



## TREASURY MANAGEMENT SERVICE TERMS AND CONDITIONS

This Treasury Management Service Terms and Conditions (“**Agreement**”) is by and between Sunflower Bank, N.A. or First National 1870, a division of Sunflower Bank, N.A., (“**Bank**,” “**we**,” or “**us**”) and the customer and/or company identified on the Sales Agreement as defined below (“**Customer**,” “**Company**,” or “**you**”). By executing a Sales Agreement or using any of the Services, Customer agrees to be bound by the terms of this Agreement, the Sales Agreement, any Separate Agreements, and any supplement or amendment to any of the same.

Customer also agrees that the deposit accounts to which the Services apply are governed by the agreement entitled “Terms and Conditions Governing Your Deposit Accounts” (“**Account Terms**”). Except as otherwise provided herein, where any terms and conditions contained in the Sales Agreement, the Account Terms, a Separate Agreement, or any other agreement between the Parties conflict with the terms of this Agreement, the terms of this Agreement shall control unless the Sales Agreement, the Account Terms, a Separate Agreement to which Bank is a party, or any other agreement to which Bank is a party, provides that its terms shall prevail over the terms of this Agreement.

**I. GENERAL TERMS AND CONDITIONS:** The following general terms and conditions apply to all Services provided by Bank to Customer under this Agreement. Terms applicable to a specific Service are as set forth in the respective Service Terms set forth in Sections II through XV of this Agreement.

A. **DEFINITIONS AND TERMS:** Capitalized terms shall have the meanings ascribed to them herein, and as follows:

1. **Account:** A deposit, loan, or other account Customer has with Bank that Bank permits to be linked to a Service.
2. **ACH:** Automated clearing house.
3. **Applicable Law or Applicable Laws:** All federal, state or local laws or regulations, or any other requirements, official commentaries or guidance of any agency or division of the federal government or any state or local government. As provided herein, this Agreement is governed by and interpreted in accordance with the laws and regulations of the State of Colorado, applicable federal law, rules and regulations, and amendments thereto.
3. **Business Day:** Unless otherwise provided in this Agreement or any Separate Agreement, Mondays through Fridays, except Bank holidays.
4. **Electronic Fund Transfer Act:** 15 U.S.C. 1601, et seq., as amended from time to time.
5. **Linked Accounts:** Unless indicated otherwise by the context, Customer’s Accounts with Bank that Customer has linked to one or more Services, and in which Bank reserves the right to determine, in its sole discretion, eligible to be linked to any Service.
6. **OLB:** Bank’s Online Banking System, accessible by Customer through the WEB SITE.
7. **Parties:** Collectively, Bank and Customer.
8. **Regulation E:** The regulation published by the Federal Reserve Board to implement the Electronic Fund Transfer Act.
9. **Sales Agreement:** Treasury Management Service Selection Form, Treasury Management Direct Company Setup Form, Treasury Management Service Company Setup Form, Treasury Management Service Master Agreement, and any other Separate Agreement of similar import.
10. **Separate Agreement:** Additional or supplemental agreements, implementing forms or addenda to this Agreement that are required by Bank or third-party service providers in connection with the provision of some of the Services. If Customer is permitted to use a Service that requires a Separate Agreement, Customer’s use of such Service will be conditioned on and subject to Customer’s execution of the applicable Separate Agreement.
11. **Service:** One or more OLB or treasury management services available to Customer under the

terms and conditions set forth in this Agreement.

12. Service Terms: Terms and conditions applicable to a specific Service as set forth in Sections II through XV of this Agreement. The Service Terms for a specific Service only apply to Customer if Customer has requested the Service, and Bank has agreed to permit Customer's use of the Service.

13. System: Bank's WEB SITE by which Customer may obtain access to Account information, and conduct some or all of the Services.

14. U.S.: United States of America.

15. WEB SITE: Bank's Internet banking WEB SITE, to wit: [www.sunflowerbank.com](http://www.sunflowerbank.com).

B. REPRESENTATIONS AND WARRANTIES OF CUSTOMER: Customer hereby represents and warrants to Bank as follows:

1. If Customer is an entity, Customer is duly organized, validly existing and in good standing under the laws of the state of its organization or incorporation;
2. Customer is duly qualified or licensed to do business in each jurisdiction in which the property related to it is owned, leased or operated by Customer or where the nature of its business makes such qualification necessary;
3. Customer has the power and authority to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby;
4. The consummation of the transactions contemplated hereby have been duly and validly authorized by Customer and no other corporate or other proceeding on the part of Customer is necessary to authorize the performance of this Agreement;
5. Under no circumstances will the Services be used by Customer for personal, household, or family purposes, or for any unlawful purpose;
6. All data and funds transfer requests whether by wire, ACH, or otherwise, comply with Applicable Law and do not include transmitting funds to, from, or on behalf of any person, business or country subject to U.S. sanction or which would in any manner violate Applicable Law, regulations and Presidential Orders of the U.S.;
7. Customer is the owner or the duly authorized agent of the owner, and the authorized signatory, on all Accounts subject to this Agreement;
8. If more than one party joins in one or more of the Services, the contractual obligations under this Agreement shall be joint and several;
9. There is no expectation of privacy between the entities that have joined in the Services. Customer hereby represents and warrants to Bank that any and all transfers and commingling of funds required or permitted by any Services and all other aspects of the performance hereof by the parties, have been duly authorized by law and by all necessary parties, including, without limitation, the account holder of each account;
10. Each representation and warranty contained herein shall be continuing and shall be deemed to be repeated upon Customer's use of the Services and upon Bank's affecting each transfer and commingling of funds, if applicable; and
11. Customer agrees to provide Bank with such documentation as Bank may reasonably request as evidence of the representations and warranties set forth in this Section I.B.

C. NO IMPLIED WARRANTIES OR REPRESENTATIONS: NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, CUSTOMER ACKNOWLEDGES AND AGREES THAT BANK IS MAKING NO REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND OF MERCHANTABILITY, EITHER TO CUSTOMER OR TO ANY THIRD-PARTY WITH RESPECT TO THE SERVICES, SYSTEM, OR ANY COMPUTER PROGRAMS, EQUIPMENT OR SOFTWARE USED BY CUSTOMER IN CONNECTION WITH THE SERVICES.

D. LIMITATION OF LIABILITY AND INDEMNIFICATION:

1. IN ADDITION TO LIMITATIONS STATED IN THIS AGREEMENT OR ANY APPLICABLE SEPARATE AGREEMENT, AND EXCEPT AS OTHERWISE REQUIRED BY APPLICABLE LAW, BANK SHALL HAVE NO LIABILITY FOR INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR INCIDENTAL DAMAGES OF ANY KIND, INCLUDING CLAIMS FOR LOSS OF PROFITS, WHETHER RESULTING DIRECTLY OR INDIRECTLY TO CUSTOMER OR THIRD PARTIES, AND WHETHER ARISING IN CONTRACT, TORT, OR OTHERWISE, EVEN IF SUCH DAMAGES WERE FORESEEABLE OR RESULT FROM A BREACH OF THIS AGREEMENT. IN THE EVENT A COURT IN A FINAL, NON-APPEALABLE AWARD FINDS BANK LIABLE FOR ANY DIRECT DAMAGES, BANK'S LIABILITY IN THE AGGREGATE FOR SUCH DIRECT DAMAGES WILL NOT EXCEED THE AMOUNT PAID OR PAYABLE BY CUSTOMER TO BANK FOR FEES FOR THE MONTH PRECEDING THE DATE ON WHICH THE CLAIM AROSE.

2. To the fullest extent permitted by Applicable Law, Customer releases and agrees to hold harmless, defend, and indemnify Bank, its directors, officers, employees, agents, affiliates, controlling persons, agents, and representatives, and their respective successors and assigns, from and against any and all liabilities, demands, claims, actions or causes of action, assessments, losses, damages, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses), and all fines, penalties, and interest thereon (collectively, "**Losses**") as a result or arising out of, directly or indirectly: (a) Bank's actions or omissions in connection with providing the Services, if such actions or omissions are in accordance with Customer's instructions or the terms of this Agreement; (b) any breach of Customer's representations or warranties, or other actions or omissions of Customer, including, without limitation, Customer's violation of Applicable Laws; (c) any actions of third parties (including, without limitation, other financial institutions, automated clearinghouses, the Federal Reserve Bank, or any third-party with which Bank may contract in connection with the Services to be provided); (d) any transmission or instruction, whether or not authorized, acted upon by Bank in good faith; or (e) any act or omission by Customer (or any of Customer's directors, officers, agents, representatives, employees, affiliates controlling persons, and their respective successors and assigns) in connection with, or any intentional or unintentional failure by Customer (or any of Customer's directors, officers, employees, affiliates, controlling persons, agents and representatives and their respective successors and assigns) to comply with, utilize or follow, information security procedures and protections, including, without limitation, any act, omission or failure related to access numbers, passwords, log-in identifications ("**log-in IDs**"), security tokens, personal identification numbers (each a "**PIN**" or collectively "**PINs**"), passcodes, and Account numbers assigned to Customer. Customer agrees that when Applicable Law requires Bank to exercise any degree of non-waivable ordinary care, reasonable compliance with the procedures established by Bank shall be deemed to constitute the exercise of such non-waivable ordinary care, and Customer agrees that occasional, unintentional deviations by Bank from the procedures (including those set forth herein) shall not be deemed a failure to exercise ordinary care as to the transactions with respect to which any such deviations occur.

3. The Parties agree that the Positive Pay Services described in Section III herein ("**Positive Pay Services**") assist the Parties in reducing the risk of loss from counterfeit, unauthorized, altered, forged, fraudulent, or any other irregular checks and transactions. Customer further acknowledges that Bank is unwilling to permit Customer to use the Accounts and certain of the other Services without also using the Positive Pay Service, unless Customer agrees to indemnify, defend, and hold Bank harmless against Losses Customer may suffer or incur as a result of counterfeit, unauthorized, altered, forged, fraudulent, or any other irregular checks and transactions on the Accounts that are subject to any such other Services. Accordingly, if Customer operates any such Accounts without using the Positive Pay Services, Customer will be deemed to have agreed that, to the greatest extent permitted by Applicable Law that: (a) Bank will not be liable to Customer for any and all Losses paid, suffered, or incurred by Customer which arise directly or indirectly out of or in connection with the acceptance for deposit, payment, negotiation, or other processing of any check or item drawn or purporting to be drawn on an Account of Customer if such check or item is counterfeit, unauthorized, altered, forged, fraudulent, or any other irregularity could have been prevented with

the use of the Positive Pay Services; and (b) in addition to the other indemnity provisions set forth in this Agreement, Customer will indemnify, defend, and hold Bank harmless from and against any and all Losses paid, suffered, or incurred by Customer which arise directly or indirectly out of or in connection with the acceptance for deposit, payment, negotiation, or other processing of any such check or item is counterfeit, unauthorized, altered, forged, fraudulent, or any other irregularity could have been prevented with the use of the Positive Pay Services.

4. In no event shall either Party be liable to the other Party for any loss of profits, or punitive, incidental, special, indirect, exemplary, or consequential damages, whether or not Bank has been advised of the possibility of such damages.

5. Under no circumstances will either Party be responsible for any delay or failure to act in connection with this Agreement if the failure or delay is due to circumstances beyond its control including without limitation: strikes or lockouts; fire or other casualty; risk or civil commotion; acts of war or terrorism; windstorms, earthquakes, floods or other acts of God; delay in transportation; government regulation or interferences; interruption or delay in the Internet, telecommunication or third-party services; failure of third-party software or hardware, or inability to obtain raw materials, supplies, or power used in equipment needed for the provision of the Services; delay by an ACH Operator or Receiving Depository Financial Institution in processing any credit or debit Entry Customer originates; or the failure of a third-party to process, credit, or debit any such Entry, or for other acts of omission. For purposes of this Section I.D.5, the terms "ACH Operator," "Receiving Depository Financial Institution," and "Entry" shall have the meanings ascribed to them under Section V of this Agreement.

6. Nothing in this Agreement obligates Bank to honor, in whole or in part, any transaction that: (a) is not in accordance with any condition agreed upon between the Parties either in this Agreement or in any other Separate Agreement; (b) Bank has reason to believe may not be authorized by Customer; (c) exceeds any transaction limit, funding limit, investment cap, daily limits, or other limits imposed by Bank on Customer's transactions; (d) exceeds Customer's collected or available funds on deposit with Bank; (e) involves funds that are subject to a hold, dispute or legal process which prevents their withdrawal; (f) violates any provision of any applicable risk control program of the Office of the Comptroller of the Currency or any rule or regulation of any federal or state regulatory authority; (g) for the protection of either one of the Parties; or (h) Bank has, in its sole and absolute discretion, reasonable cause not to honor.

7. Nothing contained herein shall be deemed to create fiduciary status on the part of Bank in connection with the provision of any Service. To that end, the Parties explicitly agree and acknowledge that the legal relationship between them is not fiduciary in any respect whatsoever.

E. SECURITY: Access to OLB and certain Services requires that Customer receive and transmit information via connection to the Internet and remote computers over telephone or other communication lines. Customer acknowledges that data including e-mail, electronic communications, and confidential financial data may be accessed by unauthorized third parties when communicating to Bank using the Internet or other network, communications facilities, telephone, or any other electronic means. By using the Internet in connection with the Services or to otherwise communicate with Bank, Customer is assuming the risk that viruses, Trojan horses, worms, or other harmful components may be transmitted to Customer. Bank recommends that Customer install and utilize on its computer system appropriate anti-virus and similar software, or use other appropriate protections.

CUSTOMER IS SOLELY RESPONSIBLE FOR INSTALLING APPROPRIATE SOFTWARE, INCLUDING, BUT NOT LIMITED TO ANTI-VIRUS AND ANTI-SPYWARE SOFTWARE, AS WELL AS FIREWALLS ON CUSTOMER'S COMPUTER HARDWARE TO PREVENT KEY LOGGING AND OTHER INTRUSIONS THAT MAY ALLOW A THIRD-PARTY TO UNLAWFULLY VIEW ACTIVITY ON CUSTOMER'S COMPUTER. BANK DOES NOT WARRANT THAT THE SERVICES, ANY REPORT GENERATED IN CONNECTION WITH THE SERVICES, OR THE SERVERS OR OTHER PROPERTY THAT ARE USED TO PROVIDE THE SERVICES AND ANY REPORTS WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. CUSTOMER IS SOLELY

## RESPONSIBLE FOR ACCURATE CREATION, MODIFICATION, AND DELETION OF THE ACCOUNT INFORMATION MAINTAINED ON OLB.

Customer agrees to use software produced by third parties, including, but not limited to “browser” software that supports a data security protocol compatible with the protocol used by Bank. Until notified otherwise by Bank, Customer agrees to use software that supports the secure socket layer (SSL) protocol or other protocols accepted by Bank and follow Bank’s log-on procedures that support such protocols. Customer acknowledges that Bank is not responsible for: (i) notifying Customer of any upgrades, fixes, or enhancements to any such software; or (ii) any compromise of data transmitted across computer networks or telecommunications facilities, including, but not limited to, the Internet. With the exception of applications commonly known as web browser software, or other applications formally approved by Bank in writing, Customer agrees not to: (a) use any software, program, application, or any other device to access or otherwise log on to Bank’s computer systems, WEB SITE, or proprietary software; or (b) automate the process of obtaining, downloading, transferring, or transmitting any information to or from Bank’s computer systems, WEB SITE or proprietary software. In the event of any System failure, Bank reserves the right to require additional documentation, including written authorization via facsimile from the Admin User (as defined in Section II herein) before accepting any order reinstating Customer’s access to OLB. Any transaction initiated or authorized using a valid combination of a log-in ID and password will be considered authentic, valid, and binding by and upon the Parties.

Bank may make available to Customer one or more security procedures to be utilized in conjunction with the Service. Such security procedures, together with the procedures and requirements set forth in this Section I.E, are collectively referred to herein as the “**Security Procedure**” or “**Security Procedures.**” By utilizing the Service and employing the Security Procedure, Customer agrees that the Security Procedure is commercially reasonable for the type, size, and volume of transactions the Customer will conduct using the Services. Bank reserves the right to change, implement, or require new or additional Security Procedures or features thereof by giving oral or written notice to Customer. Customer agrees that its use of the Service after Bank provides notice of any such described change will be deemed Customer’s acceptance of the new Security Procedure. In addition, Customer understands and agrees that Bank may, in its discretion, adopt other commercially reasonable security procedures from time to time in connection with the Services, in addition to the Security Procedures, which additional security procedures may not be disclosed by Bank to Customer. For purposes of the Services provided pursuant to Sections V and XI of this Agreement, “Security Procedure” shall also include those procedures set forth in said Sections.

From time to time, Bank may utilize the Internet and other Services necessary to offer training and support to Customer. Some tools utilized by Bank may require Bank personnel to view (“shadow”) a Customer’s user’s computer screen. These tools may also require Customer’s user to download or install applications allowing the use and access to user’s screen. Customer allows use of support tools at Customer’s own risk and will hold Bank harmless from any software/hardware conflict, breach of security caused by the application, or any other damages caused by use of the software to provide training or support.

If Customer or its agents have reason to believe that any Security Procedure has or may have become compromised in any manner, or known by unauthorized persons (whether or not employed by Customer), Customer must immediately notify Bank by telephone and confirm the oral notification in writing within 24 hours. Except as otherwise provided in this Agreement or by Applicable Law, Customer will be solely liable for all fund transfer instructions and other communications and transactions that were initiated utilizing the Security Procedures before Bank received and had a reasonable opportunity to act on the notice.

Customer acknowledges and agrees that the purpose of Security Procedures is to verify the authenticity of the transaction, not to detect errors in the transmission or content of the transaction. Customer assumes full responsibility for its selection of, access to, and use of Services obtained from Bank as indicated on the Sales Agreement. Customer shall be responsible for the confidentiality, maintenance, and use of its financial information, and of any access numbers, PINs, passwords, log-in IDs, security tokens, passcodes,

and account numbers assigned to Customer. If Customer requires more than one authorized signer's signature or authorization to conduct certain transactions related to Customer's account(s) or the Services, this requirement will be deemed solely for Customer's own purposes.

Customer agrees not to hold Bank liable for following Customer's written orders or instructions. Customer agrees not to hold Bank liable for any damages of any kind resulting from Customer's disclosures of its access numbers, PINs, passwords, log-in IDs, security tokens, passcodes, and account numbers to any person identified or not identified on the Sales Agreement. Except as otherwise provided in this Agreement or by Applicable Law, Customer will be responsible for all orders and instructions entered through and under Customer's access numbers, PINs, passwords, log-in IDs, security tokens, passcodes, and account numbers, and any orders or instructions so received by Bank will be deemed to have been received from Customer. All orders and instructions shall be deemed to be made at the time received by Bank and in the form received. Customer agrees to immediately notify Bank if Customer learns of:

- any loss, theft, or unauthorized use of any of Customer's access numbers, PINs, passwords, log-in IDs, security tokens, passcodes, and account numbers;
- any unauthorized use of any of the Services;
- any receipt by Customer of confirmation of an order that Customer did not place, or any similarly inaccurate or conflicting report or information; or
- any other breach of security.

If Customer fails to immediately notify Bank of any of the foregoing occurrences, it agrees that except as otherwise provided in this Agreement, Bank will not be liable for any Losses resulting from Customer's failure to give such notice.

If Bank issues Customer one or more security tokens in connection with the use of any of the Services, Customer hereby acknowledges receipt of a security token for each of its authorized users of such Services before single sign-on procedures are implemented. By accepting such security token, Customer acknowledges and agrees to the following security procedures, which are in addition to the Security Procedures in effect between the Parties from time to time:

- Customer agrees to immediately notify Bank in the event that an authorized user of a token is no longer authorized for any reason;
- Customer will pay Bank the then-current replacement charges for any token that is replaced for any reason prior to its expiration date, including, without limitation, if the security token is lost, stolen, or damaged;
- Customer shall notify Bank 90 days prior to the date on which a security token expires to ensure that a new security token may be issued and Customer acknowledges that failure to provide such advance notice may result in disruption of Services; and
- Customer agrees not to attempt to suspend security token authentication for its authorized users of the applicable Services and agrees to assume responsibility for all Losses resulting from such unauthorized suspension.

F. **THIRD PARTIES:** Bank may contract with third-party service providers or other parties with respect to one or more of the Services or the provision of a Service or parts thereof. To the extent applicable to Customer and made known to Customer, Customer agrees to comply with the requirements of the contracts between Bank and such third parties relative to the Services. Bank may, from time to time, refer Customer to third parties for the provision of products or services not offered by Bank. Customer acknowledges and agrees that such third parties are not affiliated with or endorsed by Bank. Customer further agrees that Bank does not guarantee such products or services and is not liable for the actions or inactions of any such third parties.

G. **THIRD-PARTY NETWORKS:** Bank's ability to provide certain Services is dependent upon its ability to obtain or provide access to third-party networks. In the event any third-party network is unavailable, or Bank determines, in its discretion, that it cannot continue providing any third-party network

access, Bank may discontinue the related Service or may provide the Service through an alternate third-party network. In such circumstances, Bank will have no liability for the unavailability of access. In no event will Bank be responsible for any services or equipment that Customer receives from third-party vendors.

H. **USER AND TRAINING GUIDES:** Bank may provide Customer with User Guides, Training Guides, or other operating procedures (“**User Guides**”) in connection with certain Services. Customer agrees to: (i) comply with the User Guides that Bank provides to Customer; and (ii) take reasonable steps to protect the confidentiality and security of the User Guides and any other proprietary property or information that Bank provides to Customer in connection with the Services.

I. **DISPUTE RESOLUTION:** In the event of any disagreement hereunder, or if conflicting demands or notices are made upon Bank relating to this Agreement or any Account subject to this Agreement, Bank may, at its option, refuse to comply with any claims or demands on, or refuse to take any other action hereunder with regard to, the subject matter of the dispute, so long as such dispute continues; and in any such event, Bank shall not be, nor shall it become, liable to any person for its failure or refusal to act, and Bank shall be entitled to continue to so refrain from acting until: (i) the rights of all parties shall have been fully and finally adjudicated; or (ii) all differences shall have been adjusted and all doubt resolved by agreement among all of the interested persons. The rights of Bank under this paragraph are cumulative of all other rights which it may have at law or otherwise. In addition to, and not in abrogation of, the foregoing, Customer acknowledges that violation of Customer’s commitment regarding the security and use of OLB and Services may cause irreparable injury to Bank and/or its licensors and/or third-party vendors, and Customer agrees that Bank shall be entitled to seek and obtain temporary and permanent injunctive relief in a court of competent jurisdiction as provided herein, without the necessity of proving actual damages or posting a bond, to prevent such violation.

J. **PAYMENT AND CHARGES:** Customer agrees to pay all fees and charges owed to Bank under this Agreement, the Sales Agreement, the Separate Agreements, if any, and the Account Terms as such amounts become due. Without limiting the foregoing, Customer agrees to pay the fees Bank establishes for each of the Services and any applicable account transaction fees set forth in Customer’s quoted pricing... Special or additional Services performed at Customer’s request will be subject to such additional terms and fees as the Parties may agree. Customer shall maintain a balance of collected funds in the various Accounts subject to this Agreement and any Separate Agreements sufficient to cover its payment obligations to Bank hereunder, and Bank shall be entitled to debit each respective Account for payment of such charges. If at any time there are insufficient funds in the subject Accounts to pay amounts owed, Bank may, but is not obligated to, notify Customer and provide Customer a reasonable period of time within which to deposit sufficient funds. If sufficient funds are not deposited within the time specified, Bank may debit the subject accounts, or any other of Customer’s accounts maintained with Bank, into overdraft, and charge Customer an overdraft fee. Customer shall repay any amounts so debited, including any overdraft fee and other costs of collection, immediately upon demand. Bank shall not be liable for any damages to Customer resulting from action taken by Bank under this provision. In addition to any other remedy in law or equity, Bank may suspend or terminate Services if Customer fails to pay any fees or charges when due, and Customer agrees to hold Bank harmless and indemnify Bank from and against any Losses arising from such suspension or termination of Services.

In addition to the Services fee Customer agrees to pay for all taxes, tariffs, and assessments levied or imposed by any government agency in connection with the Services, this Agreement, and the software or equipment used by Customer (excluding any income tax payable by Bank). Customer is also responsible for the costs of any communication lines and any data processing charges payable to third parties, including, without limitation, Internet service provider fees and wireless carrier fees.

K. **EQUIPMENT:** Bank may recommend or require specific hardware and software to be used in connection with one or more Services. Such recommendations or requirements may change from time to time. Unless Bank agrees otherwise in writing, Bank makes no representations or warranties in regard to

nor will it provide technical support for such hardware or software. Customer shall be responsible for providing, maintaining, and bearing all costs of all equipment located on Customer's premises that is necessary for using the Services, including without limitation, telephones, terminals, modems, computers, and computer software. Bank assumes no responsibility for defects or incompatibility of any computers or software that Customer uses in connection with the Services.

L. **GOVERNING LAW; FORUM SELECTION; WAIVER OF JURY TRIAL:** This Agreement shall be governed by and interpreted in accordance with the laws and regulations of the State of Colorado, applicable federal law, rules and regulations, and amendments thereto.

Customer acknowledges, agrees, and consents that: i) by applying for and utilizing the Services, Customer has transacted business in the State of Colorado, and specifically in Denver County, Colorado which is the primary location where all material aspects of the Services are administered; b) any suit, action, or other legal proceeding arising out of or relating to the Services may only be brought in a federal or state court of competent jurisdiction sitting in the City of Denver, Denver County, Colorado, which Customer voluntarily agrees, consents, and admits shall have exclusive jurisdiction and venue over any such suit, action, or proceeding; c) Customer waives any objection or defense which Customer may have to the laying of jurisdiction and venue of any such suit, action, or proceeding in any of such courts and any claim that any such suit, action, or proceeding has been brought in an inconvenient forum.

**CUSTOMER WAIVES ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM, WHETHER IN CONTRACT OR IN TORT AT LAW OR IN EQUITY, ARISING OUT OF OR IN ANY WAY RELATED TO THE SERVICES, TRANSACTIONS INVOLVING THE SERVICES, AND ANY OTHER AGREEMENT OR TRANSACTION RELATED TO THE SERVICES.**

M. **CONFIDENTIAL INFORMATION:** The Services constitute Proprietary and Confidential Information (as such term is defined below) of Bank or Bank's licensors, vendors, or third-party service providers. Customer will not acquire any rights in the Services by virtue of using such Services or otherwise. Customer shall not: (i) make use of the Proprietary and Confidential Information, or that of Bank's licensors, vendors, or third-party service providers, other than as may be necessary to use a Service and then such use shall be limited to that purpose for only so long as Customer uses the Service; or (ii) disclose, divulge, distribute, publish, reproduce, or transfer Bank's Proprietary and Confidential Information, or that of its licensors, vendors, or third-party service providers except to persons who require access for Customer's use of the Services, or as required by Applicable Law.

For purposes of this Agreement, "**Proprietary and Confidential Information**" means any and all agreements, documents, data, records, and other information with respect to the Services, including the terms of this Agreement, fees charged for the Services, User Guides, software and software licenses relating to the Services, user identification, passwords, codes, keys, security devices, policies and procedures, embedded algorithms, and other similar devices and information relating to the Services. Confidential and Proprietary Information does not include information relating to the Services which is generally available and known to the public and its availability was not the result of wrongful or improper disclosure by Customer.

N. **DOCUMENTATION:** Customer agrees to execute, in a form and content satisfactory to Bank, any and all documents required by Bank to obtain and to continue to receive Services. Customer also agrees to provide Bank with any and all information and documentation reasonably requested by Bank to perform its obligations under this Agreement and any Separate Agreements, and to comply with Applicable Law, including without limitation, the U.S. PATRIOT Act and its implementing regulations. Information and documentation requested by Bank may include, without limitation, information regarding Customer's financial condition, business operations, and the nature and capability of equipment owned and maintained by Customer for the purposes of accessing the Services. Bank's performance of the Services is conditioned



upon Bank receiving timely, accurate, and complete data and information for the Services, in form reasonably required by Bank, that can be used on Bank's, or Bank's third-party service provider's, systems or equipment. If such data or information is not provided as required, Bank shall: (i) no longer be bound to the normal delivery schedule for any affected Service; (ii) have the right to charge Customer additional fees for the cost to convert nonstandard data or information into standard form or to complete or supply incomplete or missing data or information; (iii) be authorized to deliver as complete and finished whatever portion of the affected Services can be performed with the data or information that is available; and (iv) be authorized to return any incomplete or improper data or information and decline to provide any affected Service until accurate and complete data and information is provided. Customer acknowledges and agrees that information acquired by it through the use of Services is intended for reference purposes only, and Bank shall not be liable for any information which is outdated, inaccurate, incomplete, or otherwise incorrect.

O. SEVERABILITY AND INTERPRETATION: If any provision of this Agreement is held to be invalid, illegal or unenforceable, such provision shall be deleted and the remainder of the Agreement shall be enforced as if such invalid, illegal, or unenforceable provision had never been contained herein. Words importing the singular number only may be extended to several persons or things, and words importing the plural number only may be applied to one person or thing.

P. TERMINATION; SURVIVAL: Bank is under no obligation to permit Customer's use of any Service. The decision to permit Customer's use of any one or more Services is within the Bank's sole discretion and subject to Bank's proprietary underwriting standards. Unless otherwise provided in any specific Service Terms or Separate Agreement, Customer may terminate this Agreement, with or without cause, at any time with not less than 30 days' prior written notice to Bank. This Agreement may be terminated, or use of any or all Services limited or suspended, immediately by Bank at any time, with or without cause, in Bank's sole and absolute discretion, without notice to the Customer. Without limiting the generality of the foregoing, examples of when Bank may decide to terminate this Agreement or to limit or suspend the use of any Service include, but are not limited to: (i) if required by Applicable Law, including without limitation, the U.S. PATRIOT Act; (ii) if Customer fails to comply with the terms of the Agreement; (iii) if Customer fails to pay when due any of the fees provided for in this Agreement or any other agreement with Bank; (iv) if any Account subject to this Agreement is closed for any reason or is made the subject of a levy, garnishment, attachment, or similar process; (v) if any arrangement between Bank and any other entity required to provide the Services under this Agreement, including but not limited to, the Federal Reserve Bank, is terminated; (vi) if Bank believes, in its sole and absolute discretion, that continued provision of the Services will cause or could cause a material risk to Bank, including, without limitation, regulatory compliance risk, financial loss, operational risk, fraudulent activity, reputational risk, or system disruption or failures, or (vii) if any Customer Account subject to this Agreement or Services becomes inactive for a period of 90 days or more.

If Customer's participation in OLB is terminated, Customer will not have access to OLB and online statements (if elected) will revert to paper statements. If Customer chooses to cancel Customer's OLB Services, any unprocessed payments and transfers will be canceled. Upon any termination of this Agreement: (a) Customer will immediately cease using the Services; and (b) Customer shall promptly remit all unpaid fees due under this Agreement to Bank. Termination of this Agreement will not affect any obligations or rights of the Parties which accrued prior to termination.

All provisions in this Agreement, and the other respective obligations of the Parties, which by their nature would continue beyond the termination of this Agreement, shall survive termination of this Agreement.

Q. MODIFICATION AND AMENDMENT: From time to time Bank may modify or amend any of the terms and conditions contained in this Agreement and the Sales Agreement, including, without limitation, any part of any exhibit, schedule, or appendix hereto or thereto. Such modifications or amendments shall become effective upon receipt of notice by Customer or such later date as may be stated

in Bank's notice to Customer. Notwithstanding anything herein to the contrary, except as required by law, Bank reserves the right to increase or decrease any fees for Services at any time without notice to Customer. Bank may further modify or amend any terms, conditions, or operating procedures under this Agreement without prior notice to Customer including any of the Service Terms incorporated herein, where, in Bank's sole discretion, an immediate change is necessary to: (i) comply with Applicable Law or a regulatory authority with jurisdiction over Bank; or (ii) maintain or restore the security of Customer's accounts or the funds transfer system; provided, that Bank shall provide Customer with a notice of change in terms as soon as possible thereafter either by way of tangible or electronic means. Customer's continued use or receipt of Services shall evidence Customer's acceptance of such modified or amended terms.

R. NON-WAIVER: Bank's waiver of any breach or failure to enforce any of the terms or conditions of this Agreement at any time shall not in any way affect, limit or waive Bank's right thereafter to enforce strict compliance with every term and condition hereof. Customer may be obligated to Bank under certain loan agreements and related instruments ("**Loan Documents**"). Conflicts, if any, between the provisions of the Loan Documents and the provisions of this Agreement shall be resolved in favor of the Loan Documents.

S. NOTICE: Except as otherwise noted in this Agreement, all notices required or permitted under this Agreement shall be in writing. Notices to Customer may be mailed or delivered to the statement, email or mailing address shown for Customer in the Sales Agreement and shall be deemed received on the earlier of receipt or three days after mailing. Notices to Bank must be mailed or delivered to Sunflower Bank, N.A., Attn: Treasury Management Operations, P.O. Box 800, Salina, KS 67402-0800, and shall be deemed effective no earlier than the end of the Business Day following the Business Day after it is received. Either party may change its address for notification purposes by giving the other party prior written notice of the new address and the date upon which the address will become effective. Notwithstanding the foregoing, if Customer has any electronic banking Service or Internet banking Service, Customer agrees that except as may be otherwise required by Applicable Law: (i) any and all disclosures, notices, and other communications regarding those Services or this Agreement made by Bank, may be made electronically or by posting to Bank's WEB SITE; and (ii) any electronic disclosure, notice, or other communication Bank makes will be considered received when transmitted by Bank and any disclosure or communication Bank makes by posting to Bank's WEB SITE will be considered received when posted by Bank.

T. ENTIRE AGREEMENT: This Agreement, the Sales Agreement, and any applicable Separate Agreement constitutes the entire agreement between the Parties as it relates to the rendition of Services and, except as otherwise stated herein and with the exception of any Loan Documents, supersedes any and all other agreements either oral or written between the Parties with respect to the subject matter hereof (being the Services). This Agreement incorporates by reference all corporate resolutions, Separate Agreements, and Account Terms with Bank, and any applicable User Guides or operating procedures for the Services regardless of whether such agreements or other documents have been executed by Customer.

U. ASSIGNMENT: Customer may not assign its rights under this Agreement without the prior written consent of Bank.

V. ACCURACY OF INFORMATION: Customer is responsible for and Bank may rely upon the accuracy and authenticity of all data and other information furnished by Customer's employees and agents. Bank may rely on any data or information furnished to it using the Security Procedures which identifies Customer or any other person or entity authorized to act on Customer's behalf.

W. CUSTOMER'S AGENTS: Customer assumes sole responsibility for any actions performed on Customer's behalf by Customer's agents or contractors. Customer agrees that Bank has no duty to monitor, detect, or report any errors, omissions, or unlawful activities by Customer's agents or contractors. Customer agrees that Bank may rely on instructions, data, or any documentation provided to Bank by Customer's designated agents or contractors.

X.           **TRAINING:** As a condition of providing one or more Services to Customer and of Customer's right to use any such Services, Bank may require that Customer receive training with respect to such Services from Bank or a third-party selected by Bank. Bank or such third-party may charge fees for such training as are set forth in its schedule of fees from time to time or as is otherwise agreed by the Parties in writing. Training shall be considered to be a Service under this Agreement.

Y.           **ERRONEOUS TRANSMISSIONS:** If Customer receives a facsimile or electronic transmission from Bank or an agent of Bank that, on its face, indicates that either it is not intended for Customer or is incomplete or missing data ("**Erroneous Transmission**"), Customer will immediately notify Bank by telephone and will return the original Erroneous Transmission to Bank by U.S. Mail. Customer agrees that Customer will not disclose, use, review, copy, sell, disseminate, publish, or distribute any Erroneous Transmission.

Z.           **FUNDING LIMITS:** In Bank's sole discretion, Bank may establish a limit determined by Bank on the amount of certain transaction items ("**Funding Limit**"), including but not limited to ACH

items, Sweep Services, Wire Transfers, Remote Deposits, and any other Services. Bank will have no obligation to fund the Service for amounts in excess of available amounts in the Funding Limit. If Bank establishes a Funding Limit, Bank will reasonably notify Customer. Bank may at any time, either verbally, in writing, or by any other means of providing notice under this Agreement, notify Customer of any change Bank makes in the Funding Limit.

AA.          **AUDITING AND INTERNAL CONTROLS; FURTHER ASSURANCES:** Bank reserves the right from time to time to audit, inspect, and review Customer's files, records, books, and systems with respect to the use of any or all Services and Customer's compliance with this Agreement and all Applicable Laws. Customer will provide, within the timeframe specified by Bank, any and all documentation as Bank may request, from time to time, regarding Customer's compliance with this Agreement and all Applicable Laws. Bank also reserves the right to require that Customer implement changes to Customer's internal controls and processes related to the use of the Services.

Customer's failure to provide any requested documentation, to comply with any audit request made by Bank, or to implement reasonably requested changes to Customer's internal controls and processes related to its use of the Services within Bank's specified timeframe may result in closure of any or all of Customer's Accounts with Bank. Bank shall not be liable or responsible to Customer or any third-party for any Losses, bodily harm, property damage, claims of the introduction of a virus or other malicious code into Customer's system, including any which allegedly delay, alter or corrupt the data of Customer, whether related to the transmission of imaged items or other data to Bank, or whether caused by Bank, Internet service providers, Internet browsers, or other parties providing communication services to or from Bank to Customer in connection with Bank's conducting an on-site inspection.

BB.          **CREDIT AND AUDIT REVIEW:** Customer is subject to satisfactory credit and audit review by Bank from time to time, at Bank's sole option and discretion, and in accordance with Bank's established credit and auditing criteria. Customer shall, upon Bank's request, provide to Bank any such credit and audit related information and assistance as Bank may require in order to perform any such review. Bank may summarize its findings to Customer and/or Customer's representatives or those affiliated with Customer by common ownership or control. Customer's failure to meet such standards in the sole discretion of Bank or to provide such information or assistance when requested shall constitute a breach of this Agreement and shall permit Bank to immediately terminate this Agreement and any individual Service.

CC.          **FINANCIAL ACCOMMODATION:** Customer acknowledges that this Agreement is an agreement to provide a "financial accommodation" as that term is defined in U.S. bankruptcy laws and, as a result, that neither Customer nor any bankruptcy trustee (including Customer when acting as a debtor-

in- possession) have the ability to assume or reject this Agreement as an executory contract.

**DD. SECURITY INTEREST:** In order to secure the prompt payment and performance of all of Customer's obligations to Bank under this Agreement, Customer hereby grants to and in favor of Bank a security interest in, to, and covering all of Customer's accounts maintained by Customer with Bank, including all amounts (including reserves) held in such accounts at any time and from time to time. In the event Customer initiates insolvency or bankruptcy proceedings, Bank shall be deemed a secured party for all purposes with respect to such accounts and all amounts held in such accounts. This security interest will survive termination of this Agreement.

**EE. COOPERATION IN LOSS RECOVERY EFFORTS:** In the event of any Losses or damages for which Bank may be liable to Customer or to a third-party as a result of the provision of the Services, Customer agrees to undertake reasonable efforts to cooperate with Bank in performing loss recovery efforts and in connection with any actions that Bank may be obligated to defend or elects to pursue against a third-party.

**FF. JOINT ACCOUNTS:** When a Service is linked to one or more joint Accounts, Bank may act on the verbal, written, or electronic instructions of any authorized signer. Joint Accounts using the same online will be identified as one Service.

**GG. RESTRICTIONS ON USE:** Customer agrees not to use any of the Services, including, without limitation, OLB, and any other software or other technology or materials provided by Bank or any of its service providers in or for any illegal, fraudulent, unauthorized or improper manner or purpose and Services will only be used in compliance with all Applicable Laws. Without limiting the foregoing, Customer agrees that Customer will not use Services to transmit or disseminate: (i) junk mail, spam, or unsolicited material to persons or entities that have not agreed to receive such material or to whom Customer does not otherwise have a legal right to send such material; (ii) material that infringes or violates any third-party's intellectual property rights, rights of publicity, privacy, or confidentiality, or the rights or legal obligations of any wireless service provider or any of its clients or subscribers; (iii) material or data, that is illegal, or material or data, as determined by Bank (in its sole discretion), that is harassing, coercive, defamatory, libelous, abusive, threatening, obscene, or otherwise objectionable, materials that are harmful to minors or excessive in quantity, or materials the transmission of which could diminish or harm the reputation of Bank or any third-party service provider involved in the provision of Services; (iv) material or data that is alcoholic beverage- related (e.g., beer, wine, or liquor), tobacco-related (e.g., cigarettes, cigars, pipes, chewing tobacco), guns or weapons-related (e.g., firearms , bullets), illegal drugs-related (e.g., marijuana, cocaine), pornographic- related (e.g., adult themes, sexual content), crime-related (e.g., organized crime, notorious characters), violence-related (e.g., violent games), death-related (e.g., funeral homes, mortuaries), hate-related (e.g. racist organizations), gambling-related (e.g., casinos, lotteries), specifically mentions any wireless carrier or copies or parodies the products or services of any wireless carrier; (v) viruses, Trojan horses, worms, time bombs, cancelbots, or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data, or personal information; (vi) any material or information that is false, misleading, or inaccurate; (vii) any material that would expose Bank, any third-party service provider involved in providing Services, or any other third-party to liability; or (viii) any signal or impulse that could cause electrical, magnetic, optical, or other technical harm to the equipment or facilities of a service provider or any third-party.

Customer agrees that Customer will not attempt to: (a) access a Service for which Customer's use has not been authorized; (b) use or attempt to use a third-party's account; or (c) interfere in any manner the provision of Services, the security of OLB or other Services, or other customers of the Services, or otherwise abuse Services.

## **II. ONLINE BANKING SERVICE TERMS.**

**A. SYSTEM SERVICES AND HOURS OF ACCESS:** System can be used to check the balance of

accounts, view account histories, transfer funds between accounts, make stop payment requests, view check images, change addresses, and utilize a variety of Treasury Management Services (ACH, Bill Payments, Wire Transfer Services, Positive Pay) based on Customer's enrollment options. Customer can use System seven (7) days a week, twenty-four (24) hours a day, although some or all System services may not be available occasionally due to emergency or scheduled System maintenance. The Bank will exercise good faith efforts to post notice of any extended periods of non-availability on the WEB SITE. However, in no event shall Bank be liable for any losses sustained by Customer as a result of System unavailability, regardless of whether the Bank provided notice of unavailability.

B. **USER IDS AND PASSWORDS:** The Bank will establish user identification and an initial password on the System for the designated "Company Administrative User" ("Admin User"). The Admin User will be designated by Customer on the Enrollment Form. The Admin User is the person that has the responsibility and authority to establish and maintain control of the security level of any additional System users ("Other Users"). The Bank has no control, ability, or obligation to monitor the authority of Other Users to access System and any of their actions. Customer agrees to change the initial password to a password of Customer's sole selection and choosing upon Customer's initial access to the System, with such initial access by Customer to occur within seventy-two (72) hours of Customer's receipt of the initial password assigned by Bank by electronic email delivery. Customer shall determine what password it will use, and the identity of that password is not communicated to the Bank. Neither the Bank nor any of its representatives shall ever ask for any of Customer's passwords with respect to the System.

Customer agrees that it and its Admin User are responsible for setting up, establishing user identifications of Other Users and Admin User ("USER ID"), and granting access to the System by Admin User and Other Users. The Bank has no control, ability, or obligation to monitor the authority of Other Users to access System and any of their actions.

In no event shall Bank be liable for any losses sustained for the security level or account access granted by Customer to the Admin User or Other Users. The Admin User shall establish individual USER IDs on the System for all Other Users. Each Other User is required to change their password upon their initial login to the System. The Admin User and Other Users shall solely use their own USER ID and password to access the System. However, in no event shall the Bank be liable for any losses sustained as a result of any Admin User or Other User allowing another to use their USER ID or password to access the System. The Bank is entitled to rely on the instructions it receives from Customer, Admin User, Other Users, or from any other person who accesses Customer's accounts utilizing the USER IDs and passwords. Customer is responsible for safeguarding the confidentiality of all USER IDs and passwords. Customer expressly agrees to establish and maintain commercially reasonable security procedures to do so. Customer is responsible for providing commercially reasonable security for all computers or other devices that the Customer and Other Users utilize to transact business with Bank through the System. In no event shall the Bank be liable for any losses sustained as a result of any breach of Customer's security procedures. The Bank has multiple controls in place to monitor and authenticate transactions in a commercially reasonable manner; however, in no event shall Bank be liable for any losses sustained as a result of any person initiating transactions that did not possess authority to do so. **Upon three unsuccessful attempts to use the password of the Admin User or any Other User, access to the System will be revoked. If access to the System has not been established within 180 days of a previous login, the Other User will be disabled.**

C. **MULTIFACTOR AUTHENTICATION:** The System is also protected with multifactor authentication through a series of challenge questions. Customer is responsible for safeguarding the confidentiality of the challenge questions. Customer expressly agrees to establish and maintain commercially reasonable security procedures to do so. In no event shall the Bank be liable for any losses

sustained as a result of the breach of Customer's security procedures.

D. **SECURITY:** Customer agrees to review transaction activity available to it through the System no less often than once per day. It is the Customer's obligation to monitor and identify any unauthorized usage of System or other discrepancies. If the Customer fails to notify the Bank of any unauthorized usage of System or other discrepancy within one (1) day of the occurrence, the Bank shall not be liable for and the Customer shall indemnify and hold the Bank harmless from any loss resulting from such unauthorized usage of System or other discrepancies.

Customer agrees that it is solely responsible for safeguarding the confidentiality of its accounts, account numbers, USER IDs, passwords, and challenge questions and security tokens if applicable. Customer controls, and is solely responsible for, the access and authorities granted on the System to Admin User and Other Users.

The Bank's security procedures are intended to provide security against unauthorized entry and access to Customer accounts. Data transferred via the System is encrypted in an effort to provide transmission security and the System utilizes identification technology to verify that the sender and receiver of System transmissions can be appropriately identified by each other. Notwithstanding the Bank's efforts to insure that the System is secure, Customer acknowledges that the Internet is inherently insecure and that all data transfers, including e-mail, occur openly on the Internet and potentially can be monitored and read by others. The Bank cannot and does not warrant that all data transfers utilizing the System, or electronic communications transmitted to and from the Bank, will not be monitored or read by others. In no event shall the Bank be liable for any losses sustained as a result of Customer's use of the System.

E. **MOBILE BANKING ACCESS:** At the sole discretion of the Bank, Customer may access some functions of the System through a mobile device ("Mobile Banking" or "Mobile Banking Services"). Mobile Banking may be accessed on some phones and mobile devices that are SMS Text Message or Web Browser enabled. Mobile Banking requires installation of an application ("Mobile App") on the mobile device. Customer must abide by any minimum hardware and software compatibility requirements established by any software vendor in connection with any such mobile device and Mobile App. The Bank may require Customer register the mobile phone number with which Customer intends to use Mobile Banking. Customer agrees to comply with the provisions of any and all license agreements regarding use of any mobile device to access Mobile Banking Services.

Customer understands and agree that the Bank cannot control the physical environment to prevent interception of the contents of transmissions to and from Customer's mobile devices, Smartphones, or any other technology in connection with use of Mobile Banking Services. By accessing the System through Mobile Banking Services, Customer assumes any and all risk associated with use of the mobile devices, Smartphones, or other technology in connection with Mobile Banking Services, including but not limited to the risk of interception of the contents of Customer transmissions to and from the System. Customer understands and agree that for any mobile device, Smartphone, or other technology that accesses Mobile Banking Services, Customer must enable and use a key lock, passcode, or other software locking process to restrict use of such technology. Customer understands and agrees that each time a Mobile Banking Services session is finished, Customer must completely exit and terminate the software application or any other program used to access Mobile Banking Services.

F. **MOBILE DEPOSITS:** "Mobile Deposit" is a feature within the Mobile App. This feature is only available to eligible Mobile Banking customers who meet our standard service requirements and guidelines. Mobile Deposit enables you to make deposits by taking a picture of the front and back of a check made payable to you and depositing it into your Bank checking account, all via your mobile Device. Bank reserves the right to reject items submitted for deposit via Mobile Deposit for any reason.

You may use Mobile Deposit to deposit checks made payable to the business to a business checking account you have at the Bank. Checks must be payable in U.S. dollars and drawn on a U.S. financial institution. All checks submitted for deposit via Mobile Deposit must be endorsed by the account holder. You agree to restrictively endorse any item transmitted through Mobile Deposit, as "FOR MOBILE DEPOSIT ONLY, Sunflower Bank, N.A.," or as otherwise instructed by the Bank. The bank may reject any items transmitted through Mobile Deposit that do not include the foregoing restrictive endorsement.

There are limitations as to the number and dollar amount of checks that may be submitted for deposit via Mobile Deposit.

All deposits submitted to the Bank via Mobile Banking are subject to review before being considered final. A deposit submitted successfully via Mobile Banking does not mean the funds are immediately available for use. In general, funds from Mobile Banking deposits will be made available within five (5) Business Days after the day of your deposit. All deposits submitted via Mobile Deposit prior to 6:00 P.M. prevailing central time on a Business Day will generally be reviewed and processed the same Business Day. The Bank, however, may delay availability of funds if further review of a deposit is required.

You agree that once a check has been deposited through Mobile Deposit, the original check is your property and not the property of the Bank. You shall securely store the original check for a reasonable period, not to exceed thirty (30) days, after you receive a deposit receipt that the check has been accepted for deposit by Bank.

While the original check is in your possession, you agree to use a high degree of care to safeguard the original check and related files against security risks. Security risks include, without limitation, the theft or reproduction of the original check or unauthorized use of the information on the check or in the file. You shall take appropriate security measures to ensure that: a) only authorized persons shall have access to the original check; b) the information contained on the check shall not be disclosed to unauthorized persons; and c) the original check will not be duplicated, will not be scanned more than one time, and will not be presented, deposited or negotiated again in any way. Upon request by the Bank you will promptly provide to the Bank a retained original check, or a sufficient copy of the front and back of the check in form acceptable to us, to aid in the clearing and collection process, or to resolve claims by third parties, or for our audit or fraud loss prevention purposes.

After the thirty (30) day retention period expires, you shall destroy the original check by shredding it or by any other permanent deletion manner that does not allow the original check to be accessed by an unauthorized person(s) and in a manner that the original check is no longer readable or capable of being reconstructed. After destruction of an original check, the image will be the sole evidence of the original check.

**G. ACKNOWLEDGMENT OF COMMERCIALY REASONABLE SECURITY PROCEDURES:** By using the System, Customer acknowledges and agrees that this Agreement sets forth security procedures for various electronic banking transactions that are commercially reasonable. Customer agrees to be bound by instructions received by Bank through the System, whether authorized or unauthorized, which the Bank implements in compliance with these procedures.

**H. FEES AND CHARGES:** Customer agrees to pay any charges in regard to the use of the System or for the use of additional services Customer requests. Additional service fees include, but are not limited to, Wire Transfers, ACH, and Stop Payment orders. Customer is responsible for telephone and Internet service fees it incurs in connection with use of the System. Additional services including, but not limited to, Positive Pay, ACH, and Wire Transfer Services require additional agreements.

**I. ACCOUNT BALANCES AND POSTING OF TRANSFERS:** Account balances at the

close of the previous business day and account transactions posted on the previous business day are generally available on the System by 6:00 a.m. prevailing Central Time each business day (excluding weekends and federal holidays). Additionally, presentment and memo posted account transactions are normally updated and generally available throughout each business day. Although the Bank agrees to use its best efforts to provide account information throughout the day, the Bank does not guarantee that account information will be available according to this schedule. Customer can obtain current account information during the Bank's regular business hours by contacting the Customer Care Center at (888) 827-5564. Transfers between accounts initiated through the System before 9:00 p.m. prevailing Central Time on a bank business day are generally posted to Customer's account the same day. Transfers completed after 9:00 p.m. prevailing Central Time on a bank business day, or anytime on a Saturday, Sunday, or federal holiday will generally be posted the next business day.

J. **OVERDRAFTS (Order of Payments, Transfers, and other Withdrawals):** System identifies transfers based upon the USER ID of the user who made the transfer. Customer is solely responsible for ensuring that transactions initiated by multiple users do not result in any overdrafts to any of Customer's accounts.

K. **LIMITS ON AMOUNTS AND FREQUENCY OF SYSTEM TRANSACTIONS:** The number of transfers to and from Customer's accounts and the amounts which may be transferred are limited pursuant to the terms of the Deposit Agreement for each account. For example, if an "uncollected funds" hold has been placed on deposits made to an account from which the Customer wishes to transfer funds, Customer cannot transfer the portion of the funds held until the hold expires. In no event shall the Bank be liable for any losses sustained as a result of a hold to any of Customer's accounts.

### **III. FRAUD PREVENTION AND ACCOUNT RECONCILIATION SERVICE TERMS.**

A. **DESCRIPTION OF SERVICES:** This Section III governs the following Services, all of which are a function of and exclusively accessed by and through OLB:

1. **Check Positive Pay:** Allows Customer to submit a list of checks issued against their designated Accounts and Bank will match those items against checks presented for payment against Customer's designated Accounts through the check clearing system. For all items that do not match, Customer will be able to review and determine the disposition of such unmatched checks.
2. **Account Reconciliation Service:** Facilitates the full or partial reconciliation of a business checking account. This Service provides checks, credit, non-check debits, and outstanding items electronically on a daily basis and reports differences between the check register and paid items.
3. **ACH Positive Pay:** Allows Customer to monitor and mitigate ACH fraud on their accounts.

B. **CHECK ISSUE DATA:** If Customer elects to receive Positive Pay Services from Bank, Customer shall manually enter into, or import from Customer's accounting system into, Bank's Online Banking system a file of checks issued each Business Day no later than the Bank-established cut-off time for issued items. Bank or Bank's third party vendor will match all presented checks with the account number, serial number, payee, and dollar amount to determine if the check is valid and provide an electronic list of exceptions (the "Positive Pay Exception Report") to Customer the following Business Day. Customer shall promptly, but by no later than 1:00 p.m. prevailing Central Time, review the Positive Pay Exception Report and provide a pay/return decision for all exceptions. In the event that Customer does not make a funding decision as to any exception item in the manner summarized above, the item will be paid or returned based on the default decision Customer elects for the account during implementation. Customer shall indemnify Bank against any loss liability or expense (including attorneys' fees and expenses) resulting from or arising out of Bank paying or returning any item as provided for in this Section III. This indemnification is in addition to any other indemnification rights that are provided for in this Agreement.



C. **EXCEPTION REPORT:** Bank will pay any presented check (whether or not listed as an Outstanding Transaction) unless it is flagged by Customer for return through OLB prior to the applicable Deadline of 1:00 p.m. prevailing Central Time. Checks listed on the Positive Pay Exception Report will be processed according to the Customer's directives, provided Customer's directives are received by Bank in advance of the Deadline.

D. **SCOPE AND RESPONSIBILITIES:** Check Positive Pay applies to presented checks. It is not designed to compare Customer's Listing of Issued Items or Outstanding Transactions List against items that are presented in any other manner including through the Automated Teller Machine (ATM) or through the mail, until the item posts during normal nightly processing.

Bank assumes no duty under this Agreement to compare or otherwise to identify and/or return duplicate checks, checks with duplicate serial numbers, improperly coded items, or checks lacking an encoded serial number. Positive Pay does not apply to items that have been settled before the effective date of any listing. The Bank may pay checks with a date six (6) months in the past and checks dated for a future date unless Customer submits a stop payment or post-dated check order for such items.

Customer agrees that Bank will not be obligated to verify the signatures on any check that matches the check number and amount information listed in Customer's Issue File and Positive Pay Exception Report. Customer understands and agrees that Bank may compare information on the Listing of Issued Items with information that is encoded on the items presented to Bank for payment. Bank will not be required to otherwise examine checks, or seek to confirm that they are properly signed, completed, unmodified, or encoded. Customer agrees that Bank's responsibilities under this Service Agreement present an acceptable standard of care for Positive Pay as it relates to Customer Account(s). Customer understands that Positive Pay may not identify counterfeit or duplicate checks. As such, Customer agrees to promptly review all statements, returned checks, reports, and other check and transaction information that Bank makes available to Customer.

E. **RETURN INSTRUCTIONS:** On the Business Day on which Customer is informed that a check is not a matching check, Customer may instruct Bank through OLB to pay or return the check. The Customer may identify the check by selecting the corresponding item and marking the action to be taken by Bank. The Bank must receive the instructions at the place and before the deadline specified by Bank through OLB made available to Customer by Bank, by the specified cut off time provided by the Bank.

If Customer elects to receive ACH Positive Pay services from Bank, Customer shall promptly review the exception items presented to them on OLB and provide a pay or return decision for all exceptions before 1:00 p.m. prevailing Central Time on the immediately following Business Day of the transaction. In the event that a Customer does not make a funding decision as to any exception item in the manner summarized above by such deadline, Bank shall pay or return such exception item as Customer has elected during implementation. If Customer directs Bank to return an exception item by deadline or if there is a conflict in direction as to pay or return the item, the item will not be paid and will be returned through the Federal Reserve or ACH channels, as applicable. Customer shall indemnify Bank against any Losses resulting from or arising out of Bank paying or returning any item as provided for in this Section III.

F. **LIMITATION OF LIABILITY AND INDEMNIFICATION:** Each check which Bank pays in accordance with this Service will be deemed to be properly payable. Each matching or other check Customer has authorized Bank to pay in accordance with this Service will be paid without the Bank performing its customary (or any other) check verification procedures, and Bank will have no liability whatsoever for paying the check if its serial number or amount is altered, or if it is counterfeit, bears a forged or unauthorized signature, or was otherwise not validly issued. Customer agrees that the Bank's security procedures are commercially reasonable. Customer assumes full responsibility for the completeness and accuracy of all information provided to Bank. Customer understands the importance of information being precise (e.g., the correct amount in dollars and cents, correct check numbers, etc.). The

Bank assumes no responsibility for detecting or correcting ambiguous, incomplete, untimely, or inaccurate information provided by Customer. The Bank will not process nonconforming information and may reject and/or discontinue processing without prior notice. Customer (i) agrees to indemnify and hold Bank harmless from any Losses or liabilities it may suffer or incur as a result of its payment of a matching or other check at Customer's instruction, and (ii) releases and forever discharges Bank, and its parent, subsidiaries, affiliates, successors, officers, directors, employees and agents, from any and all manner of Losses regarding or relating to the return or payment of any check pursuant to provisions of this Service.

G. **DAMAGED CHECKS:** Any Presented Check that is damaged, lost or destroyed ("**Damaged Checks**") so as to be rejected by automated processing systems will not be covered by this Agreement. Customer agrees that Bank has sole and absolute discretion regarding returning a Damaged Check to the presenting bank or to any other depository financial institution. This means that Bank is not obligated to (but may, in its sole and absolute discretion) return a Damaged Check, unless expressly instructed otherwise by Customer. Customer further agrees that Bank's decision to return a Damaged Check does not obligate Bank to return any Damaged Checks thereafter. If Bank returns a Damaged Check, it may return the Damaged Check by any commercially reasonable means, including by use of notice in lieu of return or by return of copies of the Damaged Check to Customer. Bank will use commercially reasonable efforts to notify Customer of a Damaged Check.

H. **STOP PAYMENT AND RETURN DECISIONS:** This Service will not be used as a substitute for Bank's stop payment service. Customer will follow Bank's standard stop payment procedures if it desires to return a matching or other check that was validly issued. Nothing in this Service will limit Customer's right to stop payment on any matching or other check or Bank's right to return any matching or other check that Customer has authorized Bank to pay in accordance with this Service if Bank determines in its sole discretion that the check is not properly payable for any reason (without Bank's agreeing to, or being required to, make such determination in any circumstance) or that there are insufficient collected and available funds to pay it in the Account. In no event shall the Bank be liable for any Losses sustained as a result of the Bank's determination to stop payment.

I. **TELLER ACCESS POSITIVE PAY:** As part of the Positive Pay Services, Bank will make available to Bank's tellers the issued checks file received from Customer. If a check presented for payment over the counter in one of Bank's branches is: (i) presented before Bank has received, processed, and made available to tellers the issued check file for such check from Customer; or (ii) a mismatched check, Bank may, but will not be obligated to, attempt to contact by telephone a person (the "telephone representative") designated by Customer on forms provided by Bank as someone who is authorized by Customer to make a pay-or- return decision with respect to such check. If Bank contacts a telephone representative and the telephone representative instructs bank to pay the check, Customer authorizes Bank to pay the check and charge it against the relevant Account. If the telephone representative instructs bank to return the check, Customer authorizes Bank to return the check unpaid to the person presenting it to Bank. If Bank elects not to attempt to contact a telephone representative, is unable to contact a telephone representative, or the telephone representative fails to give Bank, in Bank's sole determination, clear instruction to either pay or return the check, the check will not be paid and will be returned. Customer shall indemnify Bank against any loss, liability or expense (including attorneys' fees and expenses) resulting from or arising out of Bank paying or returning any item as provided for in this Section III. This indemnification is in addition to any other indemnification rights that are provided for in this Agreement.

**IV. AUTOMATED ACCOUNT SWEEP SERVICE TERMS.** This Section IV governs the Sweep Services described herein. Customer has requested that the Bank: a) debit the Target Balance Excess from the Lead Account in the Sales Agreement to pay down the outstanding principal balance on the Loans and/or apply to Customer REPO Account; b) credit the Lead Account with advances under the Loans or transfers from the REPO Account; and/or c) debit the Lead Account to fund Customer's Other DDAs and/or debit funds from Customer's Other DDAs and deposit to the Lead Account; all in the amounts, at the time, and under the terms and conditions provided herein ("the Services"). The Services also includes the other instructions

and custom sweep relationships described in the Sales Agreement and any diagrams and similar attachments thereto, all of which are incorporated herein by reference. The Bank is willing to provide the Services to Customer under the terms and conditions provided herein.

A. MEANING OF TERMS: For purposes of this Section IV, the following terms shall have the following meanings:

1. "Available Balance" means the balance in the applicable deposit account, less float (uncollected funds), less operating charges (such as checks paid, wire transfers, fees), less required compensating balances, plus certain effective credits (such as ACH and wire credits).
2. "Available Credit" means at any time the principal amount available to the Customer under the terms of the Loans.
3. "Business Day" means Monday through Friday, except Federal holidays and any other days on which commercial banks in the State of Colorado are authorized to close.
4. "Loan Documents" means the notes and any loan agreements, mortgages, security agreements, guaranty agreements, or other documents or instruments executed in connection with the Loans.
5. "Loans" means the Customer's credit facility or facilities (such as open-end lines of credits, or amortizing loans that include terms allowing certain recurring principal advances), as designated in the Sales Agreement.
6. "Reduced Target Balance Shortfall" means the Target Balance Shortfall reduced by any credit to the Lead Account from the sale or liquidation of investments (as defined in the Master Repurchase Agreement) in accordance with this Section IV.
7. "REPO Account" means Customer's account at the Bank that has been established pursuant to the Master Repurchase Agreement between Customer and the Bank which is incorporated herein by reference.
8. "Target Balance" means the Available Balance, as designated in the Sales Agreement, that the Customer wishes to maintain in the Lead Account and Other DDAs.
9. "Target Balance Excess" means, on any Business Day, the amount of Available Balance in the Lead Account in excess of the Target Balance.
10. "Target Balance Shortfall" means, on any Business Day, the amount by which the Available Balance in the Lead Account is less than the Target Balance.

B. SWEEP SERVICES: The Bank will provide the Sweep Services for the Customer in accordance with the terms and provisions set forth in this Section IV. The Services typically take place after the end of a Business Day during the nightly processing.

1. Sweep from the Lead Account. If there is a Target Balance Excess in the Lead Account at the end of a Business Day, the Bank will sweep funds out of the Lead Account as described in subparagraphs a, b, and c below.
  - a. Loan Sweep. If the Customer has requested that the Bank provide only loan sweep service with respect to the Lead Account and there is a Target Balance Excess at the end of a Business Day, the Bank will (i) debit the Lead Account for the amount of any unpaid principal balance under the Loans, up to the amount of the Target Balance Excess, and (ii) apply the amount of the debit to the unpaid principal balance of the Loans in the order set forth in the Sales Agreement.
  - b. Loan Sweep with Investment Sweep. If the Customer has requested that the Bank provide both the Bank's loan sweep service and its investment sweep service pursuant to a Master Repurchase Agreement, at the end of each Business Day, the Bank will charge the Lead Account, make payments under the Loans, and/or invest or deposit some or all of the Target Balance Excess on the Customer's behalf in accordance with the following terms and in the following order:
    - c. If there is a Target Balance Excess at the end of that Business Day, the Bank will (i) debit the Lead Account for the amount of any unpaid principal balance of the Loans, up to the

amount of the Target Balance Excess, and (ii) apply the amount of the debit to the unpaid principal balance of the Loans in the order set forth in the Sales Agreement.

i) At the end of that Business Day, if there is no unpaid principal balance under the Loans and there is a Target Balance Excess or if, after debiting the Lead Account as provided in (B)(1)(b) above, there are available funds on deposit in the Lead Account in excess of the Target Balance, the Bank will (i) withdraw some or all of such funds and (ii) invest or deposit such funds in accordance with the Master Repurchase Agreement and the Customer's investment selections (as defined in the Master Repurchase Agreement).

d. Interest and Set-off. In no event will the Bank debit the Lead Account pursuant to this Agreement to pay any interest that shall accrue under the Loans, but this shall not affect the Bank's right to set-off against the Lead Account any monies due the Bank under the Loans, including, but not limited to, principal and interest, and the Bank hereby expressly reserves such right of set-off.

2. Sweep into the Lead Account. The Bank will sweep funds back into the Lead Account according to the following terms and in the following order:

a. Credit from the Sale or Liquidation of Investments. If the Customer has requested that the Bank provide both the Bank's loan sweep service and its investment sweep service pursuant to a Master Repurchase Agreement, the Bank will (i) sell or liquidate Investments previously purchased or made for the Customer by the Bank and earnings thereon in accordance with the terms of the Master Repurchase Agreement and (ii) transfer the proceeds thereof to the Lead Account.

b. Extension of Credit under Loans. If the Customer has not entered into a Master Repurchase Agreement with respect to the Lead Account and there is a Target Balance Shortfall or if, after crediting the Account as provided above, there is a Reduced Target Balance Shortfall, the Bank will extend credit to the Customer to the extent provided in subparagraphs (i), (ii) and (iii) below.

i) Available Credit Equal to or Exceeding Target Balance Shortfall or Reduced Target Balance Shortfall. If the Available Credit at such time equals or exceeds the Target Balance Shortfall, or, where applicable, the Reduced Target Balance Shortfall, the Bank will (i) extend credit to the Customer by making an advance under the Loan in the amount of the Target Balance Shortfall or the Reduced Target Balance Shortfall, as applicable, and (ii) credit the amount of the advance to the Lead Account to eliminate the Target Balance Shortfall or the Reduced Target Balance Shortfall, as applicable.

ii) Available Credit Less than Target Balance Shortfall or Reduced Target Balance Shortfall. If the Available Credit at such time is less than the Target Balance Shortfall, or, where applicable, the Reduced Target Balance Shortfall, the Bank will (i) extend credit to the Customer by making an advance under the Loans in the amount of the Available Credit and (ii) credit the amount of the advance to the Lead Account to reduce the Target Balance Shortfall or the Reduced Target Balance Shortfall, as applicable.

iii) Advances. All advances under the Loans made pursuant to this Agreement shall be evidenced by, bear interest at the rate provided in and be repaid in accordance with the terms of the Loans, and shall be secured by any and all collateral securing the Loans. In no event shall the Bank have any obligation to make advances under the Loans in excess of the Available Credit.

C. AUTHORIZATIONS: The Customer authorizes the Bank to charge and credit the Lead Account, make advances and payments on behalf of the Customer under the Loans and purchase and liquidate Investments on the Customer's behalf in accordance with the terms of this Agreement and, if

applicable, the Master Repurchase Agreement, all without further notice to or authorization by the Customer or any authorized person, if any, identified in the Loans. If the Parties have entered into a Master Repurchase Agreement with respect to the Lead Account, the authorizations provided herein are in addition to the authorizations provided in such agreement.

D. **EFFECT ON LOAN DOCUMENTS AND OTHER AGREEMENTS:** Only to the extent necessary to carry out the purposes of this Agreement, the terms of the Loan Documents are hereby modified to include the corresponding necessary terms and provisions of this Section IV. However, this Agreement is not intended to and shall not be construed to modify or supersede the Loan Documents or the respective rights and obligations of the Customer and the Bank as therein provided or any other agreements, terms, conditions, rules or regulations of the Bank as may be applicable to the Loans or the Lead Account, including, without limitation, any requirements relating to minimum balances and service or other charges. If the Bank and the Customer have entered into or in the future enter into a Master Repurchase Agreement with respect to the Account, the terms of such agreements are modified to the extent necessary to be consistent with Section IV of this Agreement.

E. **SUSPENSION OF SWEEP SERVICES:** The Bank shall have the right, without notice to the Customer, at any time, and from time to time, to suspend the Services provided by the Bank pursuant to this Agreement if the Customer is in default under the Loan Documents, if the Line of Credit is terminated or no longer in effect for any reason, if the Customer is in breach of any provision of any Investment Sweep Agreement (if applicable), this Agreement, or any other agreement between the Bank and the Customer applicable to the Accounts (including, but not limited to, any agreement pertaining to any cash management service provided by the Bank to the Customer), if the Account is closed, if the Bank determines, in its sole judgment, that the provision of Services contemplated by this Agreement conflicts with any law, rule, regulation, or agreement applicable to the Bank or the Customer or by which the Bank or the Customer is bound, or if the Bank ceases to offer the Services provided for in this Agreement.

F. **FEES:** Fees for the Services are set forth in the Customer's quoted pricing, as amended from time to time. However, additional fees for the Services may also apply. Customer may pay monthly activity fees as either "direct fees" or "indirect fees." The Bank is authorized to withdraw the amount specified on the customer's activity statement (Account Analysis) from the specified Customer account, typically the Lead Account. Indirect fees are payable monthly and chargeable through the maintenance of compensating collected balances in a specified account. The Bank's Account Analysis of the Customer's deposit account(s) with the Bank will measure the compensating collected balance requirement.

G. **DUTY TO INSPECT:** Customer is responsible to inspect all documentation when received and to notify the Bank's appropriate personnel immediately of any errors. Customer must notify the Bank of any error(s) within two (2) banking days after receipt of the statement, confirmation notice, or other information. If the Customer fails to notify the Bank of any error or other discrepancy within two (2) banking days after receipt of the statement, confirmation notice, or other sufficient information to detect such an error, the Bank shall not be liable for and the Customer shall indemnify and hold the Bank harmless from any Loss which could have been avoided had the Customer given such notice. If the Customer fails to notify the Bank within two (2) days after receiving the statement, confirmation notice, or other information, the Customer is precluded from any claim against the Bank concerning the discrepancy.

H. **FDIC INSURANCE COVERAGE FOR FUNDS SWEEPED TO LOANS OR LINES OF CREDIT:** Funds that have been swept out of deposit accounts to be applied to reduce amortized loans or lines of credit are not considered a deposit, are not FDIC insured, and are not guaranteed by Sunflower Bank, N.A. They will be used to reduce the loan balance(s). Funds remaining in the deposit account are insured deposits up to FDIC limits.

V. **AUTOMATED CLEARINGHOUSE SERVICE TERMS.** This Section V governs the ACH Services described herein, all of which are a function of and exclusively accessed by and through OLB.

Customer wishes to initiate credit and debit Entries pursuant to the terms of this Agreement and the NACHA Operating Rules and Guidelines (“**the Rules**”), and Bank is willing to act as an Originating Depository Financial Institution (“**ODFI**”) with respect to such Entries. Customer may only initiate the types of Entries for the SEC Codes agreed upon during implementation, and more particularly described in the SEC Code Addendums. 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.

A. **NACHA OPERATING RULES AND GUIDELINES; COMPLIANCE:** Customer has access to a copy of the Rules. Customer agrees to comply with and be bound by the Rules. In the event Customer violates any of the applicable Rules and NACHA imposes a fine on Bank because of Customer’s violation, Bank may charge the fine to Customer. Bank may, but is under no obligation to, periodically inform Customer of material revisions to the Rules of which Bank has knowledge. It shall be the responsibility of Customer to ensure the origination of ACH transactions complies with U.S. law.

B. **SECURITY PROCEDURES:**

1. The Parties shall comply with the security procedure requirements described in Section V.B.4, below (collectively, “**Security Procedures**”), with respect to Entries transmitted by Customer to Bank. Customer acknowledges that 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 Parties for the detection of any such error.

2. Customer is strictly responsible for establishing and maintaining commercially reasonable security measures to safeguard against unauthorized transmissions and network infections.

3. Additionally, 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 Bank in connection with the security procedures detailed in Section V.B.4, below. If Customer suspects that any such information or instructions are accessed by unauthorized persons, Customer will notify 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 time period to prevent unauthorized transfers.

4. Security Procedures:

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

b. Bank shall be entitled to rely on any written notice or other written communication believed by it in good faith to be genuine and to have been signed by the Authorized Representative, and any such communication shall be deemed to have been signed by such person.

c. Bank will not be responsible for verifying the authenticity of any person claiming to be an Authorized User of Customer or the authenticity of any instruction, direction or information provided.

d. 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 authorization by an Authorized Representative of Customer before transmission to the ACH Operator.

e. Bank requires the following minimum levels of network and computer security for all Originators, in the event that the Originator maintains and operates their own internal network. For instances where the Originator is relying upon a third party hosting to maintain and operate their network, Originators are expected to verify that these security requirements are met. The Originator absolves the Bank of any responsibility related to a security breach or incident, which occurs on the Originator network or third party hosting network:

- Reliable, current and fully patched Security Suites including, at minimum, anti-virus, anti-malware, anti-botnet, and anti-spyware.
- Hardware and software Firewalls.

- Hardware and VPN Encryption.
- Dedicated computer with static IP Address for file initiation.
- Process to patch systems timely.
- Written security procedures designed to protect Customer's network from infection and breach.
- Regular employee training specific to security requirements related to access, transmission, and storage of data.

Customer shall supply evidence to the Bank of the above security within ten (10) business days of such request.

f. Customer is strictly responsible to establish and maintain procedures to safeguard against unauthorized Entries. 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 the security procedures and any logons, passwords, or security questions used to access the WEB SITE. If Customer believes or suspects that any such information or instructions have been known or accessed by unauthorized persons, Customer agrees to notify Bank IMMEDIATELY at 1-888- 827-5564. The occurrence of unauthorized access will not affect any transfers made in good faith by the Bank prior to receipt of such notification and within a reasonable time period to prevent unauthorized transfers.

g. Account Security: Bank requires the following account security:

- Files should be initiated and transmitted under dual-control.
- Whenever the Security Procedures include the assigning to Customer of any confidential password, logon identification, identification code, personal or location identification number, repetitive code, or similar security device, Customer shall not disclose such security device except to employees or agents authorized to act for Customer in connection with the Service. Customer shall implement such safeguards as are reasonably necessary to ensure the confidentiality and integrity of such security devices, and shall immediately notify BANK if the confidentiality or integrity of any such security device is breached or threatened. Customer shall be solely responsible for the safekeeping of such security devices and assumes all risk of accidental disclosure or inadvertent use of such security devices by any party whatsoever, whether such disclosure or use is on account of Customer's negligence or deliberate acts or otherwise. BANK shall not be liable for any loss or damage resulting from fraudulent, unauthorized, or otherwise improper use of any security devices.

h. Electronic File Transmission: Customer will transmit files to the Bank by and through the System, to which Customer's Authorized Representative will have access to the ACH system by utilizing the pre-arranged logon procedures, remote ID, and file ID. Customer is solely responsible for the accurate creation, modification, and deletion of the account information maintained on Customer's personal computer and used for ACH money transfer. Customer agrees to comply with written procedures and security enhancements provided by the Bank for the creation, maintenance, and initiation of ACH money transfers. Customer is solely responsible for access by its employees of the data files maintained on Customer's computer.

#### C. PROCESSING, TRANSMITTAL AND SETTLEMENT BY BANK:

1. Except as provided in Section V.B, above, Bank shall (i) process Entries received from Customer to conform to the file specifications set forth in the Rules, (ii) transmit such Entries as an ODFI to an ACH Operator, and (iii) settle Entries as provided in the Rules.

2. Bank shall transmit such Entries to the ACH Operator by the deadline set forth in Section V.C.4, below, one (1) business day prior to the Effective Entry Date shown in such Entries, provided (i) such Entries are received by Bank's related cut-off time set forth in Section V.C.4, below, on a business day, (ii) the Effective Entry Date is at least one (1) day after such business day, and (iii) the ACH Operator is open for business on such business day, e.g. excluding Federal Holidays. For purposes of this Agreement, Entries shall be deemed received by Bank when the transmission is completed as provided in Section V.B.4.h, above.

3. If any of the requirements of clause (i), (ii), or (iii) of Section V.C.2 are not met, 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.

4. The ODFI Processing Schedule deadlines are as follows:

***Debit***  
Transactions

<b>Delivery Method</b>	<b>Deadline</b>	<b>Day of Delivery</b>
Transmission- Online Banking	5:00 p.m. prevailing Central Time	One (1) Business Days Prior to Effective Entry Date

***Credit***  
Transactions

<b>Delivery Method</b>	<b>Deadline</b>	<b>Day of Delivery</b>
Transmission- Online Banking	5:00 p.m. prevailing Central Time	One (1) Business Days Prior to Effective Entry Date

D. **ON-US ENTRIES:** Except as provided in Section V.E, below, in the case of an Entry received for credit or debit to an account maintained with Bank (an “On-Us Entry”), 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 forth in Section V.C, above, are met. If either of those requirements is not met, Bank shall use reasonable efforts to credit or debit the Receiver’s account on the next business day following such Effective Entry Date.

E. **REJECTION OF ENTRIES:** Bank shall reject any Entry which does not comply with the requirements set forth in Section V.B. and the SEC Code Addendums. Bank shall have the right to reject an On-Us Entry for any reason for which an Entry may be returned under the Rules. Bank shall have the right to reject any Entry if Customer has failed to comply with its account balance obligations under Section V.K. The Financial Institution shall notify Customer of such rejection no later than the business day such Entry would otherwise have been transmitted by Bank to the ACH Operator, or in the case of an On-Us Entry, its Effective Entry Date. Bank shall have no liability to 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 Customer to remake such Entries. Should the file be rejected due to an error caused by Bank, Bank shall be responsible for remaking the file. In such a case, Customer will supply sufficient information, as required in Section V.U, to allow Bank to recreate the entries for up to five (5) business days after midnight of the settlement date.

F. **CANCELLATION OR AMENDMENT BY CUSTOMER:** Customer shall have no right to the cancellation or amendment of any Entry after its receipt by Bank. However, Bank shall use reasonable efforts to act on a request by 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. Customer shall reimburse Bank for any expenses, Losses, or damages Bank may incur in effecting or attempting to effect the cancellation or amendment of an Entry.

G. **NOTICE OF RETURNED ENTRIES:** Bank shall notify Customer of the receipt of a returned Entry from the ACH Operator no later than two (2) business days after the business day of such receipt.



H. NOTIFICATIONS OF CHANGE: Bank shall notify Customer of all Notifications of Change received by Bank related to Entries transmitted by Customer no later than two (2) banking days after receipt thereof. Customer shall ensure that changes requested by Notifications of Change are made within six (6) banking days of Customer's receipt of the information or prior to initiating another Entry to the Receiver's account, whichever is later.

I. REINITIATION OF ENTRIES: Customer may not reinitiate Entries except as prescribed by the Rules.

J. PAYMENT BY CUSTOMER FOR ENTRIES; PAYMENT BY ODFI FOR ENTRIES:

1. Customer shall pay Bank the amount of each credit Entry (including On-U.S. Entries) transmitted by Bank pursuant to this Agreement at such time on the date of transmittal by Financial Institution of such credit Entry as Bank, at its discretion, may determine.

2. Customer shall pay Bank the amount of each debit Entry returned by a Receiving Depository Financial Institution pursuant to this Agreement.

3. Bank shall pay Customer the amount of each debit Entry (including On-U.S. Entries) transmitted by Bank pursuant to this Agreement at such time on the Settlement Date with respect to such debit Entry as Bank, at its discretion, may determine.

4. Bank shall promptly pay Customer the amount of each credit Entry returned by a Receiving Depository Financial Institution pursuant to this Agreement.

K. THE ACCOUNT(S): 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) of Customer identified in the Sales Agreement, and shall credit the account for any amount received by Bank by reason of the return of an Entry transmitted by Bank for which Bank has previously received payment from Customer. Such credit shall be made as of the day of such receipt by Bank. 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 Customer's obligations under this Agreement, Customer agrees that Bank may debit any account maintained by Customer with Bank or that Bank may set off against any amount it owes to Customer, in order to obtain payment of Customer's obligations under this Agreement.

Upon request of Bank, Customer agrees to promptly provide to Bank information pertaining to Customer's financial condition (including but not limited to: three years of Tax Returns and/or Financial Audits and/or Customer prepared financials, whichever is most appropriate). Bank reserves the right to pull a credit report at any time to evaluate Customer's ongoing financial condition.

L. CUSTOMER REPRESENTATIONS AND AGREEMENTS; INDEMNITY: Customer agrees that (a) each person shown as the Receiver on an Entry received by Bank from 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 Bank as provided herein, (c) Entries transmitted to Bank by Customer are limited to those types of Entries set forth in this Agreement, (d) Customer shall perform its obligations under this Agreement in accordance with all applicable laws and regulations, including the sanctions laws administered by Office of Foreign Asset Control (OFAC Compliance Hotline: 1-800-540-OFAC), and (e) 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 Financial Institution to the Receiver provisional until receipt by the Receiving Depository Financial Institution of final settlement for such Entry; and specifically acknowledges that if such settlement is not received, the Receiving Depository Financial Institution shall be entitled to a refund from the Receiver of the amount credited and Customer shall not be deemed to have paid the Receiver. Customer shall indemnify Bank against any loss liability or expense (including attorneys' fees and expenses) resulting from any breach of any of the foregoing agreements.

M. FINANCIAL INSTITUTION RESPONSIBILITIES; LIABILITY; LIMITATIONS ON

#### LIABILITY; INDEMNITY:

1. Bank shall be responsible only for performing the services expressly provided for in this Agreement, and shall be liable only for its gross negligence in performing those services. Bank shall not be responsible for Customer's acts or omissions (including without limitation to the amount, accuracy, timeliness of transmittal or due authorization of any Entry received from Customer) or those of any other person, including without limitation to any Federal Reserve Bank or transmission or communications facility, any Receiver or Receiving Depository Financial Institution (including without limitation to the return of an Entry by such Receiver or Receiving Depository Financial Institutions), and no such person shall be deemed Bank's agent. Customer agrees to indemnify Bank against any loss, liability or expense (including attorneys' fees and expenses) resulting from any claim of any person that Bank is responsible for, any act of omission by Customer or any other person described in this Section.

2. Bank shall only be liable for Customer's actual damages due to claims arising solely from Bank's obligations to Customer with respect to Entries transmitted pursuant to this Agreement. In no event shall Bank be liable for any consequential, special, punitive or indirect loss or damage that Customer may incur or suffer in connection with this Agreement, including Losses or damage from subsequent wrongful dishonor resulting from Bank's acts or omissions pursuant to this Agreement.

3. 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 Bank's control. In addition, Bank shall be excused from failing to transmit or delay in transmitting an Entry if such transmittal would result in Financial Institution's having exceeded any limitation upon its intra-day net funds position established pursuant to Federal Reserve guidelines or if 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.

4. 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 Kansas City for the period involved. At Bank's option, payment of such interest may be made by crediting the Account.

N. **COMPLIANCE WITH SECURITY PROCEDURES:** If an Entry (or a request for cancellation or amendment of an Entry) received by Bank purports to have been transmitted or authorized by Customer, it will be deemed effective as the Customer's Entry (or request) and Customer shall be obligated to pay Bank the amount of such Entry (or request) even though the Entry (or request) was not authorized by Customer, whether or not Bank acted in compliance with the Security Procedures referenced in Section V.B, above. Customer acknowledges and agrees that telephone communications to and from Financial Institution may be monitored or recorded for quality assurance purposes, and that any such monitoring or recording is for the sole and exclusive benefit and protection of Financial Institution.

O. **INCONSISTENCY OF NAME AND ACCOUNT NUMBER:** Customer acknowledges and agrees that, if an Entry describes the Receiver inconsistently by name and account number, payment of the Entry transmitted to the Receiving Depository Financial Institution might be made by the Receiving Depository Financial Institution (or by 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 Customer's obligation to pay the amount of the Entry to Bank is not excused in such circumstances.

P. **PAYMENT FOR SERVICES:** Customer shall pay Bank the charges for the services provided herein as set forth in Customer's quoted pricing, which may be amended from time to time. Such charges do not include, and 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 Parties with respect to the Account.

Q. **AMENDMENTS:** From time to time Bank may amend any of the terms and conditions contained in this Section V, including without limitation, any cut-off time, any business day, and any part of the Schedules attached hereto. Such amendments shall become effective upon receipt of notice by

Customer or such later date as may be stated in Bank's notice to Customer.

**R. NOTICES AND INSTRUCTIONS:**

1. Except as otherwise expressly provided herein, Bank shall not be required to act upon any notice or instruction received from Customer or any other person, or to provide any notice or advice to Customer or any other person with respect to any matter.

2. Bank shall be entitled to rely on any written notice or other written 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.

3. Except as otherwise expressly provided herein, any written notice shall be delivered, or sent to the following unless another address is substituted by notice delivered or sent as provided herein. Except as otherwise expressly provided herein, any such notice shall be deemed given when received by: 1) Financial Institution at Sunflower Bank, N.A., Attn: Treasury Management Operations, P.O. Box 800, Salina, KS 67401-0800; and 2) Customer at the address set forth on the Sales Agreement.

**S. DATA RETENTION:** Customer shall retain data on file adequate to permit remaking of Entries for two (2) years following the date of their transmittal by Bank as provided here, and shall provide such data to Bank upon its request.

**T. THIRD PARTIES:** Customer shall enter into a contract with and assume full liability for any action made by any Third-Party Processor used by Customer at its discretion to initiate Entries on its behalf. Customer will notify Bank of the use of any Third-Party Processor. Under no circumstances may this Agreement be construed as a Third-Party Sender or Third-Party Service Provider Agreement.

**U. REVERSING ENTRIES:** 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 Customer's method of choice (email, telephone, etc.).

**V. AUDIT:** Bank has the right to audit Customer's compliance with the Rules, U.S. law, and Financial Institution policies. Bank may perform due diligence with respect to the Originator sufficient to form a reasonable belief that the Originator has the capacity to perform its obligations in conformance with the Rules. Bank generally conducts annual ACH reviews which include but are not limited to Customer Standard Entry Class (SEC) Codes, exposure limits and Customer financials.

**W. TERMINATION:** Bank reserves the right to suspend or terminate this Agreement for breach of any of the Rules or other violation of this Agreement in a manner that permits Bank to comply with the Rules. Termination is effective immediately upon written notice of such termination to Customer. Any termination of this Agreement shall not affect any of Bank's rights or Customer's obligations with respect to Entries transmitted prior to such termination, or the payment obligations of Customer with respect to services performed by Bank prior to termination. Customer may terminate this Agreement with ten (10) days' notice. Such termination shall be effective on the tenth business day following the day of Bank's receipt of written notice of such termination or such later date as is specified in that notice.

**X. COOPERATION IN LOSS RECOVERY EFFORTS:** In the event of any damages for which Bank or Customer may be liable to each other or to any third-party pursuant to the services provided under this Agreement, the Parties 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 any third-party.

**VI. BILL PAY SERVICE TERMS**

**A. SYSTEM BILL PAYMENT SERVICE:** This Section VI governs the Bill Payment Services described herein, which are a function of and exclusively accessed by and through OLB. Customer must

designate the Bank account from which the payments are to be made, the amount of the payment, and the date Customer wants the payment to be debited from their account. System will only allow a business day to be selected as a payment date. Customer must also specify the complete name of the payee, the account number (When an account number is required), and the payee's remittance address all exactly as shown on the billing statement or invoice. By using the System Bill Payment Service option, Customer agrees that, based upon instructions received from any of Customer's users to the System, Bank can debit Customer's designated account by electronic transfer, "no signature required draft", or by debiting and remitting funds to the payee on Customer's behalf. Customer also agrees that bill payments through the System may be charged to Customer's primary deposit account unless Customer has selected otherwise when setting up the payment. Bank reserves the right to refuse to pay any payee designated by Customer. If Bank does so, it will notify Customer promptly. In no event shall the Bank be liable for any Losses sustained as a result of refusing to pay any payee designated by Customer.

B. **SCHEDULING SYSTEM BILL PAYMENTS:** Payees may be paid in one of two methods: electronically or paper draft. In no event shall the Bank be liable for any Losses sustained as a result of the untimely delivery of mail or the improper transmission or handling of payments by a third-party, such as the failure of the bill payment payee to properly process or post a payment.

C. **SYSTEM BILL PAYMENT CANCELLATION:** To cancel a bill payment that Customer has scheduled through System, Customer must cancel the payment online through System (by following the on-screen instructions) prior to the payment being processed. Once the bill payment has been processed or debited from Customer's account, Customer CANNOT cancel or stop the bill payment. In no event shall the Bank be liable for any Losses sustained as a result of its inability to cancel or stop a bill payment.

## **VII. VAULT SERVICE TERMS**

A. **SERVICES:** This Section VII governs the Vault Services described herein. The Vault Services allow Customer to have coin and currency deposits ("Deposits") delivered to a Bank vault location for processing. Vault Services allow Customer to place orders for coin and currency. Deposits and order servicing requires Customer to establish an Account with Bank. Customer must separately contract with an armored carrier that is acceptable to Bank ("Carrier"), to allow deposit delivery to a Bank vault location or order pickup from a Bank vault location. The Carrier must continue to meet Bank vault location requirements. In Bank's sole discretion, if Bank's requirements are not met, Bank reserves the right to deny deposits delivered to a Bank vault location or orders attempted to be picked up from a Bank vault location. Customer agrees to make payments for any charges and fees due in connection with Vault Services.

Bank also offers additional Vault Services based on the needs of the Customer, including SafePoint. SafePoint allows Customer to deposit currency into a "smart" safe/bill counter ("Smart Safe") and receive credit next bank business day (excluding weekends and holidays). At an agreed upon deposit credit deadline, Customer's Smart Safe is electronically polled daily to capture deposit totals. Once the deposit totals are received by Bank, Customer's designated Account is provided with a provisional credit. Customer's Smart Safe must be "serviced" (deposits are removed for verification purposes) at least once each calendar week and transported to a Bank-approved vault location.

B. **DELIVERY OF COIN AND CURRENCY:** Customer authorizes an armored carrier designated by Customer on forms provided by Bank (the "Carrier") and engaged by Customer pursuant to a separate agreement between Customer and Carrier to deliver to Customer coin and currency in amounts communicated through the use of Bank's vault management system ("**Vault Management System**") or other communication between the Parties. Specific descriptions, procedures, and instructions on the use of Vault Management System and coin and currency ordering options, will be specified by Bank from time to time. Bank shall, and is hereby authorized to, treat any and all orders for the delivery of coin or currency received through Vault Management System or alternative means as genuine. Customer understands that Bank has no duty or obligation to obtain verification as to the genuineness of the communication transmitted to Bank by the Vault Management System, or the authority of the transmitter to send such communication.

The Parties agree that delivery of coin and currency to the Carrier shall, for all purposes, be considered delivery to Customer. Bank shall in no way be liable for any loss that may occur after delivery has been made to Carrier. Customer agrees to notify Bank of any change of Customer's carrier on such forms as the Bank may require. Customer agrees that, regardless of the source of payment for Carrier Service: (i) the Carrier is not an agent of Bank; and (ii) Bank makes no representations or warranties regarding the Carrier, and assumes no responsibility with respect to any services performed or promised by the Carrier. Customer releases and agrees to hold Bank harmless from and against any and all Losses, arising out of Carrier's provision of the Carrier's services to Customer.

C. CASH DEPOSITS: Customer authorizes Bank to accept and verify Customer's deposits that include cash in accordance with the processing and verification procedures required by Bank. In addition to the procedures and other terms and conditions specified by contained in the CVS Guide, cash deposits that are picked up by a Courier from Customer for delivery to Bank shall also be subject to the terms and conditions of this Agreement that apply to the Courier Service.

D. ADMINISTRATIVE MATTERS: Customer agrees that Bank shall debit the accounts designated by Customer for all cash and currency delivered to Customer pursuant to this Agreement. Customer agrees that Bank shall have no obligation to make any delivery of coin or currency if Customer shall have insufficient funds in Customer's account to cover any such order of coin or currency. Bank shall not be responsible for any loss to Customer which shall result from the failure of Customer to follow the procedures set forth in this Agreement or otherwise required by Bank from time to time.

E. ONLINE ORDERING AND REPORTING: At Bank's sole option, Bank may offer a feature in connection with Bank's Vault Management System that permits Customer to designate an authorized representative or representatives to place orders for cash over the Internet and to view customized and detailed vault reports over the Internet, in accordance with procedures specified by Bank from time to time. If Bank does choose to offer such a feature to Customer, Customer's use of the online features of the Vault Management System and of the Internet in connection therewith is subject to Customer's compliance with Bank's security procedures set forth in Section I.F. of this Agreement. Nothing in this Section VII shall be construed to obligate Bank to offer any specific feature with respect to Bank's Vault Management System.

F. COIN AND CURRENCY ORDERS (ALL VAULT SERVICES): Bank shall provide coin and currency in the amount and denomination requested by Customer ("Orders"). Customer agrees to pay for Orders at the time they are processed by Bank. Customer shall execute a supplemental authorization for a direct debit to an Account maintained at Bank in order for Customer to make such payments, as well as payments for any charges and fees due in connection with Vault Services. Orders will not be processed if Customer's Account does not contain sufficient collected balances. Orders shall be delivered by Bank to the Carrier or any person the Carrier has certified to Bank is authorized to act on its behalf ("Representative"). Bank shall not be liable for any loss resulting from any fraud or misrepresentation with respect to any person's purported authority to act on behalf of Customer or Carrier.

Carrier or its Representative shall provide Bank with a receipt detailing either the actual amount of the Order, or the receipt of a sealed bag(s) said to contain a specified sum(s), which receipt shall, in each instance, be conclusive evidence of the amount received by the Carrier or its Representative and a complete discharge of Bank as to the amount delivered or said to be delivered by Bank to the Carrier or its Representatives, without regard to whether the Carrier or its Representative makes actual physical delivery of the Order to Customer.

In the event that Bank should duplicate an Order, it is Customer's responsibility to refuse delivery. If a duplicate Order should be accepted, Customer assumes all liability for the protection of the funds until such time as said funds are returned to Bank for credit. Bank assumes no liability whatsoever in connection with the loss of any duplicated Order.

G. **VAULT DEPOSITS:** Bank may accept and process deposits from the Carrier or its Representative on behalf of Customer. All deposits must be delivered to Bank in clear tamper-evident bags, and shall be clearly labeled with Customer's name, address of origination and declared amount accompanied by a deposit slip. The pouches and bags shall not contain any property whatsoever other than the deposit slip, currency, coin, and negotiable paper owned by Customer which is intended for deposit in the Account. If any non-negotiable items are included in a deposit, such items will be forwarded to a special handling area, and if applicable, a corresponding adjustment will be made to the Account.

Foreign items and damaged items will not be processed and therefore should not be included in pouches or bags. Customer should contact its account officer for guidance on where to send such items for processing. If any such items are included in a deposit, they will be forwarded to special handling areas for further processing and if applicable, a corresponding adjustment will be made to the Account. Customer therefore acknowledges that there will be a delay in the final processing of any foreign or damaged items.

Any items received prior to full implementation of the Vault Service will not be processed. Such items will be returned to the Customer via their contracted transportation carrier. Customer therefore acknowledges that there will be a delay in the final processing of any items received prior to full implementation of the Vault Service.

Bank or Carrier shall have the right to inspect all pouches and bags for tampering, and may refuse to accept the same for any reason.

Until Bank acknowledges acceptance by signing Carrier's receipt book, Bank incurs no liability for loss of the pouches or bags. Bank shall not be liable to Customer, as an insurer of such property.

Bank acceptance of clear tamper-evident bags constitutes signing for a declared amount; therefore, the Deposit will not be processed until the contents have been verified. Bank or Carrier's findings with respect to the contents shall be conclusive and binding. Furthermore, to the extent there is a conflict between the Bank's records regarding the Deposit and verified amount and the Customer's records regarding the Deposit and declared amount, the Bank's records shall control. Customer acknowledges and agrees that any credits to the Account based on the declared amount of the Deposit are provisional until verified by Bank. Bank will notify Customer if there is a discrepancy between the declared amount and the verified amount. The Account will be adjusted accordingly (up or down as the circumstances require) by Bank. Bank reserves the right to refuse to provide provisional credit for any Deposits at its reasonable discretion.

H. **SAFEPOINT DEPOSITS:** In order to utilize the SafePoint Deposit service, Customer must contract with a third party service provider approved by Bank (the "Smart Safe Vendor") for currency removal, validation and/or transportation services. Customer hereby agrees to comply with its obligations under the resulting agreement ("Vendor Agreement"). The Smart Safe Vendor does not act as an agent of Bank in performing activities for Customer.

Only United States currency may be inserted into the Smart Safe. Customer may not remove currency from the Smart Safe once it has been inserted. Within a timeframe agreed upon between Smart Safe Vendor, Customer and Bank, the contents contained within the Smart Safe shall be removed by Smart Safe Vendor and physically transported to a location directed and approved by Bank. Bank retains the right to refuse any Deposit for any reason. The responsibility, as between Customer and Bank, for any Deposits refused by Bank, remains with Customer.

Until Bank, or Smart Safe Vendor at the direction of Bank, has finally received and physically verified any Deposit, Bank accepts no liability for loss of any Deposit or any losses or damages incurred by Customer with respect to the Deposit. Bank shall not be deemed to have finally received and accepted any Deposit until such Deposit has been physically verified by Bank or Smart Safe Vendor at the direction of Bank.

Bank shall not be liable to Customer as an insurer of such property.

Customer will receive next business day provisional ledger credit for Deposits reported before the Deposit deadline and that meet the requirements of this Agreement and the Vendor Agreement. Customer acknowledges that provisional credit may only be available for those Deposits communicated to Bank by Smart Safe Vendor even if such Deposits are inserted by Customer prior to deadline. Bank reserves the right to refuse to provide provisional credit for any Deposits at its reasonable discretion.

Upon receipt of any Deposit(s), Bank or as directed by Bank, Smart Safe Vendor, shall verify currency amounts removed from each Smart Safe. Customer agrees that the findings and records of Bank (or at Bank's direction, the Smart Safe Vendor), shall be conclusive and binding upon Customer. Furthermore, to the extent there is a conflict between the records of the Bank, Smart Safe Vendor, or Customer regarding the Deposit, the Bank's records shall control.

In the event of a discrepancy between the amount of the Deposit(s) initially reported to Bank and the verified amount, Bank shall notify Customer of such discrepancy in accordance with applicable Operational Instructions.

If the amount of the Deposit, as verified by Bank or Smart Safe Vendor, differs from the amount of the Deposit reported to Bank, Bank will credit or debit the Account as necessary to reflect the amount of the Deposit as verified by Bank or Smart Safe Vendor. The original amount of the Deposit shown on the ledger will not be adjusted, and Customer hereby authorizes Bank to make such adjustments by credit or debit transaction electronically or otherwise.

#### **VIII. EDI ADDENDA REPORTING SERVICE TERMS.**

A. **PARTICIPATING ACCOUNTS:** Customer has designated the accounts for EDI Addenda Reporting Service ("Participating Accounts") on forms provided by Bank.

B. **ACCOUNT INFORMATION:** Bank agrees to provide Customer information regarding the Participating Accounts. Contingent upon Services selected. Bank agrees to make the incoming EDI Addenda information from corporate ACH payments (CCD and CTX (both as defined below)) available to Customer the business day following the effective date of the transaction.

C. **ADMINISTRATIVE MATTERS:** Corporate Trade Exchange ("CTX") ACH entry may contain an ACH formatted addenda or it may contain an EDI formatted addenda. Bank is not responsible for missing or incorrect information provided by the originating company. Customer agrees that Bank will provide the EDI Addenda reporting capabilities for corporate ACH entries only (Cash Concentration or Disbursement ("CCD") and CTX) and that the Bank will not be responsible for delivering ACH addenda information received for a non-corporate ACH type.

Bank may from time to time publish revisions to its EDI Addenda reporting procedures. Notwithstanding anything contained in this Agreement to the contrary, Bank retains the right to revise its reporting of the addenda information, including the means and deadlines by which Bank provides the Account Information, without notice to Customer.

**IX. LOCKBOX SERVICE TERMS.** This Section IX governs the Lockbox Services described herein. Lockbox provides the Customer with expedited processing of Payments to their depository account with the Bank ("Account"). Bank or Service Provider will provide to Customer the Lockbox described in this Agreement which will enable the Service Provider to receive, sort, process, deposit and report on all payments received at a specified Post Office Box assigned to the Customer.

A. **DEFINITIONS:** For purposes of this Section IX, the following definitions apply:

1. "Authorized Payee" means any acceptable payee that the Customer lists on the Lockbox Specifications Sales Agreement, subject to Bank approval.

2. "Correspondence" means any non-payment check or coupon that cannot be processed through Lockbox.
3. "Coupon" means a document provided by the Customer to their client that is enclosed with the Payment and can be scanned for payment details, such as account number and payment amount.
4. "Payment" means any check, ACH, Credit Card or Bill Payment Remittance received by Lockbox through the Post Office Box assigned by the Bank.
5. "Retail Lockbox" means a Lockbox that processes large volume, low dollar payments with coupons provided by the Customer and can be scanned by the Bank or Service Provider to provide payment detail information.
6. "Service Provider" the provider of the Lockbox on behalf of the Bank.

B. ACCESSIBILITY:

1. Primary Account Designation. Customer may use Lockbox to facilitate the processing of payments and deposits to any deposit Account Customer maintains with Bank (other than those with deposit restrictions, such as certificate of deposits). The Account to which Customer designates as the deposit account shall be referred to as the Lockbox Account for the purpose of this Lockbox Agreement. Customer authorizes Bank to debit the Lockbox Account (or any other Account maintained by Customer at Bank) for any fees or other amounts due Bank in connection with Lockbox. If the Lockbox Account is closed for any reason, Customer's Lockbox will be stopped along with any unprocessed Lockbox deposits. To reinstate Lockbox, Customer must designate a new Lockbox Account.
2. Eligibility Review. Customer will be required to complete a Lockbox Specifications Sales Agreement specifying all Payment processing instructions prior to the first use of Lockbox. For Retail Lockbox requiring Coupons that are scanned, the Customer may be asked to provide samples of the Coupons for testing to ensure that the Bank or Service Provider can read the details on the Coupons.
3. Customer Rights. Subject to the terms of this Lockbox Agreement, Bank hereby grants Customer a non-exclusive, non-transferable right to access and use Lockbox in connection with Customer's own business operations in accordance with the Documentation. Without limiting the generality of the foregoing, Customer agrees that it will not disclose or allow use of Lockbox by or for the benefit of any third-party.
4. Product Availability. Lockbox processing is available only on Bank Business Days, except during maintenance periods, or such other hours as established by Bank from time to time. Lockbox information is available on the Bank's Service Provider's Lockbox Portal.

C. SERVICES.

1. Customer will direct all payments from their clients to a designated Post Office Box assigned by the Bank or Service Provider. These payments will be collected by the Service Provider for processing based on the schedule established and changed by Bank from time to time.
2. Lockbox will open the Payments, examine them for invoices, cash, checks and other remittances, correspondence and other materials. Customer agrees to instruct their clients and debtors not to remit cash. Although the Bank or Service Provider has no obligation to process Payments containing cash, the Bank or Service Provider may, at our sole and absolute discretion, remove the cash, hold it and create a credit to Customer's Account.
3. Payments, including checks, drafts, money orders and other instruments will be processed according to the procedures and instructions provided by Customer on the Lockbox Specifications Sales Agreement, unless otherwise specified by Bank.
4. The Bank or Service Provider will endorse the checks and deposit them to the Customer's Lockbox Account on the day received unless the Payments were received after the Customer or Bank designated cutoff time.
5. Funds from deposits will generally be made available the business day following the business date of deposit.
6. As set forth in this Lockbox Agreement, all deposits received by Bank or Service Provider are



accepted subject to Bank's verification and final inspection and may be rejected by Bank in Bank's sole and absolute discretion. All deposits are subject to the terms and conditions of the Deposit Account Agreements.

7. For Payments received without Coupons, the Payment data will be entered into the Lockbox system for reporting to the Customer according to Customer set up instructions.

8. Processed Items. Payments processed for deposit through Lockbox will be deemed to have been received by Bank for deposit when delivered to the Service Provider. A deposit will be deemed to have been received and accepted by Bank for deposit when all of the following have occurred:

a. Service Provider has verified that the payment is acceptable to Bank in its sole and absolute discretion, and all conditions specified by the Customer for the payment have been met; and

b. Service Provider and Bank have successfully performed all further validation routines with respect to the deposit. Notwithstanding the foregoing, payments received by Bank for deposit may be rejected by Bank in Bank's sole and absolute discretion.

D. CUSTOMER RIGHTS AND RESPONSIBILITIES.

1. Customer shall maintain the depository account tied to the Lockbox at Bank for the receipt of deposits of payments.

2. Customer will be responsible for providing any secondary, supplemental, or continuing training related to proper use of Lockbox. Bank will not be responsible for any delays, errors, or faults in connection with Lockbox-related transactions arising from insufficient training of Customer's employees or affiliated personnel.

3. Customer will instruct their clients on how to complete payments for the Lockbox. Customer will provide all materials to their clients at their own expense. Bank is not responsible for improperly completed payments or other anomalies that do not adhere to the instructions provided by the Customer on the Lockbox Specifications Sales Agreement. Any Payments that do not meet the criteria as defined by Customer on the Lockbox Specifications Sales Agreement will be returned to the Customer in their entirety and will not be processed by Bank or Service Provider unless the Customer has chosen the review option during implementation. The review process allows the customer to review their payments that do not meet the criteria previously defined by Customer on the Lockbox Specifications Sales Agreement and to determine how they will be processed by the Service Provider or if they should be returned to the Customer.

4. Customer will provide, at its own expense, a broadband Internet connection, such as a digital subscriber line (DSL) or other connection having equivalent or greater bandwidth and all other Hardware, Software, including a compatible Internet browser, and other equipment and supplies required to use Lockbox, all of which must satisfy any minimum requirements set forth in the Documentation or as otherwise may be acceptable to Bank. Customer will provide, or obtain from another party selected by Customer at Customer's expense, support and maintenance of such Internet connection and all other Hardware, Software, and equipment required to use Lockbox.

5. Customer shall warrant that each Payment payable to an Authorized Payee may be deposited to your Lockbox Account.

6. Customer shall be responsible for verifying Bank's processing of Customer's payments by verifying that deposits have been posted to the Lockbox Account.

7. Customer shall exercise due care in preserving the confidentiality of any user identification, password, test key, or other code or authentication method provided by the Bank or otherwise required for use of Lockbox and shall further prevent the use of the Lockbox by unauthorized persons. Customer assumes full responsibility for any missing or unauthorized use of or access to Lockbox or disclosure of any confidential information or instructions by Customer, its employees, or agents.

8. Customer understands and agrees that any payment that is not paid by a Paying Bank, or is otherwise returned for any reason, will be returned to Customer and Customer's Lockbox Account will be charged for the amount of the payment plus any associated fee as disclosed by the Bank, which may be changed from time to time in Bank's sole and absolute discretion. Bank's right to

charge the Lockbox Account of Customer will apply without regard to whether the payment is timely returned to Bank or whether there is any other claim or defense that the payment has been improperly returned to Bank.

9. Customer represents, agrees, and warrants to Bank that (except as otherwise specifically disclosed in writing to Bank) Customer is not now engaged, and will not during the term of this Lockbox Agreement engage, in any business that would result in Customer being or becoming a “money service business” as defined in the Bank Secrecy Act.

10. Customer will not engage in any activity directly or indirectly related to the use of Lockbox that is illegal or fraudulent.

E. **BANK RIGHTS AND RESPONSIBILITIES.**

1. For all payments processed by Lockbox pursuant to this Lockbox Agreement, Bank may in its sole and absolute discretion determine the manner of converting the Payments for processing. All such processing and presentment shall be done in accordance with timeframes and deadlines agreed upon during implementation and as otherwise established by the Bank from time to time.

2. Unless otherwise agreed by the Parties, Bank or Service Provider will process any returned Payments in accordance with applicable law and the Deposit Account Agreements.

4. Bank or Service Provider will process any Payment dated more than 6 months in the past or dated in the future.

5. Funds from deposits will generally be made available the business day following the business date of deposit.

6. Bank or Service Provider may, in its sole and absolute discretion, refuse to process any Payment.

7. Bank or Service Provider will make a commercially reasonable attempt to deliver the following Payments received through the Post Office Box to Customer without further processing:

a. Any Payment not payable to the Customer or an Authorized Payee as designated by the customer on the Lockbox Specifications Sales Agreement.

b. Any Payment which Bank or Service Provider reasonably believes may present an unacceptable risk of liability for the Bank.

c. Payments which are payable in foreign currency or are drawn on a bank outside the United States.

d. Any Payments with multiple invoices or Coupons that cannot be balanced to the Payment amount.

8. Bank will retain images of the Payments for 6 months.

9. In addition to any other rights Bank may have as regards the Accounts of Customer, Bank may hold and use funds in any Customer Account following termination of this Agreement for such time as Bank reasonably determines that any Payment processed by Bank or Service Provider prior to termination may be returned, charged back, or otherwise be a cause for any loss, liability, cost, exposure, or other action for which Bank may be responsible. Bank will adhere to all instructions provided by Customer and agreed upon by Bank during implementation for the processing of payments through Lockbox.

F. **COMPLIANCE WITH LAW.** Customer shall comply with all laws, rules, and regulations applicable to Customer, to the business and operation of Customer, and to Lockbox, including, without limitation, Regulation CC, the UCC and any rules established by an image exchange network through which Image Exchange Items are processed pursuant to this Lockbox Agreement. Customer shall have the responsibility to fulfill any compliance requirement or obligation that Bank and/or Customer may have with respect to Lockbox under all applicable U.S. federal and state laws, regulations, and rulings; including sanction laws administered by the Office of Foreign Assets Control, and other requirements relating to anti-money laundering, including the Bank Secrecy Act, the U.S. PATRIOT Act and any regulations of the U.S. Treasury Department to implement such Acts, as amended from time to time.

G. **CUSTOMER’S AGREEMENT TO INDEMNIFY BANK.** In addition to any rights or

obligations provided for in the Agreement, Customer shall indemnify, defend, and hold harmless Bank, its parent company and its affiliates and each of their respective directors, officers, employees, and agents (collectively, "Indemnitees") from and against all liabilities, damages, claims, obligations, demands, charges, costs, or expenses (including reasonable fees and disbursements of legal counsel and accountants) awarded against or incurred or suffered (collectively, "Losses and Liabilities") by Indemnitees arising directly or indirectly from or related to the following (except for Losses and Liabilities arising directly or indirectly from or related to Bank's own gross negligence or willful misconduct):

1. Bank acting as a "reconverting bank" under the Check 21 Act through the creation of "substitute checks" or purported substitute checks using an Imaged Item or an illegal Imaged Item; and
2. Bank presenting to Paying Bank an Imaged Item for payment.

This subsection shall survive the termination of this Agreement.

H. **BANK'S LIABILITY.** In addition to any limitations on liability provided for in the Lockbox Agreement, Bank will not be liable to Customer for any refusal of a Payor Bank to pay an Imaged Item or Substitute Check for any reason (other than the breach of contract, gross negligence or willful misconduct of Bank), including that the original Check, Imaged Item or Substitute Check was allegedly unauthorized, was a counterfeit, had been altered, or had a forged signature. Furthermore, Bank's liability for errors or omissions with respect to the data transmitted or printed by Bank in connection with this Lockbox Agreement will be limited to correcting such errors or omissions. Correction will be limited to reprocessing, reprinting and/or representing the Imaged Items or Substitute Checks to the payor financial institution.

I. **DISASTER RECOVERY.** Bank or Service Provider shall maintain a disaster recovery plan for the Service in the event of delays or unavailability of the Service, which such plan Bank or Service Provider may determine in its sole and absolute discretion. Customer acknowledges that Bank's disaster recovery plan may require Customer to deposit checks in an alternative manner, such as through deposit of paper checks at a Bank branch.

**X. REMOTE DEPOSIT CAPTURE SERVICE TERMS.** This Section X governs the Remote Deposit Capture Services described herein.

A. **DEFINITIONS:** For purposes of this Section X:

1. "Account" means the Customer's designated deposit account at Bank.
2. "Business Day" means any calendar day that the Federal Reserve Bank transacts business.
3. "Check" means a draft, payable on demand and drawn on or payable through or at an office of a bank, whether or not negotiable, that is handled for forward collection, including a Substitute Check and a traveler's Check; and does not include a non-cash item payable in a medium other than United States dollars.
4. "Customer" means a debtor obligated on one or more Checks.
5. "Remote Deposit Capture Service" means all information, Web-based services, technological infrastructure, and installed software on the Customer's computers, which allow the Customer to submit Checks for deposit through the Internet.
6. "Security Procedures" means the use of identification codes, encryption, passwords, logon identifications, personal or location identification numbers, repetitive codes, and other security devices, systems, and software used by the Customer to communicate through the Internet for the Remote Deposit Service.
7. "Services" means all duties to be performed by Bank regarding the Remote Deposit Capture Service.
8. "Substitute Check" means a paper reproduction of an original Check that:
  - a. contains an image of the front and back of the original Check;
  - b. bears a MICR line containing all the information on the MICR line of the original Check, except as provided under generally applicable industry standards for Substitute Checks to facilitate the processing of Substitute Checks;
  - c. conforms, in paper stock, dimension, and otherwise, with generally applicable industry standards for Substitute Checks; and

d. is suitable for automated processing in the same manner as the original Check.

**B. DUTIES AND RESPONSIBILITIES OF BANK:**

1. Use of Service. Under the terms and conditions of this Agreement, Bank hereby grants to Customer a non-exclusive ability to utilize the Remote Deposit Capture Service through the Internet or by creating information to deposit Checks through the software provided by Bank, and to use Bank's proprietary documentation for the term of this Agreement.

2. Processing. Bank will endeavor to process, encode, and deposit into the Account, Checks submitted by Customer through the Remote Deposit Capture Service in accordance with state and federal laws during any Business Day, subject to a target Cutoff Time of 7:00 p.m. prevailing central time. In some cases, Checks submitted before the aforementioned Cutoff Time will not be processed until the next Business Day, or Checks submitted after the aforementioned Cutoff Time will be processed on the same Business Day. Bank will not examine Checks to verify any data or dates. Bank will process the Check(s) according to the amount entered by Customer, if applicable, or by the written amount. If the written amount is unclear, Bank may process the Check(s) according to the numeric amount, and Bank may correct the amount entered by the Customer. If the Check is ambiguous, Bank will return the Check as an exception. Checks made payable to the Customer or any reasonable derivation thereof is acceptable for deposit. If a Check does not have the necessary information to be processed by Bank, then Bank will treat the Check as an exception. If a Check is treated as an exception, it will be forwarded by Bank to the Customer, and not deposited or otherwise reflected in the Customer's account. If it is determined that a check has previously been scanned for deposit (duplicate), or that the check has been altered, Bank will debit the item from the deposit amount. Additional action may be taken if fraud is suspected as set forth in Section X.B.7, below. Bank will disregard any notation on a Check containing "paid in full" or other restrictive notation, whether preprinted or handwritten, and treat any such Check as though such notation did not appear thereon.

3. Funds from deposits will generally be made available by not later than the fifth (5th) business day following the business date of deposit.

4. Contingency. In the event that the Remote Deposit Capture Service is unavailable for any period of time due to circumstances beyond the control of either the Customer or Bank, arrangements will be made by Bank with the Customer to accept physical checks from the Customer for processing by Bank.

5. Reporting. Various reports are available through the RDC software. Remote Deposit Capture posting history is reported on the standard checking activity statements as well as the transaction listing provided on OLB.

6. Daily Deposit Limit. In compliance with FFIEC Guidance, Bank will establish and monitor Daily Deposit Limits. Periodically Bank will request the assistance of the Customer in establishing those limits. The company agrees to provide that information when requested.

7. Action with Respect to Fraud. Bank may take any action it deems appropriate in the event fraud is suspected or suspicious activity is detected in conjunction with the use of the Remote Deposit Capture Service.

**C. DUTIES AND RESPONSIBILITIES OF THE CUSTOMER**

1. Use of Remote Deposit. The Customer shall submit valid Checks payable to Customer by using the Remote Deposit Capture Service. In using the Remote Deposit Capture Service, Customer shall create an image of the Check(s) and the associated MICR data using hardware approved by Bank. If applicable, Customer agrees to enter in the amount of the Check using the written amount of the Check into the Remote Deposit Capture Service in the data field provided.

2. Software, Internet, and Hardware. The Customer will comply with all software, Internet, and hardware requirements established by Bank.

3. Training of Employees. Bank will provide the initial Remote Deposit Capture training. The Customer shall be responsible for the ongoing training its own employees in the use of the Products and Services.

4. Internal Controls. The Customer shall establish and maintain adequate internal employee fraud

prevention controls, such as separation of duties, access levels and dual control.

5. Storage and Destruction of Checks. The Customer will retain and store each Original Check as provided in Section X.D.2. The Customer shall take appropriate security measures to ensure that: (a) only authorized personnel shall have access to Original Checks, and (b) that the information contained on such Original Checks are not disclosed to third parties. Customer will destroy Original Checks after the Customer's retention period has expired in accordance with Section X.D.2.

6. Check Endorsement. All original checks that will be scanned for deposit must be properly endorsed before scanning. Proper endorsement for RDC can be completed by client prior to scanning or by bank via virtual endorsement. Virtual endorsement option must be requested during implementation. Endorsement must include: Customer Name; Deposit Account Number (recommended but not required); Bank Name (Sunflower Bank, N.A.) Bank Routing Number (101100621).

#### D. REPRESENTATIONS, WARRANTIES, COVENANTS, AND LIABILITY

1. Representations and Warranties. The Parties each represents and warrants to the other, as of the date this Agreement is entered into and at the time the Service is used or performed, that: (a) it is validly existing and in good standing under the laws of the jurisdiction of its organization; (b) it has all requisite power and authority to execute and deliver, and to perform its obligations under this Agreement and the Service used or performed by it; (c) this Agreement has been duly authorized and executed by it and constitutes a legal, valid, and binding obligation; and (d) any consent or authorization of any governmental authority or third-party required to be obtained by it in connection with this Agreement or the Service used or performed by it has been obtained. Bank makes no representation or warranty, express or implied, and disclaims all warranties as to the merchantability, fitness for a particular purpose, or suitability of the Services for Customer, or as to the compatibility of Bank's software, equipment, or communication interfaces with those of Customer. The Customer represents and warrants that: (a) the Customer is solvent and it is not the present intent of the Customer to seek protection under any bankruptcy laws; (b) its Checks are currently and were at the time of their creation, bona fide and existing obligations of Customers of the Customer, free and clear of all security interests, liens, and claims whatsoever of third parties and are not now nor have they ever been declared in default; (c) the documentation under which the Checks are payable authorize the payee to charge and collect the monies owed; and (d) all Checks and all documents and practices related to them comply with all applicable federal and state laws.

2. Covenants. The Customer covenants that: (a) it will allow Bank to review and inspect during reasonable Customer hours, and the Customer will supply, all financial information, financial records, and documentation of the Customer regarding the Checks that Bank may request; (b) the Checks submitted by Customer are valid Checks, and the Customer will reimburse and indemnify Bank for all loss, damage, and expenses, including reasonable attorneys' fees, incurred in defending such transactions as invalid or fraudulent Checks; (c) physical checks will not be presented at any financial institution once they have been presented at Bank through the Remote Deposit Capture Service; and (d) in the event of the commencement of any proceeding under any bankruptcy or insolvency laws by or against the Customer, the Customer will not oppose or object to any motion by Bank seeking relief from the automatic stay provisions of such laws. The Customer further covenants that it makes all of the warranties the Customer would have made if the original checks had been deposited at a Bank branch location. All original Checks shall be maintained by the Customer in a safe and secure environment for a period of at least two (2) weeks and destroyed in a secure manner that will prevent retrieval of the information found on the checks within no more than ten (10) days thereafter.

3. Liability. Bank will exercise ordinary care in providing the Service and will be responsible for any loss sustained by Customer only to the extent such loss is caused by Bank's gross negligence or willful misconduct. In no event shall clerical errors or mistakes in judgments constitute failure to exercise ordinary care, nor shall Bank have any liability for any indirect, incidental, consequential (including lost profits), special, or punitive damages, whether arising in contract or

in tort, and whether or not the possibility of such damages was disclosed to or could have been reasonably foreseen by Bank. Under no circumstances shall Bank be responsible for any liability, loss, or damage resulting from any delay in performance of or failure to perform in connection with the Service which is caused by interruption of telephone, telefacsimile, or communication facilities; delay in transportation, equipment breakdown, or mechanical malfunction; electrical, power, or computer failure; accidents, fire, flood, explosion, theft, natural disaster, or other catastrophe; acts or failure to act by Customer or any third-party; strikes or lockouts; emergency conditions; or riots, war, acts of government, or other circumstances which are unavoidable or beyond Bank's control. Bank shall not be liable for failure to perform any of its obligations in connection with the Service if such performance would result in it being in breach of any law, regulation, or requirement of any governmental authority. If Bank fails to credit any of Customer's accounts utilized in connection with the Service in accordance with the Service Terms and Conditions applicable thereto as of the date such credit was earned, upon discovery or notification of such error, Bank will properly credit such account, but Bank shall not incur any liability therefore, including any loss resulting from failure by Customer to invest the amount of funds not properly credited to the account.

E. **INDEMNIFICATION:** Customer shall indemnify and hold harmless Bank and each of its directors, officers, employees, agents, successors, and assigns ("**Indemnitees**") from and against all liability, loss, and damage of any kind (including attorneys' fees and other costs incurred in connection therewith) incurred by or asserted against such Indemnatee in any way relating to or arising out of the Service, by reason of any acts or omissions of Customer or any third-party or otherwise, including fraud perpetrated by employees of the Customer, except to the extent such liability, loss, or damage is caused by the gross negligence or willful misconduct of such Indemnatee (provided that reliance, without further investigation, on any oral, telephonic, electronic, written, or other request, notice, or instruction believed in good faith to have been given by Customer will in no event constitute gross negligence or willful misconduct on the part of such Indemnatee).

F. **SECURITY PROCEDURES AND COMMUNICATIONS:** Certain Security Procedures designed to verify the origination (but not errors in transmission or content) of instructions, orders, and other communications sent by the Parties might be used in connection with the Service. Customer agrees that any such mutually agreed-upon Security Procedures shall be deemed commercially reasonable. Bank shall not be obligated to act on a communication not transmitted in accordance with the Security Procedures and may refuse to act on any communication where Bank reasonably doubts its authorization, contents, origination, or compliance with the Security Procedures. Bank shall have no duty to discover, and shall not be liable for, errors or omissions by Customer. If Bank complies with the Security Procedures in respect of a communication, Bank shall be entitled to act on that communication and shall not be obligated to verify the content of such communication, establish the identity of the person giving it, or await any confirmation thereof, and Bank shall not be liable for acting on, and Customer shall be bound by, any communication sent in the name of Customer, whether or not authorized. Bank reserves the right to issue new Security Procedures and/or to cancel or change any Security Procedures from time to time. Whenever the Security Procedures include the assigning to Customer of any confidential password, logon identification, identification code, personal or location identification number, repetitive code, or similar security device, Customer shall not disclose such security device except to employees or agents authorized to act for Customer in connection with the Service. Customer shall implement such safeguards as are reasonably necessary to ensure the confidentiality and integrity of such security devices, and shall immediately notify Bank if the confidentiality or integrity of any such security device is breached or threatened. Customer shall be solely responsible for the safekeeping of such security devices and assumes all risk of accidental disclosure or inadvertent use of such security devices by any party whatsoever, whether such disclosure or use is on account of Customer's negligence or deliberate acts or otherwise. Bank shall not be liable for any loss or damage resulting from fraudulent, unauthorized, or otherwise improper use of any security devices.

G. **ON SITE SECURITY AUDIT:** To mitigate any risk, Bank does require the customer to maintain certain security standards for Remote Deposit Capture. These requirements include, but are not

limited to:

- Reasonable physical access controls to RDC computers and scanners
- Strong password and authorized user controls
- Strict private information protection policies and procedures
- Dual control whenever possible
- Proper check endorsement before scanning if not using Virtual Endorsement
- Scanner maintenance to ensure image quality
- Secure scanned check storage and destruction
- Anti-virus, spyware and other system security software maintained

To reasonably ensure the company maintains adequate security procedures, an RDC Security Audit will be performed on all new RDC customers at the time of enrollment, with follow-up audits performed annually. Self-audits by customer may be permitted at annual review time as needed.

H. **CONFIDENTIALITY:** All user guides, manuals, data, software, equipment, processes, and other information provided to Customer in connection with the Service and all fee and pricing information with respect to the Service (“**Information**”) is the proprietary and confidential property of Bank and/or its relevant licensors or suppliers. Customer agrees to use the Information only in the manner specified by Bank and in the ordinary course of Customer’s business, to return it to Bank upon termination of the relevant Service, and to keep the Information confidential and limit access thereto only to its agents and employees who require access in the normal course of their duties, except to the extent the Information is already in the public domain or Customer is required to disclose the Information by law.

I. **INTERMEDIARIES:** Bank may act on any communication and provide the Service using any payment system or intermediary organization it reasonably selects. Bank’s performance of the Service is subject to the rules and regulations of any such system or organization. Bank may engage third parties to provide the Service. Bank shall have no obligation to disclose arrangements with third parties to Customer or obtain Customer’s consent thereto. Customer authorizes the transfer of information relating to Customer to agents of Bank or Customer for use in connection with the Service or as required by law.

J. **RECORDINGS AND RECORDS:** Either Customer or Bank may produce telephonic or electronic recordings or computer records, including email and telefacsimile transmissions, as evidence in any proceedings brought in connection with the Service. Customer agrees to Bank’s telephonic or electronic recording for security and quality of service purposes.

K. **POSTING REVIEW AND DISCREPANCIES:** Bank provides Customer daily access to their account posting information via OLB. The Customer is in the best position to recognize missing deposits or any other posting error. Customer shall be responsible to examine the posting records provided by Bank on a regular basis and report any discrepancies in a timely manner.

Customer shall promptly notify Bank of any error in connection with the Service and any discrepancies between any records maintained by Customer and any notice Customer receives from Bank with respect to the Service, and Customer shall provide Bank with any information it may reasonably request in connection therewith. Customer agrees that two (2) days is a reasonable time for Customer to notify Bank of errors or discrepancies, unless any other agreements, laws, rules, or regulations provide for a shorter period. Bank shall have the right to correct the amount in the data field for any Check that has an incorrect amount to be consistent with the image of the Check. Notwithstanding the foregoing, if Bank at any time discovers that the legal amount of the Check is different than the amount that has been credited to Customer’s Account, Bank will make the necessary adjustment to the Account to correct the discrepancy.

L. **COMPLIANCE:** Customer shall comply with all laws, rules, and regulations in connection with the Service. Customer agrees to be bound by such rules and agrees that no entries that violate United States law may be initiated. Customer shall be responsible for and shall fully indemnify Bank for any and all fines and assessments imposed on Bank as a result of any infraction or violation of such rules caused by or

attributable to Customer.

M. **DISCLOSURE:** Customer acknowledges that Bank may have certain legal record keeping and reporting requirements with respect to the Service and consents to Bank's disclosure to governmental authorities of information concerning Customer and the Service provided to Customer which Bank believes to appropriate or necessary to fulfill such legal requirements.

**XI. WIRE TRANSFERS.** This Section XI governs the Wire Transfer Services described herein.

A. **CUSTOMER LIABILITY:** The Customer shall be liable to the Bank for and shall indemnify and hold the Bank harmless from any and all claims, causes of action, damages, expenses (including reasonable attorney's fees and other legal expenses), liabilities and other Losses resulting from acts, omissions, or provision of invalid or inaccurate data by the Customer or any other person acting in the customer's behalf, including without limitation: a) a breach by the Customer of any provision of this Agreement; b) the Bank's debiting or crediting of the account of any person as requested by the Customer; c) the failure to act or the delay by any financial institution other than the Bank and; d) the failure of the Customer to notify the Bank of the termination or revocation of the Customer's agents' authority to conduct Wire Transfers.

B. **BANK LIABILITY:** Bank shall be responsible only for performing the funds transfer services provided in this Agreement and shall be liable only for its gross negligence or willful misconduct in performing these services. Bank shall not be liable for acts or omissions by the Customer or any other person including, without limitation, any funds-transfer system, any Federal Reserve Bank, any beneficiary's bank, and any beneficiary, none of which shall be deemed the Bank's agent. Without limitation, the Bank shall be excused from delaying or failing to act if caused by legal constraint, interruption of transmission or communications facilities, equipment failure, war, emergency conditions, strikes, or other circumstances beyond the Bank's control. In addition, the Bank shall be excused from delaying or failing to execute Wire Transfers if it would result in the Bank exceeding any limitation on its intra-day net funds position established through Federal Reserve guidelines or if it would result in violating any present or future risk control program of the Federal Reserve or a rule or regulation of other governmental regulatory authorities. In no event shall the Bank be liable for any consequential, incidental, special, punitive, or indirect Losses or damages incurred relating to this Agreement including, without limitation, subsequent wrongful dishonor resulting from the Bank's acts or omissions. Any liability of the Bank for loss of interest resulting from its error or delay shall be calculated using a rate equal to the Federal Funds Rate at the Federal Reserve Bank of Kansas City for the period involved. Payment will be made by crediting the appropriate account involved in the funds transfer.

C. **DUTY TO REPORT UNAUTHORIZED PAYMENT ORDERS AND OTHER DISCREPANCIES:** All Wire Transfers to and from Customer's authorized account(s) will appear on the Customer's regular deposit account statement and/or on confirmation notices. It is the Customer's obligation to examine the statements and confirmation notices for any unauthorized payment orders or other discrepancies (such as erroneously executed payment orders). If the Customer fails to notify the Bank of any unauthorized payment order or other discrepancy within two (2) days after the Customer receives the statement, confirmation notice, or other sufficient information to detect such unauthorized payment order or other discrepancy, the Bank shall not be liable for and the Customer shall indemnify and hold the Bank harmless from any loss of interest with respect to the Wire Transfer and any other loss which could have been avoided had the Customer given such notice. If the Customer fails to notify the Bank within two (2) days after receiving the statement, confirmation notice, or other information, the Customer is precluded from any claim against the Bank concerning the discrepancy.

D. **SECURITY PROCEDURE AND TRANSFER REQUESTS:** If Customer has enrolled in a service providing for submitting payment orders through the wire transfer feature within OLB, then the security procedures for such requests shall be Customer's access credentials and the sender's actual access to OLB. Customer agrees, acknowledges, and consents that the security procedures for payment orders



submitted through OLB are commercially reasonable. Customer further agrees, acknowledges, and consents that, in the event of OLB unavailability for any reason, payment orders may only be submitted pursuant to the terms of a Funds Transfer Service Agreement.

The Customer shall maintain records of each Wire Transfer for six (6) months following the payment order date and agrees to provide such records to the Bank upon request to allow reconstruction. Payment order transmittals must be received by the Bank before 3:00 p.m. prevailing central time, and in time to complete the requested security procedure. Payment order transmittals received after 3:00 p.m. prevailing central time, or which are not received in time to complete the requested security procedure, will be treated as being received on, and may be executed on, the following funds-transfer business day. Times may vary at the Bank's discretion.

E. **PROCESSING WIRE TRANSFERS:** Bank shall process Wire Transfers based solely upon information received from the Customer. Bank may, at its discretion, process the Wire Transfer through either the Federal Reserve Bank System or the Society for Worldwide Interbank Financial Telecommunication (a/k/a S.W.I.F.T.). In the case where the beneficiary's bank is the Bank, the Bank may simply debit and credit the appropriate accounts as requested in the payment order. At the time the Bank executes a Wire Transfer (or internal transfer), Customer agrees to pay the Bank with available funds on deposit for the amount of the Wire Transfer plus the current Wire Transfer Fee. If the Customer fails to pay in accordance with this Agreement, the Bank shall be entitled to request cancellation of the Wire Transfer, or to undertake any other legal means to collect the amount of the transfer if unable to cancel, including exercise of right of offset as detailed in the Bank's Deposit Agreement, as amended from time to time.

F. **ERRORS AND REJECTIONS BY BANK:** If a payment order indicates an intermediary bank or a beneficiary's bank inconsistently by name and identifying number, execution of the request might be based solely upon the number, even if the number identifies a bank different from the named bank or a person who is not a bank. If a payment order describes a beneficiary inconsistently by name and account number, payment might be made by the beneficiary's bank based solely upon the account number, even if the account number identifies a person different from the named beneficiary. Customer's obligations shall not be excused in these circumstances. Bank shall reject any payment order (or incoming wire transfer) which does not conform to the limitations, security procedures, and/or other requirements set forth in this Agreement, such as availability of funds on deposit. Bank may reject, except when prohibited by law, at its sole discretion any payment order it receives from the Customer for any reason. Bank shall notify the Customer of the Bank's rejection of the payment order by telephone, electronic message, or U.S. mail. Bank will comply with regulations issued by the US Treasury's Office of Foreign Assets Control ("OFAC"). If any payment order or incoming wire transfer is to or from an entity listed on OFAC's list of Specially Designated Nationals and Blocked Persons, by law the Bank shall not complete the payment order and shall "block" the funds until such time OFAC issues a written release to the Bank. Bank shall have no liability to the Customer as a result of the Bank's rejection of any payment order or internal transfer if it complies with the terms of this Agreement.

G. **REJECTION OF THE BANK'S TRANSFER REQUEST:** If the Bank receives notice that a Wire Transfer transmitted by the Bank has been rejected, the Bank shall notify the Customer of such rejection including the reason given for rejection by telephone, electronic message, or U.S. mail. Bank will have no further obligation to transmit the rejected Wire Transfer if it complied with this Agreement with respect to the original payment order.

With respect to international transfers, the Bank is not responsible for any handling fees that foreign and/or domestic banks may charge. If a Wire Transfer is returned for any reason, Customer agrees to accept the refund in U.S. dollars in the amount of foreign money credit, based on the then-current buying rate of the bank converting the currency to U.S. dollars on the date of the refund, less any charges or expenses the Bank incurs and any fees charged by any intermediary banks handling the Wire Transfer. The Bank will not be responsible for Losses due to fluctuations in foreign exchange rates or impairment of foreign

currencies, and additional risks from the economic, social or political environments of foreign countries, and governmental policies that may prevent successful completion of the Wire Transfer.

H. **CANCELLATION AND CHANGE BY CUSTOMER:** Customer acknowledges and agrees that a Wire Transfer may not be amended or cancelled after the Bank receives it. In the event Customer requests for the Bank to amend or cancel a Wire Transfer that has been received by the Bank, the Bank may, at its discretion, make a reasonable effort to act upon the request. Under such circumstances, Customer acknowledges and agrees that the Bank is not liable to Customer in the event the Wire Transfer cannot be amended or canceled, for any reason. Furthermore, Customer acknowledges and agrees to indemnify and reimburse the Bank for any Losses it incurs which may result from the request to amend or cancel a Wire Transfer.

## **XII. ZERO BALANCE ACCOUNT SERVICE TERMS.**

A. **CUSTOMER AUTHORIZATION:** Customer must designate one or more master accounts (“Master ZBA Accounts”) and one or more subsidiary accounts (“Subsidiary ZBA Accounts” and with the Master ZBA Accounts, collectively, “ZBA Accounts”) for participation in Bank’s zero balance account program (“ZBA Program”) on forms provided by the Bank. Customer hereby authorizes Bank to initiate automated transfers between the Master ZBA Account and Subsidiary ZBA Accounts under the ZBA Program for the purpose of maintaining a zero balance (the “ZBA Target Balance”) in Customer’s operating or Subsidiary ZBA Accounts. Customer may designate any number of Subsidiary ZBA Accounts, but may only designate one Master ZBA Account. Customer may change account designations by submitting a written request to Bank on such forms as Bank may require. Bank is not required to notify any signatory to any of the ZBA Accounts that an account has been deleted from, or added to, Bank’s ZBA Program.

B. **AUTOMATED ACCOUNT TRANSFERS UNDER THE ZBA PROGRAM:** Under the ZBA Program, Bank shall adjust the balances in the Subsidiary ZBA Accounts as required to bring any Subsidiary ZBA Account balance to the ZBA Target Balance. To the extent transactions on any Subsidiary ZBA Account result in a negative balance in that ZBA Account at the end of any Business Day, Bank will initiate a transfer of funds from the Master ZBA Account to the Subsidiary ZBA Account. To the extent transactions on any Subsidiary ZBA Account result in a positive balance on that account at the end of any Business Day, Bank will initiate a transfer from the Subsidiary ZBA Account to the Master ZBA Account. Transfers under the ZBA Program will be initiated at the end of each Business Day. The ZBA Accounts shall be treated as one system of related deposit accounts having an aggregate net daily balance position. In the event there are insufficient funds in any of the ZBA Accounts at the end of a Business Day, in order to fund a negative balance in any one of the other ZBA Accounts, Bank may, in its sole discretion, return any item presented for payment in accordance with the Account Terms governing such ZBA Accounts. All float assigned to the deposits of a Subsidiary ZBA Account will be transferred to the Master ZBA Account each Business Day and shall be deemed uncollected funds in the Master ZBA Account subject to restricted availability for such period as Bank may designate, not to exceed any period allowed by Applicable Law.

**XIII. FILE TRANSFER SERVICES.** This Section XIII governs the File Transfer Services described herein. Upon Bank’s approval and Customer’s subsequent use of the File Transfer Services described herein, Customer agrees:

A. **DESCRIPTION OF SERVICE.** File Transfer Services (“File Transfer Services”) is a file transfer method for companies to exchange large files and sensitive data (and images if applicable) with Bank over the internet. Through access to and use of File Transfer Services, Customer may conduct certain Treasury Management services and functions as designated in the File Transfer Services implementation forms provided by Bank (the “Treasury Management Services”).

B. **ACCESS.** Customer’s use of File Transfer Services shall be subject to these terms and conditions, all instructions and guidelines established from time to time by Bank, all applicable software and user documentation terms and conditions, and all applicable state and federal laws and regulations. Customer will

only be granted access to, and agrees only to access, File Transfer Services to transact or conduct Treasury Management Services. Customer may transact only those File Transfer Services that Bank has agreed to provide and has implemented for Customer. The Treasury Management Services using File Transfer Services shall be subject to all other terms and conditions applicable to those specific services as set forth in this Agreement.

C. SECURITY. For accessing the File Transfer Services both parties will carry out the confirmation and authentication processes necessary for the applicable protocol (FTPS, SFTP, or any other mutually agreed upon communication protocols, hereinafter "File Transfer Services Protocols") and Customer will comply with all security requirements set forth herein.

Customer shall designate in writing to Bank those individuals who will be the system administrator ("FTS Administrator") for File Transfer Services. The FTS Administrator will be the person who receives the Customer's user identification ("User ID"), user password ("User Password") and any other information required to utilize File Transfer Services. The FTS Administrator will also be responsible for providing all information to Bank, including, but not limited to, public keys, necessary to utilize File Transfer Services.

If Customer desires to change or add a designated FTS Administrator, Customer shall provide prior written notice to Bank of such change, signed by a person whose signature appears on the Authorization Certificate for the Bank Treasury Management Services Agreement. The notice may be emailed to Bank, but it must be followed by a document with an original signature on it. No change of designated FTS Administrator by Customer shall be effective until accepted by Bank, and Bank has had a reasonable opportunity to update its records.

Customer shall be responsible for initiating, undertaking and supervising all safety and security precautions and programs under its control, dominion or supervision in connection with the File Transfer Services. Customer shall implement and maintain adequate information security measures to protect against unauthorized access to or use of File Transfer Services Service, including, without limitation: (i) access controls on information systems, including controls to authenticate and permit access only to authorized individuals and controls to prevent employees from providing Access Devices (as defined below) to unauthorized individuals who may seek to obtain this information through fraudulent means; (ii) encryption of electronic Information while in transit over any network (LAN/WAN including MPLS) using well known (non-proprietary) encryption algorithms with a minimum key length of 128 bits; (iii) procedures designed to ensure that information system modifications are consistent with the information security measures; (iv) monitoring systems and procedures to detect actual and attempted attacks on or intrusions into information systems; (v) response programs that specify actions to be taken when Customer detects unauthorized access to information systems, including immediate reports to Bank (vi) training of staff to implement the information security measures; (vii) maintain all systems and applications current with latest release of software and/or security packs, security patches, and security hot fixes; (viii) regular testing of key controls, systems and procedures of the information security measures by independent third parties or staff independent of those that develop or maintain the security measures; (ix) appropriate firewalls and access control lists between all Customer and Bank networks, with only required traffic allowed between networks.

Customer will be responsible for safekeeping all keys, access codes, combinations, access cards, personal identification numbers, User ID, User Password and any other applicable credentials and similar security codes or identifiers (each an "Access Device") issued to Customer personnel. This obligation will include, but not be limited to, development and implementation of written procedures and processes for safekeeping and security of the Access Devices. Customer will make its written safekeeping and security procedures and processes available to Bank at or prior to the Effective Date of this Agreement and thereafter from time to time, at Bank's reasonable request. Bank will have the right to review and audit Customer's safekeeping and security procedures, processes, and activities. Customer will be responsible for any losses or damages Bank incurs in connection with a lost or stolen Access Device or other breaches of these security requirements.

Customer acknowledges that while Bank will attempt to ensure that all electronic communications between

Customer and Bank are encrypted, scrambled or otherwise protected against interception by a person whose access to the File Transfer Services is unauthorized, Customer nonetheless accepts and assumes all risk of loss or dissemination of information attributable to the electronic communications between Customer and Bank through a File Transfer Service. If Customer, FTS Administrator or any designated contact believes that one or more Access Device have become known or obtained by unauthorized persons (whether or not employed by Customer), the Customer shall immediately notify Bank to enable Bank to disable the affected Access Device(s). Additionally, Bank may change or disable any Access Device at any time and for any reason. If Bank takes such action, Bank will make every reasonable effort to notify Customer promptly. Bank assumes no responsibility to discover, audit, or report to Customer any possible breach of security by Customer's agents or representatives or anyone else for unauthorized disclosure or use of Access Devices. Customer acknowledges that the security procedures in this Section constitute commercially reasonable security procedures for the Customer.

If Customer is unable to access File Transfer Services or transact or conduct any business through the File Transfer Services, Customer shall immediately notify Bank of such inability but shall transact or conduct such business through other means available to Customer.

Bank claims and reserves all rights and benefits afforded under federal copyright law in all software programs and user materials that constitute the Software, and in all system documentation related to the Software, as unpublished works. Customer hereby authorizes Bank to enter Customer's premises in order to inspect the Software in any reasonable manner during regular business hours. Customer acknowledges that, in the event of Customer's breach of any of the foregoing provisions, Bank will not have an adequate remedy in money or damages. Bank shall therefore be entitled to obtain an injunction against the breach from any court of competent jurisdiction immediately upon request. Bank's right to obtain injunctive relief shall not limit its right to seek further remedies.

Customer's obligations hereunder shall remain in effect for as long as Customer continues to use File Transfer Services.

**D. AUTHORIZED TRANSACTIONS.** Bank may rely upon any Treasury Management Service transacted or conducted through or by use of File Transfer Services as properly authorized by Customer (including, without limitation, any instructions or information related thereto it receives from Customer through a File Transfer Service). Each FTS Administrator to whom Bank has provided access to Customer Codes, or who has otherwise obtained access to Customer Codes, is deemed an authorized representative of Customer for purposes of all Treasury Management Services transacted or conducted through or by use of File Transfer Services, whether or not such person is authorized by this Agreement or any other agreement between Bank and Customer.

Notwithstanding the terms of any Treasury Management Services Agreement or any other agreement between Customer and Bank, once Customer accesses File Transfer Services to transact or conduct any Treasury Management Service, Bank will not verify that the transaction is authorized and Customer is solely responsible for the accuracy and completeness of any data or information received by Bank. Bank is authorized by Customer to process transactions in accordance with information Bank receives electronically from Customer. Customer shall be solely responsible for the information contained in the instructions and Bank shall have no responsibility for erroneous data provided by Customer. Bank shall have no liability for losses resulting from or related to Customer's failure to limit access to File Transfer Services or maintain the confidentiality of the Customer Codes. At the sole discretion of Bank, Bank may also require the use of other identifying information or other security procedures for certain Treasury Management Services and Bank may add to, change or delete any security procedure.

#### **XIV. IMAGE CASH LETTER**

This Section XIV governs the Image Cash Letter Service Terms described herein.

**A. THE SERVICE:** Image Cash Letter Service ("ICL") allows Customer or a third party acting

as the Customer's agent ("Third Party Agent"), to transmit, through Customer's own methods and devices, an Image Cash Letter file ("ICL file") to Bank for processing. ICL files consist of images of Eligible Items (as defined herein) and check data. As used herein, "Image(s)" means an electronic reproduction of the front and back of Eligible Items. Check data includes the Magnetic Ink Character Recognition formatting (MICR) information in the format and specifications required by the Universal Companion Document x9.37 or the Universal Companion Document x9.100 Guide or any other mutually agreed format.

**B. PROCESSING:** Customer agrees to follow all of Bank's present and future requirements and instructions, including any operational instructions, related to ICL. All Eligible Items imaged and transmitted to Bank using ICL must be legible and meet Bank's processing requirements.

Subject to the terms hereof, any ICL files received before the cut-off time reflected in any applicable operational instructions will be processed on the day they are received and shall be afforded credit in accordance with the then current funds availability schedules. If for any reason Bank is unable to process an ICL file received before the cut-off, Bank will use commercially reasonable efforts to resolve the next Business Day. Subject to terms hereof, any ICL files received after the cut-off times will be processed on the next Business Day. ICL files will only be processed on Business Days.

The information Customer transmits to Bank must contain a record of all Magnetic Ink Character Recognition (MICR) line information sufficient for Bank to create a substitute check and contain the correct amount of the Eligible Item. In addition, Customer's transmission of an Eligible Item must meet the technical requirements for an "electronic item" under Regulation J and Federal Reserve Operating Circulars, a "substitute check" under Regulation CC, and an "item" as defined by Article 4 of the Uniform Commercial Code as adopted in the State of Colorado and will be the legal representation of the Eligible Item for all purposes.

If an Image transmitted to Bank does not comply with Bank's processing requirements, Bank may in its discretion:

- Process the Image as received for payment;
- Correct the Image or its accompanying data and process the corrected Image for payment;
- Process the deposit for payment in another format as permitted by law; or
- Charge back Customer's Account and return the image and accompanying data to Customer.

Customer's successful transmission of an Image to Bank for processing upon Customer's request may be confirmed by a notice from Bank. Notwithstanding Customer's receipt of such confirmation, all of Customer's transmissions are subject to Bank's further verification prior to being accepted for deposit.

Bank can reject any Image Customer transmits to Bank for any reason in Bank's discretion without liability, even where Bank has provided Customer with a confirmation notice. If Bank rejects Customer's transmitted Image for deposit, Bank will notify Customer. All accepted deposits will be subject to final payment as well as the terms and conditions for Customer's Account and this Agreement.

Bank will process any returned Eligible Items in accordance with applicable law and the deposit account agreement governing the Account for which the image is presented.

**C. ELIGIBLE ITEMS:** The ICL service can only be used for Eligible Items, which are items that:

- Are paper items that are defined as checks by Regulation CC;
- Are payable in United States currency;
- Are drawn on a financial institution located in the United States;
- Are properly endorsed (stamped or ink) or virtual endorsed using the software;

- Are payable to Customer, unless such item is properly endorsed;
- Are legible and conform to Bank's imaging and processing standards; and
- Are dated.

Customer may not image, transmit or otherwise try to use ICL to deposit checks or items that are not Eligible Items. The following items are not Eligible Items:

- Substitute checks or remotely created checks as defined by Regulation CC;
- Items that have already been deposited by or returned to Customer; or
- Items that contain alterations or that Customer suspects, or should suspect, are fraudulent, not authorized, suspicious or not likely to be honored.

**D. WARRANTIES:** Customer warrants to Bank that: (I) it will transmit only Eligible Items to Bank; (II) any Image Customer transmits to the system utilized by Bank to provide ICL is a good and accurate image of the original check; (III) none of the items, including Eligible Items, that have been or will be transmitted to the Bank have been previously submitted or deposited with Bank or anyone else and will not be again unless Bank informs Customer otherwise; (IV) any information Customer transmits to Bank pursuant to this Agreement accurately represents all of the information on the front and back of the original check as of the time the original check was truncated, including without limitation: payment instructions placed on the check by, or as authorized by, the drawer, such as the amount of the check, the payee, and the drawer's signature; information identifying the drawer and the paying bank that is preprinted on the check, including the MICR line; and other information placed on the check prior to the time an Image of the check is captured, such as any required identification written on the front of the check and any endorsements applied to the back of the check; (V) no depository bank, drawee, drawer or endorser receiving presentment or return of, or otherwise being charged for, the substitute check, original check, or a paper or electronic representation of the substitute check or original check will be asked to make a payment based upon a check that it already has paid; (VI) it will not transmit any items for deposit into the same Account that the item is drawn on; (VII) following Bank's notification to Customer confirming that Bank has received Customer's transmission, Customer will not negotiate, transfer, deposit or present an Eligible Item, or a duplicate thereof, in any form including as an ACH transfer or as an image, reproduction, substitute check or remotely created check; (VIII) no person will receive a transfer, presentment, or return of, or otherwise be charged for, the electronic Eligible Item, the original Eligible Item, or a paper or electronic representation of the original Eligible Item such that the person will be asked to make payment based on an Eligible Item it already has paid; (IX) it has an Account with Bank in good standing; (X) it will comply with all laws, regulations, terms and conditions related to ICL including the terms of this Agreement and all other agreements related to the Customer's Account; and (XI) any Image Customer transmits will meet the ANSI standards required by Regulation CC, or other applicable standards established by Bank, the Board of Governors of the Federal Reserve System, and any other applicable regulatory agency, clearing house or association.

Customer expressly disclaims all implied warranties, including without limitation the implied warranties of merchantability and fitness for a particular purpose.

Customer shall be responsible for communication costs, if any, for the transmission of data and/or the retrieval of data in connection with Customer's utilization of ICL.

Customer agrees to comply with all rules and laws affecting the ICL Service including this Agreement, the Rules Governing Customer's Deposit Accounts with Bank, the terms and conditions for use of Bank's Electronic Banking services, the Uniform Commercial Code as adopted in the state for Customer's Account, Regulations J and CC, and Federal Reserve Operating Circulars. Customer will release, indemnify, and hold the Bank harmless from any liability, loss, injury or damage, including without limitation all incidental and consequential damages, together with all related reasonable costs and expenses, including attorneys' fees, resulting directly or indirectly from any breach of the warranties set forth herein and/or from any warranty or indemnity claim brought against the Bank by a third party under 12 CFR 229.52 or 12 CFR



229.53 in connection with an imaged check transmitted to Bank by Customer.

E. **SECURITY:** Customer agrees that once an Image has been confirmed by Bank as having been successfully transmitted through the ICL Service, it shall securely store the original check for a commercially reasonable retention period. In general, such retention period should be between 30 and 60 days. During the retention period, Customer agrees to take appropriate security measures to safeguard the original check and related files against security risks. Security risks include, without limitation, the theft or reproduction of the original check or unauthorized use of the information on the check or in the file. Customer shall take appropriate security measures to ensure that only authorized personnel shall have access to the original check, that the information contained on the check shall not be disclosed, and that the original check will not be duplicated, will not be scanned more than once, and will not be re-presented, re-deposited or negotiated in any way. Upon request by Bank, Customer will promptly, but in any event within five (5) business days, provide to Bank a retained original check, or a sufficient copy of the front and back thereof, in order to aid in the clearing and collection process, to resolve claims by third parties, or for Bank's audit or fraud loss prevention purposes. After the retention period expires, Customer shall destroy the original check by shredding it or by any other commercially reasonable manner. Customer agrees to be responsible to Bank for any losses, costs, expenses, and damages Bank may incur as a result of Customer's failure to comply with the retention and destruction provisions outlined herein.

F. **REQUESTED INFORMATION:** Customer agrees to provide such information as requested by Bank in order to qualify Customer for ICL, including without limitation, business activities, risk management processes, geographic location, customer base, and employee policies. If qualified, Customer agrees to provide information and Imaged Items as requested by Bank to facilitate investigations related to unusual transactions or poor quality transmissions or to resolve disputes. Such documents may include copies of Imaged Items or original items, if available.

G. **ICL AVAILABILITY:** ICL may at times be unavailable to Customer, either with or without prior notice, due to maintenance, security, factors beyond Bank's reasonable control or other reasons.

H. **AVAILABILITY OF FUNDS:** Eligible Items deposited using ICL are not subject to the funds availability requirements of Regulation CC. This will remain true even if Bank provides Customer with Regulation CC disclosures or notices. Following a transmission to Bank, Bank might at its discretion place an extended hold on Customer's funds. If so, Bank will separately inform Customer of the extended hold and when funds can be expected to be available.

I. **THIRD PARTY AGENT:** Customer may appoint, as its limited agent, with respect to the performance of any activities relating to ICL, a Third Party Agent to perform such activities. Customer shall be solely responsible for all actions and obligations of such Third Party Agent as if they were the direct actions and obligations of Customer itself. Customer acknowledges that, among other things, this means that Customer is liable for the Third Party Agent's breaches of warranties and obligations, including liability for indemnification for such breaches, as if Customer breached such warranties and/or obligations itself. Customer agrees to notify Bank of each Third Party Agent it intends to use and other information that Bank may require about the Third Party Agent. Failure to provide timely notice could result in the rejection of ICL files by Bank. Bank may in its sole discretion choose not to accept ICL files from a Third Party Agent identified by Customer. Notwithstanding any notification of Third Party Agent to Bank, Customer represents and warrants to Bank that it has solely, independently and without reliance upon Bank, made its own appraisal of and investigation into the business, operations, intellectual property and other rights, financial, and other conditions, rights and creditworthiness of any Third Party Agent based upon documentation and other information it has deemed appropriate and made its own decision to enter into a relationship with any Third Party Agent. In any event, Customer's agreement with Third Party Agent must include a provision allowing Bank to conduct, upon reasonable notice and during normal business hours, an on-site inspection of Third Party Agent's premises in order to ensure compliance with this section. Customer also represents and warrants to Bank that it will, independently and without reliance upon Bank, continue to make its own analysis,

appraisals and decisions with regard to any relationship with a Third Party Agent as it deems appropriate. Customer gives Bank the right to communicate with the Third Party Agent in connection with ICL and to treat Third Party Agent instructions as if the instructions were directly from Customer. Any software necessary for use of ICL by the Third Party Agent must be maintained by the Third Party Agent, and must meet technical specifications acceptable to Bank, as described herein. Customer warrants to Bank that any Third Party Agent is familiar with, and shall at all times be in compliance with the terms hereof, including without limitation, image quality, prohibition of duplicate items, and proper storage and destruction of original checks.

**J. AUDIT:** Bank may at its reasonable discretion conduct an on-site inspection of Customer's place of business and/or request any internal audits or assessments to ensure compliance with the provisions hereof.

**K. INDEMNIFICATION:** In addition to any other indemnification herein, Customer will indemnify and hold Bank harmless from any liability, loss, injury or damage, including without limitation all incidental and consequential damages, together with all related reasonable out-of-pocket costs and expenses, including legal fees, resulting directly or indirectly from: (1) any breach of warranty or other breach, or failure to perform under the terms hereof, (2) any warranty or indemnity claim brought against the Bank by a third party under 12 CFR 229.52, 12 CFR 229.53 or other regulations in connection with an ICL file transmitted to Bank by Customer; (3) any loss by any recipient of an Imaged Item processed by Bank, if that loss occurred due to the receipt of an Imaged Item instead of the check; (4) any wrongful acts or omissions of Customer, or any person acting on Customer's behalf (including without limitation Customer's authorized processor, if any), in connection with Customer's use or misuse of ICL; and (5) without limiting Customer's other indemnification obligations, which shall apply equally to actions taken by the Third Party Agent, all Third Party Agent's actions or inactions relating to ICL, including those related to intellectual property claims. These indemnification obligations shall survive the termination of ICL.

**L. TERMINATION:** Notwithstanding anything contained in this Agreement to the contrary, Bank may terminate the ICL at any time. Bank will provide reasonable notice and in any event will provide notice as required by applicable law.

## **XV. MULTI TIN SERVICE CONSOLIDATION**

This Section XV governs Multi TIN Service Consolidation as described herein.

**A. BACKGROUND:** By default, the System allows the Admin User to access all of the Customer's accounts based on taxpayer identification number ("TIN"). Some customers maintain and control accounts with the Bank involving multiple legal entities, each bearing its own taxpayer identification number ("TIN") or other acceptable legal identifier. By default, the System would allow each Admin User of each entity to access only that entity's accounts based on TIN or other acceptable legal identifier. By enabling Multi TIN Service Consolidation, Customer will be able to consolidate Online Banking for multiple entities under common control or management. Customer understands and agrees it is their duty to maintain internal controls and operate all of the consolidated accounts in accordance with the terms of this Agreement. Customer agrees not to hold Bank liable for any losses that occur as a result of its election to enable Multi TIN Service Consolidation.

**B. CONSOLIDATION REQUEST AND ELECTION:** As set forth in the Sales Agreement, Customer requests that the Accounts for the various other entities be consolidated solely for purposes of Online Banking access and functionality, which may include transactional abilities and access to the various Services described in this Agreement.