorized to execute this Agreement on behalf of the applying entity. By providing the Service with names and account information of Billers to whom Customer wishes to direct payments, Customer authorizes the Service to follow the Payment Instructions that it receives through the payment system. In order to process payments more efficiently and effectively, the Service may edit or alter payment data or data formats in accordance with Biller directives.
  2. When the Service receives a Payment Instruction, Customer authorizes the Service to debit its Payment Account and remit funds on its behalf so that the funds arrive as close as reasonably possible to the Scheduled Payment Date designated by Customer. Customer also authorizes the Service to credit its Payment Account for payments returned to the Service by the United States Postal Service or Biller, or payments remitted to Customer on behalf of another authorized user of the Service.
  3. The Service will use its best efforts to make all Customer's payments properly. However, the Service shall incur no liability and any Service Guarantee shall be void if the Service is unable to complete any payments initiated by Customer because of the existence of any one or more of the following circumstances:
    - a. If, through no fault of the Service, Customer's Payment Account does not contain sufficient funds to complete the transaction or the transaction would exceed the credit limit of Customer's overdraft account;
    - b. The payment processing center is not working properly and Customer knows or have been advised by the Service about the malfunction before Customer executes the transaction;
    - c. Customer has not provided the Service with the correct Payment Account information, or the correct name, address, phone number, or account information for the Biller; and/or,
    - d. Circumstances beyond control of the Service (such as, but not limited to, fire, flood, or interference from an outside force) prevent the proper execution of the transaction and the Service has taken reasonable precautions to avoid those circumstances.
  4. Provided none of the foregoing exceptions are applicable, if the Service causes an incorrect amount of funds to be removed from Customer's Payment Account or causes funds from Customer's Payment Account to be directed to a Biller which does not comply with Customer's Payment Instructions, the Service shall be responsible for returning the improperly transferred funds to Customer's Payment Account, and for directing to the proper Biller any previously misdirected transactions, and, if applicable, for any late payment related charges.
- E. Payment Methods. The Service reserves the right to select the method in which to remit funds on Customer's behalf to Customer's Biller. These payment methods may include, but may not be limited to, an electronic payment, an electronic to check payment, or a laser draft payment (funds remitted to the Biller are deducted

- from Customer's Payment Account when the laser draft is presented to Customer's financial institution for payment).
- F. Payment Cancellation Requests. Customer may cancel or edit any Scheduled Payment (including recurring payments) by following the directions within the application. There is no charge for canceling or editing a Scheduled Payment. Once the Service has begun processing a payment it cannot be cancelled or edited, therefore a stop payment request must be submitted.
  - G. Stop Payment Requests. The Service's ability to process a stop payment request will depend on the payment method and whether or not a check has cleared. The Service may also not have a reasonable opportunity to act on any stop payment request after a payment has been processed. If Customer desires to stop any payment that has already been processed, Customer must contact Customer Service. Although the Service will make every effort to accommodate Customer's request, the Service will have no liability for failing to do so. The Service may also require Customer to present Customer's request in writing within fourteen (14) days. The charge for each stop payment request will be the current charge for such Service as set out in the applicable fee schedule.
  - H. Prohibited Payments. Payments to Billers outside of the United States or its territories are prohibited through the Service.
  - I. Exception Payments. Tax payments and court ordered payments may be scheduled through the Service, however such payments are discouraged and must be scheduled at Customer's own risk. In no event shall the Service be liable for any claims or damages resulting from Customer's scheduling of these types of payments. The Service Guarantee as it applies to any late payment related changes is void when these types of payments are scheduled and/or processed by the Service. The Service has no obligation to research or resolve any claim resulting from an exception payment. All research and resolution for any misapplied, mis-posted or misdirected payments will be the sole responsibility of Customer and not of the Service.
  - J. Bill Delivery and Presentment
    - 1. This feature is for the presentment of electronic bills only and it is Customer's sole responsibility to contact Customer's Billers directly if Customer does not receive its statements. In addition, if Customer elects to activate one of the Service's electronic bill options, Customer also agrees to the following:
    - 2. Information provided to the Biller - The Service is unable to update or change Customer's personal information such as, but not limited to, name, address, phone numbers and e-mail addresses, with the electronic Biller. Any changes will need to be made by contacting the Biller directly. Additionally it is Customer's responsibility to maintain all usernames and passwords for all electronic Biller sites. Customer also agrees not to use someone else's information to gain unauthorized access to another person's bill. The Service may, at the request of the Biller, provide to the Biller Customer's e-mail address, service address, or other data specifically requested by the Biller at the time of activating the electronic bill for that Biller, for purposes of the Biller informing Customer about Service and/or bill information.
    - 3. Activation - Upon activation of the electronic bill feature the Service may notify the Biller of Customer's request to receive electronic billing information. The presentment of Customer's first electronic bill may vary from Biller to Biller and may take up to sixty (60) days, depending on the billing cycle of each Biller. Additionally, the ability to receive a paper copy of Customer's statement(s) is at the sole discretion of the Biller. While Customer's electronic bill feature is being activated it is Customer's responsibility to keep its accounts current. Each electronic Biller reserves the right to accept or deny Customer's request to receive electronic bills.
    - 4. Authorization to obtain bill data – Customer's activation of the electronic bill feature for a Biller shall be deemed by us to be Customer's authorization for us to obtain bill data from the Biller on its behalf. For some Billers, Customer will be asked to provide us with its user name and password for that Biller. By providing us with such information, Customer authorizes Bank to use the information to obtain its bill data.
    - 5. Notification - The Service will use its best efforts to present all of Customer's electronic bills promptly. In addition to notification within the Service, the Service may send an e-mail notification to the e-mail address listed for Customer's account. It is Customer's sole responsibility to ensure that this information is accurate. In the event Customer does not receive notification, it is Customer's responsibility to periodically logon to the Service and check on the delivery of new electronic bills. The time for notification may vary from Biller to Biller. Customer is responsible for ensuring timely payment of all bills.
    - 6. Cancellation of electronic bill notification - The electronic Biller reserves the right to cancel the presentment of electronic bills at any time. Customer may cancel electronic bill presentment at any time. The timeframe for cancellation of Customer's electronic bill presentment may vary from Biller to

Biller. It may take up to sixty (60) days, depending on the billing cycle of each Biller. The Service will notify Customer's electronic Biller(s) as to the change in status of Customer's account and it is Customer's sole responsibility to make arrangements for an alternative form of bill delivery. The Service will not be responsible for presenting any electronic bills that are already in process at the time of cancellation.

7. Non-Delivery of electronic bill(s) - Customer agrees to hold the Service harmless should the Biller fail to deliver Customer's statement(s). Customer is responsible for ensuring timely payment of all bills. Copies of previously delivered bills must be requested from the Biller directly.
  8. Accuracy and dispute of electronic bill - The Service is not responsible for the accuracy of Customer's electronic bill(s). The Service is only responsible for presenting the information we receive from the Biller. Any discrepancies or disputes regarding the accuracy of Customer's electronic bill summary or detail must be addressed with the Biller directly.
  9. This Agreement does not alter Customer's liability or obligations that currently exist between Customer and Customer's Billers.
- K. Exclusions of Warranties. THE SERVICE AND RELATED DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- L. Password and Security. Customer agrees not to give or make available Customer's password or other means to access Customer's account to any unauthorized individuals. Customer is responsible for all payments Customer authorizes using the Service. If Customer permits other persons to use the Service or Customer's password or other means to access its account, Customer is responsible for any transactions they authorize. If Customer believes that its password or other means to access its account has been lost or stolen or that someone may attempt to use the Service without its consent or has transferred money without its permission, Customer must notify the Service at once by calling 855-234-1241 during Customer Service hours.
- M. Service Fees and Additional Charges. Any applicable fees will be charged regardless of whether the Service was used during the billing cycle. There may be a charge for additional transactions and other optional Services. Customer agrees to pay such charges and authorize the Service to deduct the calculated amount from Customer's designated Billing Account for these amounts and any additional charges that may be incurred by Customer. Customer is responsible for any and all telephone access fees and/or Internet service fees that may be assessed by Customer's telephone and/or Internet service provider.
- N. Failed or Returned Transactions. In using the Service, Customer is requesting the Service to make payments for Customer from its Payment Account. If Bank are unable to complete the transaction for any reason associated with Customer's Payment Account (for example, there are insufficient funds in its Payment Account to cover the transaction), the transaction may not be completed. In some instances, Customer will receive a return notice from the Service. In each such case, Customer agrees that:
1. Customer will reimburse the Service immediately upon demand the transaction amount that has been returned to the Service;
  2. For any amount not reimbursed to the Service within fifteen (15) days of the initial notification, a late charge equal to 1.5% monthly interest or the legal maximum, whichever rate is lower, for any unpaid amounts may be imposed;
  3. Customer will reimburse the Service for any fees imposed by its financial institution as a result of the return;
  4. Customer will reimburse the Service for any fees or costs it incurs in attempting to collect the amount of the return from it; and,
  5. The Service is authorized to report the facts concerning the return to any credit reporting agency.
- O. Alterations and Amendments. This Agreement, applicable fees and service charges may be altered or amended by the Service from time to time. In such event, the Service shall provide notice to Customer. Any use of the Service after the Service provides Customer a notice of change will constitute its agreement to such change(s). Further, the Service may, from time to time, revise or update the applications, services, and/or related material, which may render all such prior versions obsolete. Consequently, the Service reserves the right to terminate this Agreement as to all such prior versions of the applications, services, and/or related material and limit access to only the Service's more recent revisions and updates. In addition, as part of the Service, Customer agrees to receive all legally required notifications via electronic means.
- P. Address or Banking Changes. It is Customer's sole responsibility to ensure that the contact information in Customer's user profile is current and accurate. This includes, but is not limited to, name, address, phone numbers and email addresses. Changes can be made either within the application or by contacting Customer Service. Any changes in Customer's Payment Account should also be made in accordance with the procedures outlined within the application's Help files. All changes made are effective immediately for scheduled and future

payments paid from the updated Payment Account information. The Service is not responsible for any payment processing errors or fees incurred if Customer does not provide accurate Payment Account or contact information.

- Q. Service Termination, Cancellation, or Suspension. In the event Customer wishes to cancel the Service, Customer may have the ability to do so through the product, or Customer may contact Customer Service via one of the following:
1. Telephone Bank at 855-234-1241 during Customer Service hours; and/or
  2. Write Bank at:  
ATTN: Electronic Banking  
Union Bank & Trust Company  
PO Box 82535  
Lincoln, NE 68501
  3. Any payment(s) the Service has already processed before the requested cancellation date will be completed by the Service. All Scheduled Payments including recurring payments will not be processed once the Service is cancelled. The Service may terminate or suspend Service to Customer at any time. Neither termination nor suspension shall affect Customer's liability or obligations under this Agreement.
- R. Biller Limitation. The Service reserves the right to refuse to pay any Biller to whom Customer may direct a payment. The Service will notify Customer promptly if it decides to refuse to pay a Biller designated by Customer. This notification is not required if Customer attempt to make a prohibited payment or an exception payment under this Agreement.
- S. Returned Payments. In using the Service, Customer understands that Billers and/or the United States Postal Service may return payments to the Service for various reasons such as, but not limited to, Biller's forwarding address expired; Biller account number is not valid; Biller is unable to locate account; or Biller account is paid in full. The Service will use its best efforts to research and correct the returned payment and return it to its Biller, or void the payment and credit its Payment Account. Customer may receive notification from the Service.
- T. Information Authorization. Customer's enrollment in the Service may not be fulfilled if the Service cannot verify its identity or other necessary information. In order to verify ownership of the Payment Account(s) and/or Billing Account, the Service may issue offsetting debits and credits to the Payment Account(s) and/or Billing Account, and require confirmation of such from Customer. Through Customer's enrollment in the Service, Customer agrees that the Service reserves the right to request a review of Customer's credit rating at its own expense through an authorized bureau. In addition, Customer agrees that the Service reserves the right to obtain financial information regarding Customer's account from a Biller or Customer's financial institution (for example, to resolve payment posting problems or for verification).
- U. Captions. The captions of sections hereof are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

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#### XI. **BUSINESS E-STATEMENT SERVICE AGREEMENT**

This Section sets forth the Terms and Conditions of the Bank's Business E-Statement Service. It only applies if the Customer has requested and utilizes the Service.

- A. Customer must be an existing Business Banking Online (BBO) user to access its statements online. Customer also must be an owner/signer on all accounts they wish to give a BBO User access to e-statements.
- B. **Business E-Statement Requirements:**
1. Business Banking Online access
  2. Adobe Acrobat 7.0 or higher
- C. **Business E-Statement Customer Agreement:**
1. Customer requests and authorizes Bank to send notice of regular periodic account statement(s) to Customer's e-mail address as designated on page 1 of this agreement. Customer acknowledges the following:
    - a. Bank will no longer provide paper periodic account statement(s);
    - b. Customer must provide the Bank with the correct e-mail address for notification of availability of the periodic statement(s), and agrees to notify the bank of any changes in such address. To change e-mail address, Customer agrees to notify the Bank in writing at the address indicated on page 3, or to call 1-800-297-2837, or to provide notification to Bank representative in person at any Bank location; and



- c. Access to the electronic periodic statement(s) is only available through the Business Banking Online access. All authorized users of Customer's Business Banking Online Service will have access to e-statements unless Customer notifies Bank as described in item E to remove such access.
- D. This Agreement is in addition to the Business Banking Online Agreement Customer has entered into with the Bank.
- E. Customer agrees to notify the Bank immediately if Customer is unable to access the periodic statement(s) or if Customer desires to terminate Business Banking Online, or to terminate this E-Statement Agreement.
- F. This E-Statement Agreement may be terminated by the Bank at any time and for any reason without advance notice to Customer.

**Business Account– Fee Schedule**

**ACH Origination Service**

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Initial Set-Up Fee.....	\$150.00
Monthly Maintenance Fee .....	\$35.00
Per Transaction .....	\$0.12
Per Item Returned .....	\$5.00
Per Notification of Change Received .....	\$5.00
Debit Item Returned as NSF, when requesting automatic re-deposit .....	\$5.00
Per Detailed Report Provided to Company .....	\$5.00
Same Day File Fee. (per file).....	\$25.00
Same Day Transaction Fee (per item).....	\$1.50

**Business Banking Online Service**

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Inquiry Plus Internal Transfer and Stop Payment Access: .....	No Charge
Full Access Including ACH and Wire Transfer:	
Monthly Maintenance Fee .....	\$30.00
Per Account Monthly Fee (two accounts at no charge, each additional account)	\$5.00
Stop Payment Fee (per item) .....	\$34.00
Outgoing Wire Transfer Fee (per transfer) .....	\$15.00
ACH Transfer Fee (per transaction) .....	\$0.12
Replacement Token (per occurrence).....	\$10.00

**Business Banking Online Bill Pay Service**

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Monthly Maintenance Fee .....	\$6.95
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**Desktop Teller Service**

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Monthly Maintenance Fee .....	\$35.00
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**Business Card Management Service**

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Initial Set-up Fee .....	\$200.00
Monthly Maintenance Fee .....	\$50.00

**Lockbox Service**

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Monthly Maintenance Fee .....	\$150.00
Initial Set-up Fee.....	\$100.00
Standard Item Processing Fee (per item) .....	\$ 0.50
Exception Item Processing Fee (per item) .....	\$ 0.25
Correspondence Processing Fee (per item) .....	\$ 0.25
Keystroke fee (per item) .....	\$ 0.02
Post Office Box Rental .....	At Cost*
Post Office Box Rental –Jackpot Box (monthly).....	\$10.00
All corresponding mail services (e.g. return mail, postage due) .....	At Cost*
Standard Reports – monthly via online portal .....	No Charge
Custom Data Export Report - monthly .....	\$100.00
Custom Programming Fee – per hour .....	\$150.00

\*Post Office box rental and related fees based on mail volume and postal requirements.

**Positive Pay Service**

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Initial Setup Fee .....	\$50.00
Monthly Maintenance Fee (first account) .....	\$40.00
Monthly Maintenance Fee (2 <sup>nd</sup> & 3 <sup>rd</sup> account each) .....	\$20.00
Additional accounts after the 3 <sup>rd</sup> account at no monthly service charge	
Exception Item (per item) .....	\$1.50
Return Item (per item) .....	\$2.00
Positive Pay Service includes both Positive Pay & ACH Filter, initial three (3) ACH and check exceptions each at no charge per month	

**Sweep Service**

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3-Way Sweep (per month) .....	\$150.00
Investment Sweep (per month) .....	\$75.00
Loan Sweep (per month).....	\$75.00
Zero Balance Account Sweep (per month) .....	\$25.00

**Wire Service**

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Wire Transfers-Incoming (per transfer) .....	\$15.00
Wire Transfers-Outgoing Electronic (per transfer) .....	\$15.00
Wire Transfers-Outgoing Voice Domestic (per transfer).....	\$25.00

Wire Transfers-Outgoing Voice International (per transfer)..... \$50.00

**Other Depository Services**

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Research – per hour (one hour minimum) ..... \$25.00  
Photocopies – per page ..... \$0.25  
Multiple or Special Signature Requirements (per month, per account) ..... \$25.00  
Account Analysis Invoice (per month, per account) ..... \$10.00  
Multiple Mailing Addresses (per month, per account) ..... \$5.00  
Rolled Coin (per roll) ..... \$.05  
Strapped Currency (per strap) ..... \$.15  
Return Items (per deposited item returned) ..... \$10.00  
Return Item Special Handling (per month, per account) ..... \$5.00  
Return Mail Fee (monthly after two returned mail items) ..... \$10.00  
Collection Item Fee (per item; foreign payment) ..... \$25.00  
Archived Statement Printing Fee (per monthly statement) ..... \$3.00  
Stop Payment Fee (per item) ..... \$34.00  
NSF Paid Item Fee (per item) ..... \$34.00  
NSF Returned Item Fee (per item) ..... \$34.00  
Continuous Overdraft Fee (every 5<sup>th</sup> business day account is in overdraft status) ... \$25.00

**Fees effective as of 5/1/2018**